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House of Representatives

The House met at 10 a.m.

The Reverend Ronald J. Jansen, Pastor, Holy Cross Lutheran Church, Collinsville, Illinois, offered the following prayer:

O Almighty God, You have given us this good land as a place for us to live and serve You. We ask, Lord, that as You concern Yourself with the busyness of Your universe, You would also give Your attention to the business of this place, the House of Representatives. May Your spirit so guide the Members of this chamber that they remember they are representing the people of the United States of America. Bless them also with the knowledge that they govern as Your representatives to the people.

Be with the Members in their conversation, their deliberations, and their votes, that they may serve You and be a blessing to the people who dwell in this land.

In the name of the Risen Redeemer. 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 gentlewoman from Indiana (Ms. CARSON) come forward and lead the House in the Pledge of Allegiance.

Ms. CARSON of Indiana 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.

WELCOMING REVEREND RONALD A. JANSEN, HOLY CROSS LUTHERAN CHURCH, COLLINSVILLE, ILLINOIS

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

Mr. SHIMKUS. Mr. Speaker, I would like to welcome my Pastor, Pastor Ronald Jansen, to the floor of the House to open us up with prayer.

Pastor Jansen grew up on a northwestern Wisconsin dairy farm and has pastored in the Lutheran Church, Missouri Synod, for 35 years. He served in parishes in Winono and Albert Lee, Minnesota, Marshfield, Wisconsin, and currently is at Holy Cross in Collinsville for the past 13 years.

He is married to his wife Becky, a public schoolteacher for 17 years. They are accompanied by his 90-year-old father Victor, and second oldest son and daughter-in-law, Dr. Aaron and Melissa Jansen.

Pastor Jansen is my pastor, and when I think about Pastor Jansen, I think about Ephesians 2:8–10, ''For by grace are you saved through faith, and not of works, lest any man should boast. For we are His workmanship, created for good works in Christ, who calls us to offer up ourselves a living sacrifice.''

Pastor Jansen preaches from the pulpit law and gospel, which is the hallmark of the Lutheran Church, Missouri Synod.

I want to thank Pastor Jansen for calling us to a higher calling this morning.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 15 1-minute speeches on each side.

WELCOMING THE WORLD BASKETBALL CHAMPIONSHIPS TO INDIANA AND THE UNITED STATES

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

Ms. CARSON of Indiana. Mr. Speaker, I rise today to request that all of the Members join me in welcoming and recognizing the 16 national teams that will be competing in the upcoming 2002 world basketball championship for men.

For the first time in its 50-year history, the world basketball championship is being held in the United States, and, appropriately, in the basketball capital of the world, my hometown, Indianapolis, Indiana.

From August 29 to September 8, Indianapolis will play host to the largest and most prestigious basketball event in the world. In total, 62 games will be played over the course of the 11-day event. It will bring ''Hoosier Basketball Hysteria'' of the NBA finals and NCAA Final Four to a new international scene with an expected visitor capacity of 150,000 people from around the world.

The importance of continuing international sporting events and fostering positive relationships between countries has never been more important.

Therefore, Mr. Speaker, I ask that Congress join me in supporting this important resolution.

PROTECTING MISSING AND EXPLOITED CHILDREN

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

Mr. FOLEY. Mr. Speaker, yesterday the world discovered that another child, 5-year-old Samantha Runnion, who was violently abducted from outside her home while playing with a

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friend, was sexually assaulted, strangled and left naked on the side of the California road.

The police in California said that this sick and deranged person may do this terrible act again to another child based on the way he left this poor child's body on the side of the road. They say this may be his calling card. Parents throughout the Nation are both shocked and frightened that this could happen to their child.

Over 2,000 children are reported missing to law enforcement every single day. While Congress focuses on restructuring its homeland security, we must be made aware of the incredible efforts that the FBI and other law enforcement agencies provide in retrieving these children and finding their abductors. We must make sure that these agencies have the manpower and resources necessary to continue these efforts.

To that end, as cochairman of the Congressional Missing and Exploited Caucus, I will work with the gentleman from Texas (Mr. LAMPSON), the Committee on the Judiciary and the administration to ensure the work on legislation to increase both criminal and civil penalties for abductors and provide the necessary funding for our law enforcement agencies.

STATE DEPARTMENT NOT HELPING RETRIEVE KIDNAPPED AMERICAN CHILDREN

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

Mr. LAMPSON. Mr. Speaker, I rise today to continue my talks about Ludwig Koons, the 9-year-old little United States citizen who is being held in the country of Italy.

Last week I met with Ambassador Salleo of Italy, and I want to thank the Ambassador from Italy, for he is trying to help this American citizen come back home to the United States where he belongs.

This is more than I can say for our own State Department. Two weeks ago the Washington Post ran a story on the removal of Mary Ryan from her position at the State Department. Ms. Ryan at one time was in charge of the office that handles international abduction of children. I am asking the State Department to look into the handling of that office over the past years, just as they are doing other offices that Ms. Ryan was in charge of.

Jeff and Ludwig Koons, just like thousands of other parents, are not getting concrete help from our State Department. If the State Department does not do something about it, then Congress must. Please help us bring our children home.

CONGRATULATING CAPTAIN JOSEPH NIMMICH AND COAST GUARD GROUP KEY WEST

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

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to congratulate Captain Joseph Nimmich and the rest of the men and women of the United States Coast Guard Group Key West for hosting a community outreach event on Trumbo Point in Key West. This event is sponsored by the Navy League Key West and the Key West Chamber of Commerce Military Affairs Committee.

I am very proud to recognize this group, because the work that they do is truly amazing and selfless. In the average month, the men and women of the Coast Guard Group Key West provide the people of Florida with invaluable services. Saving lives, conducting search-and-rescue missions and providing marine exams and aids to navigation are everyday activities for these brave and selfless individuals.

This is a particularly special event, because it also celebrates the Coast Guard's 212th anniversary with the Key West community.

I ask my Congressional colleagues to join me in congratulating and commending Captain Nimmich and his colleagues on this special celebration.

PROVIDING CORPORATE ACCOUNTABILITY AND REFORM

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

Mr. SANDLIN. Mr. Speaker, by now we are all well aware of the recent wave of corporate accounting scandals and the consequent need for systemic reform in this country. Though WorldCom is only one of several high-profile cases of corporate abuse, the sheer size of WorldCom's alleged accounting ''error'' and the ease with which the company perpetrated this fraud have served as the catalysts for long overdue and much-needed reform.

According to the Wall Street Journal, public pension funds, such as the teacher retirement system in Texas, mutual funds and insurance companies in my home State of Texas, hold approximately $870 million in WorldCom bonds that are virtually worthless as a result of imminent Chapter 11 bankruptcy filing.

Simply, the type of corporate behavior that has led to WorldCom's meltdown is outrageous. It must end right now.

WorldCom's financial situation, when considered in the context of other recent corporate accounting scandals, raises the troubling question of these scandals' immediate impact on investor confidence, and potentially long-term impact on investors' faith in the integrity of our capital markets.

Access to accurate financial information is essential to the proper functioning of the markets, and as corporate America seems unwilling thus far to enact reasonable financial reforms, Congress must reform the system.

HONORING U.S.-JAPAN MARITIME YOUTH EXCHANGE PROGRAM

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

Mr. GUTKNECHT. Mr. Speaker, today I rise to honor the U.S.-Japan Maritime Youth Exchange Program. This program brings together high school age students from Japan and the United States for a 3-week program of travel and study in both countries.

It was developed and funded in 1996 through a partnership between the U.S. Navy Memorial Foundation here in Washington and Mr. Kaoru Hasegawa, an unsuccessful World War II Japanese kamikaze pilot and now president of Rengo Company, Limited, in Japan.

Mr. Hasegawa was shot down and then rescued by the crew of the USS *Callaghan* back in World War II. When the survivors of the *Callaghan* invited Mr. Hasegawa to attend their reunion several years ago, it was a very emotional reunion. The desire to share their new-found goodwill and understanding with the next generation of Americans and Japanese led to the creation of the Maritime Youth Exchange Program.

The program's purpose is to teach participants about the historical, cultural and economic factors that impact the two countries' maritime policies and practices. With understanding, respect, teamwork and friendship, the program will work to create a healthy partnership for the future of these two great countries.

Mr. Speaker, I will leave the names of all of the participants, and I congratulate them and wish them the best of luck during their travels.

Mr. Speaker, I include the list of participants for the RECORD.

Adam Meyer of Cary, North Carolina; Titus Wong of Des Plaines, Illinois; Juliet Bintliff of Corpus Christi, Texas; Caroline Toole of Mountain Home, Arkansas; Ashley Thompson of Cincinnati, Ohio; Andrea Claycomb of Euclid, Ohio; Tatsuaki Takanashi of Nagano, Japan; Terumi Tabata of Kagoshima, Japan; Shoko Ishigami of Hyogo, Japan; Yuka Sakai of Saitama, Japan; and Akiko Hasebe of Tokyo, Japan.

RAISING CONCERNS ABOUT CORPORATE ACCOUNTABILITY

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

Mr. LANGEVIN. Mr. Speaker, I rise today to express my deep concerns about corporate accountability and its impact on our Nation's economic future.

In the wake of recent corporate bombshells, investor confidence in our financial markets has been badly shaken. Congress cannot afford to wait for reports of another tragic example of corporate deception, followed by more lost jobs and depleted pensions.

While I welcome the President's comments during his visit to Wall Street last week, this looming crisis requires a firm commitment from our administration to seriously address this problem. But words, like stocks, lose their value when actions do not back them up.

We must hold those irresponsible few accountable for their actions now and enact safeguards to protect our markets, our workers, our consumers and reputations of companies who do play by the rules. Our economic recovery and the future of millions of American families depend on it.

CONGRATULATING HOUSE FOR EARLY ACTION IN ADDRESSING CORPORATE RESPONSIBILITY

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

Mr. KENNEDY of Minnesota. Mr. Speaker, today I rise to congratulate the House for their early action in addressing corporate responsibility and encourage the conferees to finish their work quickly so that we can get a bill to the President's desk before the August break.

In April, we acted on a strong bipartisan bill to strengthen the accounting oversight of corporate America and punish corporate wrongdoing. Now, finally, the Senate has acted.

Corporate criminals must understand that they will be prosecuted, we will increase their jail time, we will take away their ill-gotten gains. And the money we recover will go to workers and investors who were cheated, not to a trial lawyer windfall.

Our economy is built on confidence, and because of a few dishonest executives, confidence in the market has eroded. But let our actions send a signal to corporate America and the American people: The era of ''everything goes'' is over. There is a new sheriff in town.

Let me also say to those that I read today and hear today would drag this out as a partisan attempt for gain: Playing politics with the lives, the jobs and the retirement savings of millions of Americans is shameful and will not earn you people's votes; only their contempt.

Mr. Speaker, this is one of the most important issues this Congress is faced with. We must get our economy back on track. This is an important step in the process.

CORPORATE GREED

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

Mr. BROWN of Ohio. Mr. Speaker, blatant acts of fraud and misgovernance by executives of some of America's largest companies, most of them large contributors to President Bush, have destroyed the retirement accounts of millions of Americans. But rather than focus on legislation that will increase corporate account bills, the President and House Republicans are pushing for another huge giveaway to corporate America, Fast Track trade legislation.

The Fast Track agreement opens the door to expansion of NAFTA-style investor rules that empower foreign corporations to sue State and local governments for billions of dollars if consumer and environmental laws interfere with their profits.

A Canadian chemical company has used NAFTA to attack clean water laws in California. A U.S. toxic waste handler successfully challenged the right of a desperately poor Mexican community to block the company from building a toxic dump on top of their water supply.

A new study from Tufts University says NAFTA-style corporate lawsuits will eventually line the pocket of global corporations with $32 billion per year in U.S. taxpayer funds.

I urge this House to oppose Fast Track when it returns to the House.

LET DEPARTMENT OF DEFENSE DEFEND AMERICA

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

Mr. DUNCAN. Mr. Speaker, this morning's Wall Street Journal has an editorial which says this about the proposed Homeland Security Department: ''It seemed like a good idea at the time. But the more we look at the hash Washington is making of President Bush's proposal for a new Department of Homeland Security, the more we think we would be wiser to call the whole thing off.''

Steven Moore, in a column in today's Philadelphia Inquirer, said the new Department would probably cost $4 billion just in reorganization costs. Then he said, ''There are, however, a number of problems with the proposal. First, and most important, we already have a Department of Homeland Security and it is called the Department of Defense. If Defense, which spends about $350 billion a year, more than almost all of the other nations combined, if Defense isn't spending money on protecting the homeland, what is it spending these funds on? The very reason we had a 9/11 attack was that our government wasn't doing the one thing it is supposed to do: Keep us safe from foreign harm.''

This new department will simply make the Federal Government bigger, more bureaucratic and much more expensive, and it will not make it any safer. We should not have to create a Cabinet level department just to get government agencies to cooperate with each other. If we do, the Federal Government is much worse than even I thought it was.

DO NOT EASE TRADE EMBARGO ON CUBA

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

Mr. KINGSTON. Mr. Speaker, I am very concerned about a proposal that we may have on the floor today to terminate some of the trade embargo between the United States and Cuba.

Mr. Speaker, Cuba is not exactly your stereotypical, friendly next-door neighbor, and there are certain reasons why this island nation has the honor, a very dubious honor, I want to say, of being one of the seven terrorist-supporting nations in the world by the State Department.

In fact, let me quote what our intelligence community says. ''The U.S. believes that Cuba has at least a limited, developmentally offensive biological warfare research and development effort. Cuba has provided dual use technology to rogue states. We are concerned that such technology could support biological warfare programs in these states.''

Now, easing this trade embargo would merely provide Castro the financial capital he needs to fund his reign of terrorism and abuse. It would be tragic if the legislative actions of this Congress helped finance any attack on its own citizens or any of the citizens around the world.

Now is not the time for us to succumb to the wishes of a maniacal ruler and give in on our trade embargo. We have to keep the bar very, very high, because with the terrorist threat around the world, this is one neighbor we have to be mindful of.

AIRPORT SCREENING FOR AVIATION EMPLOYEES

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

Mr. SESSIONS. Mr. Speaker, today I propose and ask the Transportation Secretary to put in place a separate aviation employee screening process by September 1 of this year that will allow airlines to safely and efficiently comply with Federal law.

This separate aviation employee screening process would be uniform from airport to airport, performed by TSA personnel at separate portals from passenger screening, and must take advantage of the new aviation employee credentials that are presently under development.

I ask Transportation Secretary Norm Mineta to appoint a task force to include airline, labor and airport representatives to provide necessary and helpful real-world input and resources in creating and implementing this process.

This task force can greatly enhance the government's ability to meet the proposed September 1 implementation

deadline and facilitate acceptance in the aviation community.

RECESS

The SPEAKER pro tempore (Mr. COOKSEY). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 23 minutes a.m.), the House stood in recess subject to the call of the Chair.

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AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GILLMOR) at 12 o'clock and 52 minutes p.m.

PROVIDING FOR CONSIDERATION OF H.R. 5121, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2003

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 489 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 489

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5121) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read through page 61, line 16. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived except as follows: beginning with ''Provided'' on page 11, line 4, through line 9; page 16, line 21, through page 21, line 17. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. No amendment to the bill shall be in order except the amendment printed in the report of the Committee on Rules accompanying this resolution and except pro forma amendments offered by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate. The amendment printed in the report may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendment as may have been adopted. The previous question shall be considered as ordered on the bill and the amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER); pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

(Mr. DIAZ-BALART asked and was given permission to revise and extend his remarks.)

Mr. DIAZ-BALART. Mr. Speaker, House Resolution 489 is a structured rule providing for the consideration of H.R. 5121, the Legislative Branch Appropriations Act for fiscal year 2003. The rule provides for 1 hour of general debate evenly divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

The rule further provides that the amendment offered by the ranking minority member of the subcommittee, the gentleman from Virginia (Mr. MORAN), be made in order.

This is a fair rule that will allow all Members ample opportunity to debate the important issues associated with this bill. I want to point out again, Mr. Speaker, that the gentleman from Virginia had an amendment that he wished to make in order with regard to the issue of the Joint Committee on Taxation reducing some funds, I believe it is $590,000, and even though this is a structured rule, we made it in order in the interest of absolute fairness.

The underlying legislation funds many important programs that work to keep our government functioning. Some of these programs include $219 million for the Capitol Police, $422 million for the Library of Congress, $86 million for the Congressional Research Service, and $457 million for the General Accounting Office.

At this time I think it is important we highlight a particular item of this bill. Since September 11, the Capitol Police have worked incredibly, tirelessly, to ensure that we, the Members and all the staff here, and the Capitol itself be safe. Their efforts have allowed us to do our jobs without any safety concerns and worries, and I would like to take this opportunity to commend the Capitol Hill Police, all of the officers in that distinguished body, for their courage and their dedication.

I would also like to thank the Committee on Appropriations for ensuring that the brave men and women of the Capitol Police will receive pay at least equal to other Federal law enforcement agencies.

I would also like to thank the chairman of this subcommittee, the gentleman from North Carolina (Mr. TAYLOR), and all the members of the subcommittee. Mr. Speaker, this bill gives us the tools to serve our constituents in an effective and efficient manner, and I urge my colleagues to support both the rule and the underlying legislation.

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

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume, and I thank my colleague for yielding me the customary half hour.

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

Ms. SLAUGHTER. Mr. Speaker, I rise in opposition to this rule. The measure leaves unprotected a provision of the underlying bill authored by my colleague, the gentleman from Virginia (Mr. MORAN). The unprotected provision withholds the release of $590,000, the amount the Joint Committee on Taxation requested above its fiscal 2002 budget until the Joint Committee releases its Report on Expatriates.

My colleagues may remember this report. It was requested by one of our former chairs, Mr. Archer, in 1999, to study the scope and the impact of wealthy U.S. taxpayers who renounce their citizenship to avoid paying their U.S. taxes.

In the wake of recent corporate scandals and in the wake of assertions by members of the majority leadership that corporations moving their corporations abroad do it only to avoid taxes, which was the fault of our Tax Code and not of the corporations, the report has taken on an added importance.

Earlier this year, the Wall Street Journal ran a story suggesting the report was largely completed. But despite repeated requests, the report has yet to be released. Last night, the Committee on Rules could easily have removed this potential roadblock to obtaining this report, but it chose not to.

Mr. Speaker, this, unfortunately, has become a pattern with the majority leadership. Reports in recent days have suggested that the majority leadership is joining forces with corporations who abuse tax avoidance schemes in an effort to kill our attempts to close major tax loopholes, with the help of the Treasury.

Specifically, the GOP leadership attempted earlier this week to strip out a provision passed by Democrats in the Committee on Appropriations that would prohibit government contracts from being issued to companies that have reincorporated overseas specifically to avoid paying taxes.

□ 1300

Accenture, formerly Andersen Consulting, is spearheading a lobbying campaign, as their $43 million contract with the IRS could be affected. Accenture recently moved its headquarters to Bermuda to avoid paying U.S. taxes. The amendment to curtail this practice is the first in a campaign by the Committee on Appropriations to force the majority to confront corporate wrongdoing, worker pension

raids by executives, and stockholder deception. It is my hope that the majority will stop blocking the efforts to address these reform efforts.

In other respects, however, the underlying bill is noncontroversial and provides funds for all aspects of operating the House of Representatives, including staff and committee salaries and expenses, mail and security. It also covers congressional agencies such as the Library of Congress, the General Accounting Office, and the Botanical Gardens.

I would like to highlight the bill's provisions designed to improve Capitol Police recruitment and retention. Since September 11, the hours and pressures of protecting staff and Members and the visiting public have increased dramatically. It is imperative that we take steps to ensure that the Capitol Police have the resources to maintain this level of commitment. With this in mind, the bill contains a 5 percent merit pay raise for Capitol Police officers, as well as a 4.1 percent cost-of-living increase.

I would also note that the measure provides language clarifying the structure of the Capitol Police Board and authorizing the Chief of Police to appoint an executive director of the board. Moreover, it authorizes the chief to hire officers at a rate higher than the minimum rate associated with that position. The bill also includes language authorizing the Capitol Police to run their own payroll services as opposed to having the House and Senate pay some of the officers out of their systems.

We owe it to law enforcement to ensure that they and their families are provided for in this new and uncertain environment. We also owe it to the thousands of visitors to the Capitol each year so that they have confidence that they are being protected to the utmost of our ability.

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

Mr. DIAZ-BALART. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I am frankly not quite sure what to say on this rule. I think we need to explain what is involved in our opposition to it. Last week the Committee on Appropriations expressed the fact that we were fed up with corporations who, having received support services from our communities, law enforcement services, highways, transportation, police protection and the like, we simply got fed up with corporations who were ostensibly moving their legal locations from the United States of America to other more exotic countries in order to avoid paying taxes.

We adopted the DeLauro amendment in committee, which I was pleased to cosponsor, to try to say that if you are a company and you walk out on your obligation to pay your fair share of taxes in this country, then you cannot expect to get contracts with the government of the country that you are abandoning.

At the same time, the gentleman from Virginia (Mr. MORAN) tried to point out in this bill that there is a study pending in the Joint Committee on Taxation which relates to the same nefarious practices, only those practices are being engaged in apparently by individuals rather than corporations. So the gentleman from Virginia (Mr. MORAN) tried to see to it that that Joint Committee on Taxation study being done was released because it has been held up.

Now what the Committee on Rules has done is to eliminate the protection under the rules for the Moran amendment so that the House can hide from this issue by having somebody move to strike that language on a point of order.

I do not know what the majority is trying to hide, and I do not know why after the steady stream of revelations that we have had about the nefarious conduct of corporations by hiding the true nature of their balance sheets, I do not know why the House is continuing to coddle individuals who are engaging in those practices; but evidently the House seems compelled to do that.

As long as that is the case, we feel compelled to vote against this rule because we feel that language should have been protected. It would be funny if it were not so sad.

What I am reminded of, with apologies to the gentleman from Massachusetts (Mr. FRANK), I was reminded yesterday by the gentleman of the lyrics of a song done by the Beach Boys years ago. Part of those lyrics go as follows:

Aruba, Jamaica, ooo I wanna take you, To Bermuda, Bahama come on pretty mama, Key Largo, Montego, baby why don't we go. Ooo I wanna take you down to Kokomo.

Mr. Speaker, that seems to be the motto of the people in this House who are hiding the activities of the jet set, both individual and corporate. To me it is a pretty sad day in the House.

So we will be voting against this rule, not because of our objections to the core bill itself, but because sooner or later we believe that the majority party leadership ought to join us in pursuing the public's right to know which individuals and which corporations are welching on their obligations to support the government that has given them the opportunities to make all of that money that they are now trying to hide and protect.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, we had an opportunity to pass a rule in a nonpartisan fashion. This should have been a good bill that we could have all agreed on and passed within a few minutes. Unfortunately, because of the rule, we have a problem with this bill.

We tried to help out. Three years ago there was a request by Chairman Bill Archer of the Committee on Ways and Means to give Congress a report on the amount of money that expatriates are sheltering overseas so they can avoid their Federal income taxes. That was 3 years ago. We have been waiting for this report, and we have not gotten it. We were not even getting a response from the committee.

So what we tried to do is in the most constructive way possible just suspend the increase on the Joint Committee on Taxation; and as soon as we got the report, they would get their increase. But the rule did not make that in order. So now we are going to have an amendment that we are going to have to fight over. It is unfortunate.

We do not know the specifics of what is in this report, but we certainly cannot figure out why the other side of the aisle would not want that information to be made public when the Federal taxpayer is paying for the Joint Committee's activities. That is the big issue. The Committee works for us and we work for American citizens.

There was another issue that was not made in order, and again we were trying to do the right thing. We put in a provision that allowed the chief of the Capitol Police to have more direct control over his troops. It was something that people who understand the issue in terms of management felt was called for. So we put that in. It was something that the Committee on House Administration should do and they did not do. We understood that it was something that they wanted us to do. We did it, and now it is not made in order.

There is a provision for student loans, to be able to pay off student loans by working for the legislative branch in the same way the executive branch provides incentive so we can acquire and retain the best personnel working for us. The Committee on House Administration has not brought it up. We put it in this bill knowing we were doing the right thing.

We tried to be constructive. We tried not to be controversial. We certainly would not want to demagogue an issue like this, but here we are in a situation where we have a rule that did not make in order two very constructive provisions. That is why we have to object to the rule, unfortunately.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, since September 11, Congress has been considering many issues related to terrorism and homeland security: detection of biological and chemical agents, development of new vaccines and therapeutic drugs, aviation security, biometric technologies for border security, communications systems for the public health system, the psychological effects of terrorism, and cybersecurity.

I ask Members, particularly on the Republican side, do they feel confident

in their ability to analyze these technical issues? Can they name anyone on their staff, on their committee staff or personal staff, who is capable of analyzing these issues? I can tell Members, the answer for these technical issues and other technical issues in transportation, health care, agriculture, energy is no.

Congress used to have scientific expertise at its disposal. The Office of Technology Assessment was established in 1972 because lawmakers recognized a need for the legislative branch to have its own source of technical analysis. The OTA was defunded in 1995. During its existence, the OTA provided Congress with unbiased technical analysis.

In analyzing technical issues, OTA adopted an interdisciplinary approach. It resulted in reports that were excellent and are still regarded as excellent. And to ensure a balanced approach, a bipartisan 12-member technology assessment board comprised of six House and six Senate members, both Republicans and Democrats equally represented, governed the OTA.

The OTA should not have been abolished, but we can debate that. But no, we cannot debate that because this rule does not allow it. In 1995, Congress voted to dissolve the OTA in a misguided attempt to institute government reform.

I presented to the Committee on Rules yesterday a very clean amendment. Members will not find a cleaner amendment. This amendment would have provided $4 million to refund the OTA, which is still authorized. There would be no legislating done here in the appropriations bill. The $4 million would be taken without an offset against any other program, nobody's ox is gored, except perhaps the memory of a former Speaker of the House. But no. This clean amendment was not ruled in order.

The Office of Technology Assessment could be revived, but because Republicans since 1995 have been denying this body unbiased technical analysis, they would rather depend on biased sources for their scientific advice.

Mr. Speaker, this should not have happened. The Republican leadership certainly has given up any claim to want to have informed decisions on technical issues here in this Congress.

□ 1315

This was an appropriate amendment, a simple amendment. It could have been debated. Perhaps they would like to defend their abolition of the Office of Technology Assessment in 1995. Fine. Let us have that discussion. But do not pretend that you have here on Capitol Hill at your disposal the technical analysis to deal with biological and chemical agents, vaccines, aviation security, biometrics, public health communication and so forth.

Mr. Speaker, I will vote against the rule for this reason and I urge my colleagues to do the same.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

I was of the impression that our friends on the other side of the aisle perhaps had listened too much to the Beach Boys and had a few too many margaritas after hearing their arguments this afternoon until I heard the gentleman from Wisconsin's rendition of the Beach Boys song. I think maybe a couple of more margaritas would improve the rendition.

But in all seriousness, Mr. Speaker, I am somewhat confused. The main allegation being made is that the Committee on Rules is not permitting the gentleman from Virginia's issue to be discussed. This is a structured rule that required us to make in order any amendments, and the Committee on Rules made in order an amendment by the gentleman from Virginia (Mr. MORAN) precisely dealing with the issue that the gentlewoman from New York (Ms. SLAUGHTER) and he brought up. The amendment is made in order. I kind of wish we had not made it in order, but we did. In the interest of full fairness and the opportunity to debate issues, knowing the passion which the gentleman from Virginia feels on this issue, that amendment was made in order.

Maybe it is too many margaritas, I am not sure what, but I wanted to reiterate that the amendment was made in order and that we look forward as we proceed, since we did make it in order, to debate on the gentleman from Virginia's amendment and obviously then on the underlying legislation.

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

Ms. SLAUGHTER. Mr. Speaker, I yield 15 seconds to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I just want to respond to my friend from Florida. Our problem is that we did not want to have to cut the funding for the Joint Committee on Taxation. We just wanted to suspend the money until we get the report. That is the issue. We really do not want to be punitive and cut the funding. You only gave us the option of cutting the funding. That is our problem with the decision of the Committee on Rules.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, on November 12, 2001, President Bush signed permanent legislation which permits Federal agencies at their discretion to use appropriated funds to assist their lower income employees with the high cost of quality child care. In order to qualify, the total family income of the employee parent cannot exceed $60,000. Additionally, the children cannot exceed the age of 13, 18 if disabled, and must be placed in licensed day care, home care or after-school care. Employees meeting these criteria could have had from 20 percent to 50 percent of their total child care cost covered. Employees qualifying for this benefit must be working in the United States.

I attempted to have an amendment included that would have provided for a study to determine the feasibility of providing child care services to low-income employees of the legislative branch. Unfortunately, that rule was not included. We need to create an affordable child care plan for legislative branch employees. I could not understand and still cannot understand why such an amendment could not have been included so that those individuals could have the possibility of receiving benefits that would assist them to have their children in licensed day care programs.

For that reason, I too must vote against this rule because I think it could have allowed certainly this amendment which would have done no harm to anything or anybody.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL).

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

Mr. RANGEL. Mr. Speaker, I am resisting and voting against the rule because it does not allow the House of Representatives an opportunity to work its will. We have in this bill a provision that would allow us to hold back the fundings of the Joint Committee on Taxation until such time that they release to the Committee on Ways and Means, and the House of Representatives, information which they have that would tell us with some degree of accuracy the cost to the United States for companies that have decided to leave the United States and to go abroad in order to avoid paying United States taxes. I want to thank the gentleman from Virginia (Mr. MORAN) for using this vehicle for us to get what we are entitled to get.

At the end of the day, we are not asking anyone to vote up or down. All we are saying is that when a committee that has been formed for the purpose of providing information for us to work our will based on that information, that we should have it. And whether we are under Democratic leadership or Republican leadership, the ability to stop a legitimate committee from reporting that information is against the best interests of the committee, the Congress and, indeed, our country. When that flag is up and waving as a result of the terrorists' cowardly attack on the United States of America, it would seem to me that all of us have to find some sense of responsibility as to what do we owe this great Republic, this great country of ours. And even though I have not reached the position that it is a privilege to pay taxes, I do reach the position it is a responsibility to pay taxes in order to appreciate the rights and the privileges that we have in this great country. When someone decides that they do not want to pay taxes here, that they do not like our

tax laws, what they should be doing is petitioning this Congress to change those laws, but not flee the jurisdiction of the United States and take the jobs with them abroad just for the sole purpose that they do not want to do it.

We are asking for information, and when we get so partisan that we do not like the reports, that we tell the employees we do not want to hear it, then it is up to us to say that we do not fund that type of activity. And when we are able to persuade the committee to put it in there, then the least that you can expect from the Committee on Rules is that they would protect us, because it is not Moran, it is not Democrats, it is not Republicans, it is the integrity of this great House.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. NEAL).

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

Mr. NEAL of Massachusetts. Mr. Speaker, the gentleman from Florida said that the issue was too many margaritas. The issue really is too few opportunities to vote on Bermuda. I am in opposition to this rule today. I am going to continue to be in opposition to these rules until there is an opportunity for this full House to vote on the issue of runaway corporations moving offshore to avoid American taxes in a time of war. The President has requested $48 billion more for national defense, $38 billion for homeland security, and these corporations in the dark of night are sneaking out of the country without ample opportunity for this body to take a vote on stopping it. Whether it is Stanley Tools running off to Bermuda to avoid taxes or J. Paul Getty's grandson turning in his U.S. citizenship to avoid individual income taxes, the American taxpayer wants us to act to stop these tax dodgers.

We have known that these penalties are insufficient for those who renounce U.S. citizenship for tax purposes, but since 1996 we have had no opportunity to do anything about it. These expatriates still visit, work and even live here while avoiding U.S. income taxes. The Republicans have stopped this vote from coming up, and now they even stop the report on individual expatriates from coming to the House floor. We deserve a vote and I will predict what I have said all along. Give us a vote on the Bermuda tax dodge, what these corporate traitors are doing in the dark of night, and 300 Members of this body at a minimum will vote to do something about it.

Stop blocking this opportunity. We need the report to find out what is happening with these billionaires and our tax revenues. Let me say this. We can stand here and hold hands and sing ''God Bless America,'' but part of the blessings that we enjoy in this country are paying for the benefits that we have as well. Give us a vote on the Bermuda tax dodge.

Mr. DIAZ-BALART. Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee (Mr. WAMP).

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

Mr. WAMP. Mr. Speaker, I rise to engage Chairman Taylor in a colloquy.

Mr. Chairman, in the Southeast we are facing a major problem with a veterans' health care system that is outdated and no longer able to meet the needs of those who have placed their lives on the line to preserve our freedom. We have seen a recent trend of veterans moving southward, yet the medical facilities that are in place in these States seeing the greatest influx are not sufficient to meet their needs.

In July of 2000, the Veterans' Administration entered into a contract in my district with Erlanger Hospital in Chattanooga, Tennessee that created a pilot project to provide quality medical service to our veterans closer to home. There are currently veterans in my district who are forced to wait months for appointments in Murfreesboro or Nashville when by utilizing services at Erlanger Medical Center, our regional safety net public hospital, they can reduce their wait time as well as their travel.

Since the inception of the program in July 2000, I believe that the VA never truly committed to this contract. In the first year of this pilot program, there were only 24 referrals to Erlanger from the VA. When Erlanger renewed for a second year, we negotiated contract changes to increase the volume of veterans eligible to be referred to Erlanger. However, the second year of the program saw only a meager increase in referrals to 34. Despite the fact that Erlanger is being reimbursed at the Medicare rate, the VA refuses to refer the vast majority of the veterans in the area and instead forces them to make the long trip to the veterans' hospital 2 hours away. The current contract is set to expire next month, August 31, and the VA received zero bids for their requests for proposals.

Mr. Chairman, I want to thank you for agreeing to join me in sending a letter to the GAO requesting a study of this pilot project and the reasons for its failure. We have asked the GAO to undertake a study of the VA Tennessee Valley Health Care System-Erlanger Medical Center contract in Chattanooga, Tennessee. The focus of the study should be for the GAO to evaluate the 2-year contract, the volume of referrals, system for referring veterans, the funding allocated to the contract and the total amount expended. The study should also focus on the specific reasons for contract termination, adjustments of future contracts, diagnosis and medical services list, like surgery, the number of veterans that qualified under the terms of the contract that were not referred, and the cost estimate to continue this contract with the focus on quality care closer to home for veterans.

Furthermore, we would like the GAO to review and update an inspector general's report on the Chattanooga outpatient clinic. This update should include wait times for appointments, referral times to a VA hospital, staffing issues and physical capacity to accommodate increasing patient load, specialty care provided by the Chattanooga outpatient clinic, and report back to the subcommittee and me as soon as possible.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. WAMP. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, I do share the gentleman's sentiments about the accessibility of quality care for our Nation's veterans. North Carolina has also experienced an influx of veterans in recent years and the failure of this VA pilot program is a setback in our efforts to provide all veterans with quality and convenient health care. I am pleased to work with you on this matter and look forward to receiving and reviewing the GAO study.

Mr. WAMP. I commend and thank our distinguished chairman for working with me on this important issue for our veterans in the Southeast. The recent migratory trends in our veteran population affect much of the South and I know that the chairman shares my concern about the medical attention that they are being provided.

□ 1330

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I am going to support the underlying bill, as I know the ranking member and certainly the chairman will. I will speak at greater lengths on the substance of the bill, which is excellent, and I appreciate the gentleman from North Carolina (Mr. TAYLOR) working with us.

Mr. Speaker, we are in an environment that is very dangerous. It is an environment in which secrecy in the marketplace has undermined the confidence of investors. It has undermined the confidence of the investors to the extent that the market has plummeted, and millions of people have lost very substantial amounts in their 401(k)s, their Keoughs, and other savings plans.

One might say, well, that is interesting. What does it have to do with this bill? What it has to do with this bill is that we ought to be in an environment of making sure that investors, in this case taxpayers who invest in America, know what is happening with their tax dollars, and know what is happening with those around them in terms of contributing to the war on terrorism, to homeland security, to education, to health care, to the welfare and greatness of this Nation. That

is what the Moran amendment seeks to do.

Very frankly, self-respect, if nothing else, should compel us to adopt the Moran amendment. Self-respect to the extent that the House says to one of its committees, produce a report, in this case, the Republican chairman of the Committee on Ways and Means, not a Democrat. Notwithstanding that request, and notwithstanding the fact that the Joint Committee on Taxation conducted a study about tax absconders, tax dodgers, that report is being kept secret.

Mr. Speaker, we ought to oppose this rule and put the Moran amendment back in this bill.

Ms. SLAUGHTER. 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, there is just one basic issue relating to this rule: Why is the Republican majority hiding a report on individuals who flee America and give up their citizenship, in a sense, in name, in order to avoid paying American taxes? Why are our Republican colleagues hiding it? They should use some of their time to answer that question.

In 1999, the gentleman from New York (Mr. RANGEL) tried to address this, and in order to avoid it, the Republican majority said there will be a study with a report back by 2000. As far as I know, this is the year 2002.

Why are all other provisions that have some legislating in them, why are they all protected except this one? I yield any remaining time to the gentleman from Florida to respond.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, what does it mean to be an American? We all have our personal reflections, sometimes finding an answer in a school child's essay, a veteran's speech, or a visit to the Lincoln Memorial. Most Americans understand that freedom is not free, and that the price of being a part of the greatest Nation in the history of the world is accepting the responsibility to pay for our security at home and abroad.

But some of our wealthiest Americans have shirked their responsibility and fled to foreign shores. These individual ex-patriots, just like their corporate cousins at Stanley Works, have elected personal gain over patriotism.

More than three years have passed since the Joint Committee on Taxation was first asked to evaluate whether existing rules for these ex-patriots were being applied as we intended them here in Congress. It only took Forbes Magazine a short while. Three years ago, in three words they concluded, ''It ain't working.'' And it is still not.

Now, some cynics suggest that the Joint Committee on Taxation has stonewalled and delayed this report because they want to thwart the efforts of Democrats to ensure that billionaires are paying their fair share. As I said, in 1995, when this issue was up, Newt Gingrich and the Republicans had as their agenda a ''pattern of protection of plutocrats'' in what they called the ''Contract on America.''

Today, though, I offer a more humble suggestion. Perhaps the Joint Committee on Taxation is simply shorthanded and understaffed, because too many of its staff members have moved on to greener, indeed, much greener pastures. Ken Kies, who was the chief of staff of this very same committee from 1995 to 1998 under the Republicans, left to join Pricewaterhouse Coopers where, in 2000, he lobbied on behalf of the same Section 877 Coalition to weaken the already modest limitations on these billionaires, who renounce America. The Coalition members, of course, like this Joint Committee report, remained secret because he never revealed the clients, who were paying for the lobbying in his official lobbyist disclosure reports.

Pricewaterhouse Coopers Consulting has since itself renounced America, reemerged and reincorporated abroad to dodge taxes under the unusual name ''Monday.''

Nor did Ken Kies devote all of his time in this manner. He took time out in March of this year, according to a solicitation from the National Republican Congressional Committee, to meet with contributors, together with the chairman of the Committee on Ways and Means, the gentleman from California (Mr. THOMAS), to, according to this solicitation, instruct those who were invited ''how to cut your taxes and stimulate your business.'' No doubt this was a most insightful presentation.

Nor is Ken Kies the only former staff member of this particular committee to find greener pastures elsewhere. Barbara Angus, who served on this Joint Committee on Taxation, moved over to Price Waterhouse and joined the same coalition fighting on behalf of the billionaire ex-patriots. That, of course, is not where Republican Barbara Angus is today. Today, President Bush has appointed her as the international tax counsel for the United States Department of Treasury, where she is undoubtedly seeking to ensure that her former clients pay their fair share.

To protect the public Treasury, the Bush Administration supported by its allies here in Congress, is anointing lapdogs instead of appointing watchdogs. The same reason why the Republicans bar the public from reading this report is why they are obstructing the legislation I have introduced on abusive tax shelters and to end this Bermuda tax dodge. Their watchword is ''friends do not let friends pay taxes,'' or, in the memorable words of Leona Helmsley, ''taxes are for the little people.''

And there is a cycle: Draft weak laws. Lobby on behalf of billionaires to keep them weak, and then return to government to police the same laws.

Mere requests in English to produce this report for three years have been unsuccessful, so we must talk in the only language that these folks understand money: no report, no money. Support the Moran amendment.

Mr. DIAZ-BALART. Mr. Speaker, I would inquire, has all the time on the other side expired?

The SPEAKER pro tempore (Mr. GILLMOR). Yes. All time of the gentlewoman from New York has expired.

Mr. DIAZ-BALART. I thank the Speaker for the clarification.

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

Mr. Speaker, I want to point out again, because I have been trying to follow the arguments that have been coming from the other side, and I saw in one of the publications here on the Hill today that they have all gotten their orders and they are going to talk on this issue from now until eternity, no matter what the matter at hand is about.

I want to point out that the amendment from the gentleman from Virginia (Mr. MORAN) was requested of the Committee on Rules. We did not impose it on the gentleman. We did not in the Committee on Rules say we are going to force the amendment down onto the gentleman from Virginia (Mr. MORAN). He requested of us, and we made it in order. We have made the Moran amendment in order precisely because of the fervor with which it was made clear that the gentleman from Virginia (Mr. MORAN) wanted it to be heard and discussed.

With regard to the statement of a colleague who got up, I forget who he was, and said that we were hiding something, this report, not only are we not hiding anything, this report is of the Joint Tax Committee. The chairman of the Joint Tax Committee, it is my understanding, is Mr. BAUCUS, a Senator from, I believe it is Montana. I would hope and assume that they would talk with the chairman of the committee that they think is hiding something. It happens to be a member of their party. But I saw in the paper today what the strategy is, and that is part of the process.

But also part of the process is something serious, which is the legislative branch appropriations bill, including the Capitol Police, that we have brought to the floor and, as I said before, with commendations and admiration for the men and women of the Capitol Police. So I would urge my colleagues to pass this rule and pass the underlying legislation, get on with the business, despite what we see in the little papers about strategies and tactics and dreams; everyone is entitled to dreams. Let us get on with the Nation's business, and let us pass the rule.

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

Mr. DIAZ-BALART. I yield to the gentleman from Georgia.

Mr. COLLINS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, if I understand this amendment correctly, it is to reduce the Joint Committee on Taxation's appropriation or budget by some $590,000, because of a report. That report is not going to change why people expatriated. Mr. Speaker, when they leave this country and go anywhere else in the world to make money, they are going to pay tax. The reason they are doing so is because of a country that has less taxation. The liability is less. That is America: freedom to go wherever you want to. I do not like it. I do not like it because people are leaving.

Stanley Works has been mentioned. If I read right, Stanley Works wants to reincorporate in Bermuda. They would save some $32 million based on the difference in taxation. Does not that type of movement or reason to move or incentive to move tell us that our tax codes, our tax structure is penalizing people? Now, they are leaving the business here and the jobs here. They are moving taxation. I would rather they stay here. But this $590,000, we could make it $1 million, it is not going to change the reason. The reason is the environment.

Mr. Speaker, it bothers me when, based on the current environment in this town, that the word ''profit'' or ''profits'' is a bad word. Profits only relate to people who are in business who are greedy, commit fraud and do not do right with their bookkeeping. That is not true. Profits of business, whether it is a one-man operation, one-woman operation or a conglomerate, those profits relate directly to salaries, to income, to retirement, to savings, to health care for their families.

□ 1345

It all comes from profits. And we are penalizing business in this country with the high cost of taxation. All business does is collect it from the private sector through their sales.

I have been into a lot of businesses to buy a product, or even buy a vehicle or a major purchase. I have never been given two bills, one for the purchase that I was making, and the other for the taxes they were making off of the profit they were going to have to pay the government. It is all-inclusive. The end result is the consumer pays the bill.

We have different tax provisions in this country than we will find in other parts of the world. We should look at those areas. Some of the gentlemen who have gotten up and spoken are on the Committee on Ways and Means. They know this as well as I do.

We double-tax dividends that companies pay to their investors. We were talking about the investors a minute ago, the 401(k)s, the IRAs. We double-tax those dividends. Other nations do not do that. European nations do not do that. That is the reason we have several who have located in Europe.

A lot of industrialized nations do not have capital gains tax; we do. I do not know of another country that has an alternative minimum tax, but we do. Let us talk about those things and what we can do in changing the tax law, or in the regulatory provisions and costs that we impose on a business that will do away with that corrective to move offshore, to reincorporate in Bermuda, to sell out to a company in Europe or Asia.

A plant in my district just sold to a group in China. They are going to leave the plant there, hopefully. They may close it, because they are opening a plant, too, in China. I do not like that, but this is not going to do any changing to it. It will not change it, I say to the gentleman from Virginia (Mr. MORAN), not at all.

I would like to see the report, too. It is forthcoming, I hope. But I hope that this Congress will spit out that bitter taste they have about business and profits and address the real problem, that is, the costs that we impose as a Congress on business, to do business in this country. It directly reflects the individual worker here.

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

Mr. DIAZ-BALART. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Speaker, I just want the record to reflect and to be clear, we debated this expatriate issue at the full Committee on Appropriations. An overwhelming bipartisan vote took place against expatriate corporations, and the gentlewoman from Kentucky (Mrs. NORTHUP) and myself led the Republican debate to hold these companies accountable; to say to expatriated companies, they cannot do business with the Federal Government. It was a defense measure, to say they could not contract with defense. I stood to say we should go further. They should not do Medicare, Medicaid business, and should not contract with the Federal Government.

This is not a Democrat or Republican issue. To me, this is an American issue. I said that these corporations are un-American that seek to set up shop in foreign countries to avoid paying taxes. We need to hold them accountable.

This amendment is about joint taxation, where they have connected this issue. I hope we can reach agreement with the authorization committee to accommodate the gentleman from Virginia (Mr. MORAN). But this issue of expatriation, in a bipartisan way I believe people of patriotic fervor will come together to say that we have to say, if you are going to do business in America, be American, pay your taxes, pull your load, do what is right for the workers.

Republicans and Democrats are going to hold corporate America to a standard; we are not going to regulate them into oblivion. The gentleman from Georgia is right, we cannot tax them, regulate them, or litigate them too much or they will be strangled. We want the free enterprise system.

But we have to say to American corporations, they should pay their taxes as they go. We say it with a unified bipartisan voice. We did it in the committee, a bipartisan vote. So before the gentleman makes hay out of this all the way to November, understand we stand together in a bipartisan way to hold American corporations accountable.

Mr. DIAZ-BALART. Reclaiming my time, Mr. Speaker, we have made the amendment of the gentleman from Virginia (Mr. MORAN) in order. I think it is appropriate that we get to the underlying legislation and that we fund the legislative branch, which is what the business of today is. Despite the hay we have heard, they had more than half their time on the floor here.

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. GILLMOR). The question is on the resolution.

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

Ms. SLAUGHTER. 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 219, nays 206, not voting 9, as follows:

[Roll No. 319]

YEAS—219

Aderholt	Culberson	Hart
Akin	Cunningham	Hastings (WA)
Armey	Davis, Jo Ann	Hayes
Bachus	Davis, Tom	Hayworth
Baker	Deal	Hefley
Ballenger	DeLay	Herger
Barr	DeMint	Hilleary
Bartlett	Diaz-Balart	Hobson
Barton	Doolittle	Hoekstra
Bass	Dreier	Horn
Bereuter	Duncan	Hostettler
Biggert	Dunn	Houghton
Bilirakis	Ehlers	Hulshof
Blunt	Ehrlich	Hunter
Boehlert	Emerson	Hyde
Boehner	English	Isakson
Bonilla	Everett	Issa
Bono	Ferguson	Istook
Boozman	Flake	Jenkins
Brady (TX)	Fletcher	Johnson (CT)
Brown (SC)	Foley	Johnson (IL)
Bryant	Forbes	Johnson, Sam
Burr	Frelinghuysen	Jones (NC)
Burton	Gallegly	Keller
Buyer	Ganske	Kelly
Callahan	Gekas	Kennedy (MN)
Calvert	Gibbons	Kerns
Camp	Gilchrest	King (NY)
Cannon	Gillmor	Kingston
Cantor	Gilman	Kirk
Capito	Goode	Knollenberg
Castle	Goodlatte	Kolbe
Chabot	Goss	LaHood
Chambliss	Graham	Latham
Coble	Granger	LaTourette
Collins	Graves	Leach
Combest	Green (WI)	Lewis (CA)
Cooksey	Greenwood	Lewis (KY)
Crane	Grucci	Linder
Crenshaw	Gutknecht	LoBiondo
Cubin	Hansen	Lucas (OK)

Manzullo
McCrery
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
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
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—206

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
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
Dicks
Dingell
Doggett
Dooley
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)
Jefferson
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
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
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
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
Tanner
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—9

Bonior
Carson (OK)
Cox
Fossella
Lowey
Mascara
McCarthy (NY)
McHugh
Traficant

□ 1420

Mr. DELAHUNT and Mr. MEEHAN changed their vote from ''yea'' to ''nay.''

Mr. SIMPSON 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.

MAKING IN ORDER PRO FORMA AMENDMENTS DURING CONSIDERATION OF H.R. 5121, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2003

Mr. DIAZ-BALART. Mr. Speaker, I ask unanimous consent that during the consideration of H.R. 5121, pursuant to House Resolution 489, pro forma amendments offered by the chairman and ranking minority member of the Committee on Appropriations or their designees for the purpose of debate may be offered at any time.

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

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested a bill of the House of the following title:

H.R. 5011. An act making appropriations for military construction, family housing, and base realignment and closure for the Department of defense for the fiscal year ending September 30, 2003, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5011) ''An Act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes,'' requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mrs. FEINSTEIN, Mr. INOUYE, Mr. JOHNSON, Ms. LANDRIEU, Mr. REID, Mr. BYRD, Mrs. HUTCHISON, Mr. BURNS, Mr. CRAIG, Mr. DEWINE, and Mr. STEVENS to be the conferees on the part of the Senate.

GENERAL LEAVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 5121, and that I may include tabular and other extraneous material.

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

There was no objection.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2003

The SPEAKER pro tempore. Pursuant to House Resolution 489 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5121.

□ 1422

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5121) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes, with Mr. HANSEN in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from North Carolina (Mr. TAYLOR) and the gentleman from Virginia (Mr. MORAN) each will control 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today we take up the fiscal year 2003 legislative branch appropriations bill; but before we begin, I would like to thank the hard work of the Members of the subcommittee, especially the gentleman from Virginia (Mr. MORAN), our ranking member.

I would like to note that our subcommittee has taken a reasoned approach to our increased needs in the aftermath of September 11. I am pleased to note that we provided a modest 5 percent overall increase over the current fiscal year in this bill. This is especially reasonable when one realizes that well over 75 percent of our costs are personnel related and the cost-of-living component government-wide this year is 4.1 percent. Price level increases account for 1.8 and almost 2 percent of the government-wide spending increase this year. So, in real terms, we have kept our bill below the rate of inflation and cost increases.

We have provided the necessary and sufficient funding in this bill for our security needs, a police pay increase of 5 percent, in addition to their COLA, and increased management flexibility for our new chief. We provide the police with all the additional manpower that they acknowledge that they can recruit and train in the upcoming year.

We have continued our commitment to digitalization at the Library of Congress and gotten back on track with their building program and storage

needs by asking the Corps of Engineers to take over the completion of the library's storage facility at Fort Meade, Maryland.

We have directed the Congressional Research Service to join with the rest of the legislative branch to join the communications revolution to better enable them to communicate with Members' offices. We have included language in this bill which authorizes a tuition reimbursement program for House employees.

Finally, I would like to thank all the employees of this people's House for all their hard work, their stamina, and the good spirits through this tough year. I know this Member appreciates them, and the American people appreciate them as well.

Of course, without the steady hand of Liz Dawson, Chuck Turner and our dedicated, knowledgeable committee staff, and Roger France of my staff, we would not have the bill we have today. Also, I would like to thank Scott Lilly, Mark Murray, Mike Malone, and Tim Aikin for all their hard work and dedication on this bill.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE I - CONGRESSIONAL OPERATIONS					
HOUSE OF REPRESENTATIVES					
Payments to Widows and Heirs of Deceased Members of Congress					
Gratuities, deceased Members	145	---	---	-145	---
Salaries and Expenses House Leadership Offices					
Office of the Speaker	1,866	1,979	1,979	+113	---
Office of the Majority Floor Leader	1,830	1,899	1,899	+69	---
Office of the Minority Floor Leader	2,224	2,309	2,309	+85	---
Office of the Majority Whip	1,562	1,624	1,624	+62	---
Office of the Minority Whip	1,168	1,214	1,214	+46	---
Speaker's Office for Legislative Floor Activities	431	446	446	+15	---
Republican Steering Committee	806	834	834	+28	---
Republican Conference	1,342	1,397	1,397	+55	---
Democratic Steering and Policy Committee	1,435	1,490	1,490	+55	---
Democratic Caucus	713	741	741	+28	---
Nine minority employees	1,293	1,337	1,337	+44	---
Training and Program Development:					
Majority	290	290	290	---	---
Minority	290	290	290	---	---
Cloakroom Personnel:					
Majority	330	340	340	+10	---
Minority	330	340	340	+10	---
Subtotal, House Leadership Offices	15,910	16,530	16,530	+620	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
Members' Representational Allowances Including Members' Clerk Hire, Official Expenses of Members, and Official Mail Expenses	479,472	483,536	476,536	-2,936	-7,000
Committee Employees					
Standing Committees, Special and Select (except Appropriations)	104,514	108,741	108,741	+4,227	---
Committee on Appropriations (including studies and investigations)	23,002	24,200	24,200	+1,198	---
Subtotal, Committee employees	127,516	132,941	132,941	+5,425	---
Salaries, Officers and Employees					
Office of the Clerk	15,408	17,530	20,032	+4,624	+2,502
Office of the Sergeant at Arms	4,139	4,732	5,097	+958	+365
Office of the Chief Administrative Officer	67,495	99,863	104,363	+36,868	+4,500
By Transfer - Legislative Branch Emergency Response Fund (P.L. 107-117)	41,712	---	---	-41,712	---
Office of Inspector General	3,756	3,947	3,947	+191	---
Office for Emergency Planning, Preparedness and Operations	---	2,603	6,000	+6,000	+3,397
Office of General Counsel	894	894	894	---	---
Office of the Chaplain	144	149	149	+5	---
Office of the Parliamentarian	1,344	1,464	1,464	+120	---
Office of the Parliamentarian	(1,168)	(1,279)	(1,279)	(+111)	---
Compilation of precedents of the House of Representatives	(176)	(185)	(185)	(+9)	---
Office of the Law Revision Counsel of the House	2,107	2,168	2,168	+61	---
Office of the Legislative Counsel of the House	5,456	5,852	5,852	+396	---
Corrections Calendar Office	883	915	915	+32	---
Other authorized employees	140	146	146	+6	---
Technical Assistants, Office of the Attending Physician	(140)	(146)	(146)	(+6)	---
Subtotal, Salaries, Officers and Employees	143,478	140,263	151,027	+7,549	+10,764

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
Allowances and Expenses					
Supplies, materials, administrative costs and Federal tort claims	3,379	3,384	3,384	+5	---
Official mail for committees, leadership offices, and administrative offices of the House	410	410	410	---	---
Government contributions	152,957	171,888	178,888	+25,931	+7,000
Miscellaneous items	690	690	690	---	---
Subtotal, Allowances and expenses	157,436	176,372	183,372	+25,936	+7,000
Undistributed reduction	-4,050	---	---	+4,050	---
Outlays	---	---	---	---	---
Total, salaries and expenses	919,762	949,642	960,406	+40,644	+10,764
Total, House of Representatives	919,907	949,642	960,406	+40,499	+10,764
JOINT ITEMS					
Joint Economic Committee	3,424	3,658	3,658	+234	---
Joint Committee on Taxation	6,733	7,323	7,323	+590	---
Office of the Attending Physician					
Medical supplies, equipment, expenses, and allowances	1,865	1,947	3,000	+1,135	+1,053
Capitol Guide Service and Special Services Office	2,512	3,035	3,035	+523	---
By Transfer - Legislative Branch Emergency Response Fund (P.L. 107-117)	350	---	---	-350	---
Total, Capitol Guide Service and Special Services Office	2,862	3,035	3,035	+173	---
Statements of Appropriations	30	30	30	---	---
Total, Joint items	14,914	15,993	17,046	+2,132	+1,053

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
Capitol Police					
Salaries:					
Sergeant at Arms of the House of Representatives..	55,239	---	---	-55,239	---
Sergeant at Arms and Doorkeeper of the Senate.....	57,805	---	---	-57,805	---
Capitol Police salaries.....	---	184,526	175,675	+175,675	-8,851
Subtotal, salaries.....	113,044	184,526	175,675	+62,631	-8,851
General expenses.....	13,146	28,100	43,000	+29,854	+14,900
By Transfer - Legislative Branch Emergency Response Fund (P.L. 107-117).....	31,000	---	---	-31,000	---
Subtotal, General expenses.....	44,146	28,100	43,000	-1,146	+14,900
ARCHITECT OF THE CAPITOL					
Capitol Police Buildings and Grounds.....	---	---	37,500	+37,500	+37,500
Total, Capitol Police.....	157,190	212,626	256,175	+98,985	+43,549
OFFICE OF COMPLIANCE					
Salaries and expenses.....	2,059	2,224	2,059	---	-165
CONGRESSIONAL BUDGET OFFICE					
Salaries and expenses.....	30,780	32,390	32,390	+1,610	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
ARCHITECT OF THE CAPITOL					
Capitol Buildings and Grounds					
General administration, salaries and expenses	51,371	63,951	61,927	+10,556	-2,024
Capitol buildings	15,194	46,789	32,062	+16,868	-14,727
By Transfer - Legislative Branch Emergency Response Fund (P.L. 107-117)	106,304	---	---	-106,304	---
Capitol grounds	6,009	7,711	8,125	+2,116	+414
House office buildings	54,006	46,250	58,460	+4,454	+12,210
Capitol Power Plant	56,983	148,003	111,573	+54,590	-36,430
Offsetting collections	-4,400	-4,400	-4,400	---	---
Net subtotal, Capitol Power Plant	52,583	143,603	107,173	+54,590	-36,430
Total, Architect of the Capitol	285,467	308,304	267,747	-17,720	-40,557
LIBRARY OF CONGRESS					
Congressional Research Service					
Salaries and expenses	81,454	87,646	86,241	+4,787	-1,405
GOVERNMENT PRINTING OFFICE					
Congressional printing and binding	81,000	90,143	90,143	+9,143	---
UNITED STATES CAPITOL HISTORICAL SOCIETY					
Grant - By Transfer - Legislative Branch Emergency Response Fund (P.L. 107-117)	1,000	---	---	-1,000	---
Total, title I, Congressional Operations	1,573,771	1,698,968	1,712,207	+138,436	+13,239

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE II - OTHER AGENCIES					
BOTANIC GARDEN					
Salaries and expenses	5,646	5,361	5,936	+290	+575
LIBRARY OF CONGRESS					
Salaries and expenses	306,692	357,121	358,797	+52,105	+1,676
Authority to spend receipts	-6,850	-6,850	-6,850	---	---
By Transfer - Legislative Branch Emergency Response Fund (P.L. 107-117)	29,615	---	---	-29,615	---
Subtotal, Salaries and expenses	329,457	350,271	351,947	+22,490	+1,676
Copyright Office, salaries and expenses	40,896	44,321	44,876	+3,980	+555
Authority to spend receipts	-27,864	-29,527	-31,102	-3,238	-1,575
Subtotal, Copyright Office	13,032	14,794	13,774	+742	-1,020
Books for the blind and physically handicapped, salaries and expenses	49,788	51,020	56,522	+6,734	+5,502
Furniture and furnishings	7,932	8,003	---	-7,932	-8,003
Total, Library of Congress (except CRS)	400,209	424,088	422,243	+22,034	-1,845
ARCHITECT OF THE CAPITOL					
Capitol Visitors Center					
Capitol Visitors Center	70,000	---	---	-70,000	---
Congressional Cemetery					
Congressional Cemetery	1,250	---	---	-1,250	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
Library Buildings and Grounds					
Structural and mechanical care	21,753	26,880	35,319	+13,566	+8,439
Total, Architect of the Capitol	93,003	26,880	35,319	-57,684	+8,439
GOVERNMENT PRINTING OFFICE					
Office of Superintendent of Documents					
Salaries and expenses	29,639	32,302	29,661	+22	-2,641
Government Printing Office Revolving Fund					
By Transfer - Legislative Branch Emergency Response Fund (P.L. 107-117)	4,000	---	---	-4,000	---
Total, Government Printing Office	33,639	32,302	29,661	-3,978	-2,641
GENERAL ACCOUNTING OFFICE					
Salaries and expenses	424,345	457,802	456,534	+32,189	-1,268
Offsetting collections	-2,501	-3,000	-3,000	-499	---
By Transfer - Legislative Branch Emergency Response Fund (P.L. 107-117)	7,600	---	---	-7,600	---
Total, General Accounting Office	429,444	454,802	453,534	+24,090	-1,268
CENTER FOR RUSSIAN LEADERSHIP DEVELOPMENT					
Payment to the Russian Leadership Development Center Trust Fund	8,000	10,000	13,000	+5,000	+3,000
Total, title II, Other agencies	969,941	953,433	959,693	-10,248	+6,260
Grand total	2,543,712	2,652,401	2,671,900	+128,188	+19,499

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE I - CONGRESSIONAL OPERATIONS					
House of Representatives	919,907	949,642	960,406	+40,499	+10,764
Joint Items	14,914	15,993	17,046	+2,132	+1,053
Capitol Police	157,190	212,626	256,175	+98,985	+43,549
Office of Compliance	2,059	2,224	2,059	---	-165
Congressional Budget Office	30,780	32,390	32,390	+1,610	---
Architect of the Capitol	285,467	308,304	267,747	-17,720	-40,557
Library of Congress: Congressional Research Service	81,454	87,646	86,241	+4,787	-1,405
Congressional printing and binding, Government Printing Office	81,000	90,143	90,143	+9,143	---
United States Historical Society Grant	1,000	---	---	-1,000	---
Total, title I, Congressional operations	1,573,771	1,698,968	1,712,207	+138,436	+13,239
TITLE II - OTHER AGENCIES					
Botanic Garden	5,646	5,361	5,936	+290	+575
Library of Congress (except CRS)	400,209	424,088	422,243	+22,034	-1,845
Architect of the Capitol	93,003	26,880	35,319	-57,684	+8,439
Government Printing Office (except congressional printing and binding)	33,639	32,302	29,661	-3,978	-2,641
General Accounting Office	429,444	454,802	453,534	+24,090	-1,268
Center for Russian Leadership Development	8,000	10,000	13,000	+5,000	+3,000
Total, title II, Other agencies	969,941	953,433	959,693	-10,248	+6,260
Prior year outlays	---	---	---	---	---
Grand total	2,543,712	2,652,401	2,671,900	+128,188	+19,499

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

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

We have a good bill here. I was pleased to work with the gentleman from North Carolina (Mr. TAYLOR) to craft a legislative branch appropriation bill that really ought to deserve strong bipartisan support. The 302(b) allocation of $3.4 billion that the subcommittee received was fine. It may sound like a high number, but it reflects approximately a 5 percent increase over last year's appropriation.

It largely covers the cost-of-living adjustment for all the Members' offices, committees and legislative branch agencies. In terms of total Federal spending, it is a pretty small amount, approximately .18 percent of the fiscal year 2003 budget. In other words, if the whole budget was equal to $1, this would be 18/100 of one penny, a small price to pay for the greatest functioning democratic body in the world.

For as good or as bad as this institution may operate, on certain days it is this Nation's best check on tyranny and one-man rule. It is the best opportunity for the views and concerns of the public to be heard and addressed by the Federal Government.

Mr. Chairman, the bill before us today will improve security and will ensure that this institution is better prepared to respond to any future terrorist threat. It ensures that the legislative branch agencies have the resources that they need next year to maintain their high level of professionalism and accountability.

I am also pleased to see that we were able to provide for legislative branch employees more equitable treatment relative to their counterparts in the executive branch. By that, I mean a 4.1 percent annual wage adjustment for all employees in the legislative branch effective next January and funding for a full $100 monthly transit benefit for eligible employees of all agencies.

Authorization and funding are also included for a student loan repayment program for the House which will resemble programs in the Senate, other legislative branch agencies and the executive branch, of course. This program will, in particular, help Members, committees and House offices to attract and to retain qualified employees.

The Library of Congress, the GAO, General Accounting Office, the Congressional Budget Office, and Government Printing Office will largely receive what they requested.

The Capitol Police should be able to hire and train all of the officers that they need to protect Capitol Hill. The current workforce of 1,166 officers will be increased by 288, bringing the full complement to 1,454 sworn police officers. The bill makes funds available for a 5 percent pay increase for the Capitol Police, including all civilians, and that is effective this fall. It includes a number of other provisions designed to reduce officer attrition and improve recruitment and several administrative and management reforms.

Let me close by expressing my praise for how well the Congress, the staff, and the legislative branch agencies have conducted themselves since the terrorist attacks of September 11.

□ 1430

What we once took for granted, the continuous operation of this U.S. Congress, was threatened as it never has been before, and I want to applaud the many selfless individuals and officers that worked often around the clock to keep this institution in order and running through the attacks of September 11 and then the subsequent anthrax attack. This also is an opportunity to thank the members of the D.C. National Guard who filled in last fall to help beef up our security.

It is always a privilege to serve on the Subcommittee on Legislative. The dedication of thousands of legislative branch employees since September has made it even more so. I do want to thank those outstanding professionals who have worked on the legislative branch, Mark Murray, Mike Malone, Liz Dawson, Chuck Turner, Kelly Wade, Roger France, with Chairman Taylor's office, and of course Tim Aiken, who is my legislative director and does this work for me, and David Pomerantz, who always does a great job in whatever his assignment might be. All of our staff is invaluable.

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

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I rise to enter into a colloquy with the chairman. I would like to bring to the chairman's attention the Cameron elm, the one we walk by every day on the way to vote. It is one of the oldest and most historic trees on the Capitol grounds and was named after Senator Simon Cameron, a Republican from Pennsylvania, who saved it from being cut down in the 1870s for a walkway.

This is a strong and vibrant tree that has overcome many obstacles and can clearly thrive for many more years. I want to make sure that proper attention is given to the Cameron elm to prevent treatable health problems from turning more severe. I would like to work with the chairman to ensure that the health of the Cameron elm is monitored and maintained.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I thank the gentleman from Ohio for bringing this to my attention. I agree with him that every effort should be made toward helping to protect the health of this historic tree. I pledge to work with the gentleman and the Architect of the Capitol to ensure every effort will be made to protect this tree.

Mr. KUCINICH. I thank the chairman.

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Chairman, I yield 6 minutes to the very distinguished gentleman from Maryland (Mr. HOYER), the ranking member of the Committee on House Administration, who is also an invaluable member of our appropriations subcommittee.

Mr. HOYER. Mr. Chairman, I thank the gentleman for his comments and for yielding me this time.

Mr. Chairman, the bill before us deserves our support, and I want to congratulate the gentleman from Virginia (Mr. MORAN) and the gentleman from North Carolina (Mr. TAYLOR) for working together. I also want to congratulate both Liz Dawson and Mark Murray, as well as the other members of the staff who worked on this bill.

There are too many good provisions to discuss them all. One of the best, however, is funding for all the new Capitol police officers that the agency can recruit and train next year; a total of 288 more. We certainly hope that the police can reach this goal and bring the force to a total of 1,454 sworn personnel.

As our challenges of security have increased substantially, we need this complement of personnel to carry out their duties not only in terms of the security to the building and the people who visit and work here, but also with respect to the safety of those officers. Our Capitol police have faced tremendous challenges since September 11. They worked 12-hour shifts, 6 days a week for months. Now they are losing officers to other agencies, especially the Transportation Security Administration, which offers, frankly, more money and benefits.

In fiscal 2002, the Capitol police have already lost to other agencies over twice the number lost, on average, in the last 3 years. They will lose more unless we act. Fortunately, this bill includes key provisions of the retention bill that the gentleman from Ohio (Mr. NEY) and I cosponsored, and which the House passed on June 26, including a 5 percent pay raise in the fall. It also includes a tuition reimbursement program, expanded specialty pay, and recruiting bonuses.

As a matter of fairness, the bill makes whole those officers adversely affected during the recent period of heavy overtime by limits on holiday and other premium pay. In addition, it provides for the cost-of-living adjustment of 4.1 percent in January. This restores roughly $350,000 that the officers earned in premium pay but were not paid.

To these, the bill adds new provisions to encourage recruitment and retention, including authority for premium pay in lieu of overtime and enhanced professional training. With these provisions, Mr. Chairman, we intend to assure Capitol police officers that we value their service and we hope that they will stay. We want to encourage those young men and women who seek a career in law enforcement to seek a position with the Capitol Police.

Another excellent feature is the authorization of a student loan repayment program for the House. The Committee on House Administration met Wednesday and approved regulations so the Chief Administrative Officer can have the program in place as soon as we pass this bill. This program will help Members, committees, and officers recruit and retain qualified employees. It is needed, in my opinion, to enable the House to stay competitive with other agencies, including the United States Senate, which already has such a program.

In this vein, Mr. Chairman, I want to highlight the work of our colleague, the gentlewoman from California (Ms. LEE), who is seated to my left. She has promoted this program tirelessly. The gentlewoman introduced a bill last year to bring this program to legislative branch agencies that did not have it.

I understand the Architect, the last major agency without it, is certainly of significant interest to her, to me, and I think to the House. I am hopeful that as we move forward, and we expect to have a colloquy on this issue, to include them as well. I look forward to working with the gentlewoman and others to provide appropriate authority for the Architect, and I thank her for her strong leadership in this area.

This bill also includes language authorizing a program to facilitate employment in the House of persons with disabilities. As a sponsor of the Americans with Disabilities Act, this is a particularly important provision to me, and I thank the gentleman from North Carolina (Mr. TAYLOR) and the gentleman from Virginia (Mr. MORAN) for including it in the bill. I thank Ms. Dawson for her hard work on this program as well.

This bill also funds, of course, all legislative employees, including the police, and extends to them the same 4.1 percent COLA that executive branch employees will receive next January. It funds the same $100 cash transit benefit for participants in that program. Federal employees in the legislative branch deserve parity on these important benefits.

In addition to funding fire safety work in the complex, the bill calls for studying ways to beautify the power plant in conjunction with the needed capital improvements. Now, when I say beautify, I am working very hard, Mr. Chairman, with this committee and other committees to ensure that the south capital gateway to our capital is as impressive as are the other gateways to our capital. The power plant does not enhance that at this point in time. And as a good neighbor, we ought to work towards that end.

Finally, last year's bill included a provision ending the Architect's employment of temporary workers for long periods without benefits. While implementing the provisions, the Architect of the Capitol faced several technical obstacles to carrying out the original intent and sought our assistance.

The technical correction in this bill requires the Architect to make employer contributions for benefits for AOC employees directly to entities designated to receive such contributions.

Those corrections are included in this bill, and I appreciate again the staff's help on accomplishing that.

Mr. Chairman, this is a good bill. It will meet the needs of the legislative agencies in the coming year. The subcommittee staff, and I have mentioned Liz Dawson, but Chuck Turner, Mark Murray, Mike Malone, Tim Akin, of the office of the gentleman from Virginia (Mr. MORAN), and many others, including agency budget officers, have done an excellent job. I also would be neglectful if I did not mention my own staffer Mike Harrison, who has worked so diligently on this bill, and others. And I would urge an ''aye'' vote.

I will speak later on it, but I also want to speak to the Moran amendment, which I think will be a very important addition to this bill and which I hope passes.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. NUSSLE).

Mr. NUSSLE. Mr. Chairman, I rise in support of H.R. 5121, a bill to provide promotions for the legislative branch.

I want to compliment the gentleman from Florida (Mr. YOUNG) and the chairman of the subcommittee, the gentleman from North Carolina (Mr. TAYLOR) for their cooperation in making sure that this bill complies with the House-passed budget resolution for fiscal year 2003. It provides $2.7 billion in budget authority and $2.9 billion for outlays for fiscal year 2003. If this measure is enacted, spending will have increased on an average of 11.1 percent for each of the last 3 years.

Consistent with longstanding practice under which each House establishes its own priorities, the bill does not include appropriations for the other Chamber, which will be incorporated into the bill during conference.

I am pleased that the bill is within the subcommittee's 302(b) allocation and is fully consistent with the provisions of the 1974 Budget Act. It does not designate any emergencies that would increase the 302(b) allocation or rescind any previously enacted budget authority.

Let me also mention the Moran amendment that will be on the floor to cut $590,000 from the Joint Committee on Taxation. As the chairman of the Committee on the Budget, we rely on the estimates of this important committee. Particularly at this very difficult time for our country in estimating revenue, it would be unconscionable and irresponsible to cut the budget for the Joint Committee on Taxation.

So I urge Members to support the committee mark, and, in closing, I again commend Chairman YOUNG and Subcommittee Chairman TAYLOR for crafting a bill that meets the needs of the House in a manner that is consistent with the budget resolution.

Mr. MORAN of Virginia. Mr. Chairman, I am very pleased to yield 3 minutes to my distinguished colleague, the gentlewoman from Ohio (Ms. KAPTUR), the ranking member of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, as well as being a member of the Subcommittee on Legislative.

Ms. KAPTUR. Mr. Chairman, I thank the ranking member, the gentleman from Virginia (Mr. MORAN), for yielding me this time, and I want to thank him for his cooperative efforts and leadership on this bill, and also the chairman of the subcommittee, the gentleman from North Carolina (Mr. TAYLOR), who is an historian of the House as well, for their very gracious accommodation to so many of the needs of our Chamber and of this House.

I want to use this opportunity as a member of the committee to thank all the personnel, especially over the last several months when there has been additional pressure on our officers and all of the House staff, for the tremendous cooperation and the patriotism that they have demonstrated. We have the public coming back into our Chambers now, there is security beyond what we had before. We have to do this for the moment, but we want to thank all of them for their dedication to our country and the cause of liberty.

I also want to say that in this bill we have funds, obviously, for the Congressional Research Service and the Library of Congress, two of the most distinguished organizations in the world for the assembly of the documents, materials, and analysis that represent us as a free people. Without question, the Library of Congress is the finest library in the world, and we hope that we will make it even better with the appropriations in this bill.

In addition to that, we appreciate the openness of the head librarian, Dr. Billington, in looking at ethnic museums across our country and their respective archives and trying to bring those into some sort of coordinated affiliation with the Library of Congress where those types of affiliations are sought.

We also want to thank Ranking Member Moran and Chairman Taylor for including report language dealing with enhancing our capability as the chief legislative body for our country through expanded televideo conferencing, where we can conference with

our colleagues in parliaments around the world. Would that not be a contributor to peace? Would it not be great if we could do that in many places in the Middle East right now? We hope that by expanding these facilities and getting recommendations through the report language that is in here that we will leave those who follow us here in better condition than we found the institution when we arrived.

□ 1445

Also regarding the renumbering of the offices in all of these buildings, so important to helping the general public find their way around, we want to see a report on that.

And the continuing efforts to bring the works of artists to represent the contributions of women to American life in this Capitol so that all of our society can see that they made a contribution. This has a real place in our bill.

I thank the Capitol Police. We do not have a provision here in the bill, but we met with them regarding alternative fuel vehicles. We thank them for their leadership in assuring that the new purchases of vehicles will help us move this branch, and indeed our whole country, to a noncarbon-based future, and hopefully moving us to a carbohydrate-based future.

In closing, I thank the gentleman from Virginia (Mr. MORAN) and the gentleman from North Carolina (Mr. TAYLOR) for their cooperation in helping us build an even better legislative branch for our country.

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Chairman, I yield 5½ minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I thank our ranking member, the gentleman from Virginia (Mr. MORAN), for his leadership, and also the gentleman from North Carolina (Mr. TAYLOR) for crafting a very excellent, bipartisan bill.

I rise in strong support of H.R. 5121, this year's legislative branch appropriations act. I especially thank the chairman and the ranking member for the provision which includes our student loan for House employees. I want to give a huge thanks to the lead cosponsor of a bill I introduced early last year, H.R. 2555, which incorporated these student loan provisions, to the gentleman from Maryland (Mr. HOYER). The gentleman's work on both the Subcommittee on Legislative Branch appropriations and as ranking member of the Committee on House Administration has been exemplary and tireless on this issue. We could not have done this without the gentleman from Maryland (Mr. HOYER), so I want to say thanks to the gentleman. I am sure all of our House employees would like to thank the gentleman also today.

Just a bit of history on this provision. Early last year, I introduced H.R. 2555 with the gentleman from Maryland (Mr. HOYER) as the lead cosponsor. This bill would have provided student loan forgiveness for all legislative branch employees. I tried to offer an amendment in last year's legislative branch appropriations bill, but it was not allowed by the Committee on Rules. While I was pleased that subsequently Senate employees were included in the other body's version of the legislative branch appropriations act, and the Capitol Police were included in other legislation last year, we had hoped that we could have included all Hill staff.

Once again, I am very thankful to the gentleman from North Carolina (Mr. TAYLOR), to the ranking member, the gentleman from Virginia (Mr. MORAN), and the gentleman from Maryland (Mr. HOYER) for their inclusion of loan forgiveness provisions this year.

As a former House staff member and as the employer of a number of staffers who have a great deal of student loans, I strongly support loan forgiveness for all legislative branch employees. I believe it is essential that we establish such a program for the legislative branch. Employees on Capitol Hill on average earn less than their executive branch counterparts, but they still have the same student loan debt. Executive branch and Senate employees have loan forgiveness, and our congressional employees should have it also. They work long hours, and they provided the expertise for us to deliberate public policy for the betterment of our country and for the entire world.

Loan forgiveness is really an excellent tool for attracting and retaining the fantastic staff that we work with each and every day. It is also one of the important ways that we can compete with the private sector, which really does offer higher salaries and other benefits. Many young people want to come to work for the United States Congress and dedicate themselves to public service, but they cannot afford to when they owe tens of thousands of dollars in student loans. This new program will make public service more attractive to them.

Additionally, many support personnel in the legislative branch, many are Architect of the Capitol employees, cannot afford to go to college in the first place. So a student loan forgiveness program would be immensely helpful in allowing them to take college classes. The AOC staff work hard each and every day to make sure that our offices are clean and our buildings are well taken care of. But, unfortunately, they are one of the few categories of Hill staffers that were not included in this loan forgiveness program, and I am delighted that the gentleman from Maryland (Mr. HOYER) is committed to working with us to make sure that we include them, or at least attempt to once we get into conference. I think we owe it to the people who take care of us. We owe it to them to add them to this program, and I hope Members will join us in supporting this provision when we go to conference.

In conclusion, I must thank my legislative director, Danielle LeClair, for her diligence, her focus, and hard work on this. Her staying the course did help us get this far. I also thank Mike Harrison on the staff of the gentleman from Maryland (Mr. HOYER) for his cooperation and hard work. Again, I thank the ranking member for really carrying out the provisions which were included in my legislation last year by expanding the student loan forgiveness program, and hope that we can work together as we move forward to include the AOC staff.

Mr. HOYER. Mr. Chairman, will the gentlewoman yield?

Ms. LEE. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I thank the gentlewoman for her leadership and extraordinary efforts on behalf of all of the employees of the legislative branch. I know her deep concern for the Architect's office, which is a sort of hybrid of the legislative branch. I appreciate very much the gentlewoman giving credit to a lot of other people, but she has been the spark plug on this issue and the engine behind it.

I wanted to also say that Liz Dawson of our committee was extraordinarily helpful in getting us to this point, as well as the other staffers that were mentioned.

And more importantly, I know that the employees of the House and of the Architect's office and others on Capitol Hill appreciate the gentlewoman's work.

Mr. MORAN of Virginia. Mr. Chairman, I yield 4 minutes to the gentleman from Oregon (Mr. BLUMENAUER), who has been the national leader on smart growth policies and is probably going to suggest some smart policies for the Congress.

Mr. BLUMENAUER. Mr. Chairman, I appreciate the hard work that has been undertaken by the subcommittee dealing with the quality of life here on Capitol Hill for our employees, for the tens of thousands of Washington, D.C. residents, and for the millions of visitors who come to the Capitol every year, many of whom are outside right now as we are deliberating in the Chamber.

I think it is important for the committee to continue its work in focusing on what is going on around the Capitol during these difficult times. I appreciate the concern dealing with the security of our visitors, of our neighbors, our employees, and of the men and women who are in Congress itself. At times, however, some things happen that we find sort of mystifying.

As chairman of the Bicycle Caucus, I have received some people who are sort of mystified about the signage that has appeared around Capitol Hill indicating that no longer are bicycles welcomed on the Capitol grounds and streets surrounding the Capitol. It is somewhat ironic because bicycles have been an important part of the circulation around here. People wonder why

we are prohibiting in the name of security people who use this as an important passageway. Many bicycle commuters who live near the Capitol ride to their downtown offices, staying off the streets, not contributing to congestion and air pollution. One of the few bicycle lanes that has been available has been through the Capitol grounds. One of the most convenient follows East Capitol right to the doorstep of the Capitol where some of our employees can come, and others have gone around on down the Mall and to its monuments. Now we have these signs that say people cannot do this any more.

Mr. Chairman, I am hopeful we can be sensitive to what this is doing to the people who enjoy cycling around here, tourists or employees or commuters. Currently the only legal option for bicyclists is to travel on heavily trafficked, four-lane thoroughfares with no shoulders around Capitol Hill.

I would suggest that perhaps Congress can lead by example by making sure that our campus is amenable to men and women who use cycling to commute. While we work to ensure safety and access for the surrounding community and visitors alike, it is no reason that we have to barricade these grounds off to bicyclists.

With the recent groundbreaking of the visitors center, it is clear that it is time to address long-term plans, including, parking, circulation and cycling. I sincerely hope that we can use the influence of this august subcommittee to help the Capitol Police and the Architect of the Capitol develop plans that accommodate cyclists and visitors. We must not ignore the need of local citizens who should have input as well. We need to make sure that we are working with the citizens who are our neighbors who were never consulted.

I hope that we can find language that Members can help us with that encourages a different approach so that we are aware that we are part of the community here in Washington, D.C., that the impacts that we make affect the health, safety and economy and overall livability of tens of thousands of residents on the Hill, millions of visitors every year, and the fact that the bicycle is not a terrorist threat. The bicycle provides an opportunity to improve the quality of life on the Hill for tourists, for employees, and for our neighbors.

Mr. MORAN of Virginia. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. STARK).

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

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

It is my understanding that the gentleman from Virginia will be offering an amendment to reduce the amount of funds for the Joint Committee on Taxation of which I am a Member. The issue at hand is the production of a report that may or may not be complete but which the general public, through reports in the press, suspects is complete.

There are several issues involved here, but the principal issue is that a joint committee with the long record of serving on a bipartisan, bicameral nature should not selectively withhold information from Members. I rather suspect that the rules of the House give any Member of the House a right to go in and look at committee records. That is generally the case, and in the absence of any rules prohibiting that, it could be done. It might raise a question of personal privilege in the House. It ought not to.

Regardless of who has requested the reports or regardless of what the reports will say, it does not translate into legislation. It ought not to disadvantage anyone. Much of the information that is of an exciting nature has already been made public in Forbes magazine. Whether it is accurate or not, we do not know.

But for us to begin on a partisan basis to withhold information that is produced by joint committees, whether it is the Congressional Budget Office or GAO or the joint committee, I think takes us down a road that we should all be very hesitant to travel.

□ 1500

While the gentleman from Virginia's amendment is a harsh remedy, it could easily be solved by the chairman of the Committee on Ways and Means, who also serves as chair of the Joint Committee on Taxation, agreeing to make that report available, at least to members of the Joint Committee on Taxation. I am sure, given that kind of an assurance, the gentleman from Virginia would withhold. That would seem to me to be a way to resolve it and not start a precedent in the House of withholding information because someone has the power to do it. I think it is a bad precedent. I am not sure the information we are talking about is going to make huge changes in the tax law, but I think we are all entitled to it. I urge my colleagues to think about supporting the gentleman from Virginia's amendment on the basis of not changing a long-held precedent in the House of being able to rely on jointly produced, bipartisan, bicameral information that is useful to all of us.

Mr. BARTLETT of Maryland. Mr. Chairman, as the Chairman of the Subcommittee on Energy of the House Science Committee, and as a conferee for the National Energy Strategy bill, I would like to thank the Subcommittee Chairman and floor manager of the Legislative Branch Appropriations bill. First, I want to compliment the gentleman for providing the needed funding for the ongoing efforts of the Architect of the Capitol to improve the energy efficiency of the buildings of the Capitol complex. It is important that we in the Congress practice what we preach, both as an example to others and to make the best use of taxpayer dollars by getting the most out of our energy related expenditures. In this regard, it has come to my attention that the Capitol Power Plant provides heat for buildings in the Capitol complex but is not currently used to generate electric power. It occurs to me that there is an opportunity here to not only capture the efficiency benefits of Combined Heat and Power but also to provide emergency backup power for the Capitol complex in the event of disruption of the local grid. It is my understanding that funding provided in the bill will allow the Architect of the Capitol to undertake the needed studies to determine the feasibility of such a generation demonstration project.

The Legislative Branch Appropriations bill includes $267.7 million in funding for various operational and maintenance activities under the jurisdiction of the Architect of the Capitol, $40.6 million below the amount requested by the President and $17.7 million below the amount provided last year. These funds specifically include support for continued efforts to seek energy and operations savings such as this feasibility study.

Mr. BLUMENAUER. Mr. Chairman, today I voted for the fiscal year 2003 Appropriations Bill for the Legislative Branch. I am pleased with the focus Congress has given to livability in this bill through increased funding for the Capitol Police, important provisions for staff, and the direction to improve the Capitol Grounds.

The Capitol Police will receive additional funding to help retain officers on the force and pay them for the significant overtime they have worked to protect the Capitol and visitors since September 11. This bill includes tuition payment provisions that will help attract and retain both congressional staff and officers.

I am pleased to see the Legislative Branch catch up with much of the rest of the Federal Government and private employers across the country by providing funds to increase the staff transit benefit to $100 per month. Transit benefits are a valuable incentive that help reduce traffic congestion, improve air quality, and save transportation costs for hardworking families.

The Capitol grounds have been ransacked since September 11, first by excessive and ill thought out security measures and now by the beginning construction phases of the planned Capitol Visitors Center. The bill contains language that directs that an English Elm Tree estimated to be 130 to 160 years old cannot be removed or cut down without approval of the House and Senate Appropriations committees. The committee is also working to ensure there is a long-term vision for bicycle and pedestrian accessibility on and around the Capitol grounds, which will improve the livability of congressional employees, neighboring residents, and visitors alike.

For these reasons I support passage of this bill.

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

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered read for amendment through page 61, line 16.

The text of the bill through page 61, line 16 is as follows:

H.R. 5121

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes, namely:

TITLE I—CONGRESSIONAL OPERATIONS

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, $960,406,000, as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $16,530,000, including: Office of the Speaker, $1,979,000, including $25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $1,899,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $2,309,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, including the Chief Deputy Majority Whip, $1,624,000, including $5,000 for official expenses of the Majority Whip; Office of the Minority Whip, including the Chief Deputy Minority Whip, $1,214,000, including $5,000 for official expenses of the Minority Whip; Speaker's Office for Legislative Floor Activities, $446,000; Republican Steering Committee, $834,000; Republican Conference, $1,397,000; Democratic Steering and Policy Committee, $1,490,000; Democratic Caucus, $741,000; nine minority employees, $1,337,000; training and program development—majority, $290,000; training and program development—minority, $290,000; Cloakroom Personnel—majority, $340,000; and Cloakroom Personnel—minority, $340,000.

MEMBERS' REPRESENTATIONAL ALLOWANCES

INCLUDING MEMBERS' CLERK HIRE, OFFICIAL EXPENSES OF MEMBERS, AND OFFICIAL MAIL

For Members' representational allowances, including Members' clerk hire, official expenses, and official mail, $476,536,000.

COMMITTEE EMPLOYEES

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by House resolutions, $108,741,000: *Provided,* That such amount shall remain available for such salaries and expenses until December 31, 2004.

COMMITTEE ON APPROPRIATIONS

For salaries and expenses of the Committee on Appropriations, $24,200,000, including studies and examinations of executive agencies and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act of 1946 and to be available for reimbursement to agencies for services performed: *Provided,* That such amount shall remain available for such salaries and expenses until December 31, 2004.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $151,027,000, including: for salaries and expenses of the Office of the Clerk, including not more than $13,000, of which not more than $10,000 is for the Family Room, for official representation and reception expenses, $20,032,000, of which $2,500,000 shall remain available until expended; for salaries and expenses of the Office of the Sergeant at Arms, including the position of Superintendent of Garages, and including not more than $3,000 for official representation and reception expenses, $5,097,000; for salaries and expenses of the Office of the Chief Administrative Officer, $104,363,000, of which $7,693,000 shall remain available until expended; for salaries and expenses of the Office of the Inspector General, $3,947,000; for salaries and expenses of the Office of Emergency Planning, Preparedness and Operations, $6,000,000, to remain available until expended; for salaries and expenses of the Office of General Counsel, $894,000; for the Office of the Chaplain, $149,000; for salaries and expenses of the Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $1,464,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $2,168,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $5,852,000; for salaries and expenses of the Corrections Calendar Office, $915,000; and for other authorized employees, $146,000.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $183,372,000, including: supplies, materials, administrative costs and Federal tort claims, $3,384,000; official mail for committees, leadership offices, and administrative offices of the House, $410,000; Government contributions for health, retirement, Social Security, and other applicable employee benefits, $178,888,000; and miscellaneous items including purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, $690,000.

CHILD CARE CENTER

For salaries and expenses of the House of Representatives Child Care Center, such amounts as are deposited in the account established by section 312(d)(1) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(1)), subject to the level specified in the budget of the Center, as submitted to the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 101. (a) REQUIRING AMOUNTS REMAINING IN MEMBERS' REPRESENTATIONAL ALLOWANCES TO BE USED FOR DEFICIT REDUCTION OR TO REDUCE THE FEDERAL DEBT.—Notwithstanding any other provision of law, any amounts appropriated under this Act for ''HOUSE OF REPRESENTATIVES—SALARIES AND EXPENSES—MEMBERS' REPRESENTATIONAL ALLOWANCES'' shall be available only for fiscal year 2003. Any amount remaining after all payments are made under such allowances for fiscal year 2003 shall be deposited in the Treasury and used for deficit reduction (or, if there is no Federal budget deficit after all such payments have been made, for reducing the Federal debt, in such manner as the Secretary of the Treasury considers appropriate).

(b) REGULATIONS.—The Committee on House Administration of the House of Representatives shall have authority to prescribe regulations to carry out this section.

(c) DEFINITION.—As used in this section, the term ''Member of the House of Representatives'' means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

SEC. 102. (a) There is hereby established in the Treasury of the United States a revolving fund for the House of Representatives to be known as the Net Expenses of Equipment Revolving Fund (hereafter in this section referred to as the ''Revolving Fund''), consisting of funds deposited by the Chief Administrative Officer of the House of Representatives from amounts provided by offices of the House of Representatives to purchase, lease, obtain, and maintain the equipment located in such offices, and amounts provided by Members of the House of Representatives (including Delegates and Resident Commissioners to the Congress) to purchase, lease, obtain, and maintain furniture for their district offices.

(b) Amounts in the Revolving Fund shall be used by the Chief Administrative Officer without fiscal year limitation to purchase, lease, obtain, and maintain equipment for offices of the House of Representatives and furniture for the district offices of Members of the House of Representatives (including Delegates and Resident Commissioners to the Congress).

(c) The Revolving Fund shall be treated as a category of allowances and expenses for purposes of section 101(a) of the Legislative Branch Appropriations Act, 1993 (2 U.S.C. 95b(a)).

(d) This section shall apply with respect to fiscal year 2003 and each succeeding fiscal year, except that for purposes of making deposits into the Revolving Fund under subsection (a), the Chief Administrative Officer may deposit amounts provided by offices of the House of Representatives during fiscal year 2002 or any succeeding fiscal year.

SEC. 103. Effective with respect to fiscal year 2003 and each succeeding fiscal year, any amount received by House Information Resources from any office of the House of Representatives as reimbursement for services provided shall be deposited in the Treasury for credit to the account of the Office of the Chief Administrative Officer of the House of Representatives.

SEC. 104. Section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) does not apply to purchases and contracts for supplies or services for any office of the House of Representatives in any fiscal year.

SEC. 105. (a) ESTABLISHMENT.—The Chief Administrative Officer shall establish a program under which an employing office of the House of Representatives may agree to repay (by direct payment on behalf of the employee) any student loan previously taken out by an employee of the office. For purposes of this section, a Member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) shall not be considered to be an employee of the House of Representatives.

(b) REGULATIONS.—The Committee on House Administration shall promulgate such regulations as may be necessary to carry out the program under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the program under this section during fiscal year 2003 and each succeeding fiscal year.

PROGRAM TO INCREASE EMPLOYMENT OPPORTUNITIES IN HOUSE OF REPRESENTATIVES FOR INDIVIDUALS WITH DISABILITIES

SEC. 106. (a) IN GENERAL.—In order to promote an increase in opportunities for individuals with disabilities to provide services to the House of Representatives, the Chief Administrative Officer of the House of Representatives is authorized to—

(1) enter into 1 or more contracts with nongovernmental entities to provide for the performance of services for offices of the House of Representatives by individuals with disabilities who are employees of, or under contract with, such entities; and

(2) provide reasonable accommodations, including assistive technology devices and assistive technology services, to enable such individuals to perform such services under such contracts.

(b) ELEMENTS OF PROGRAM.—The Chief Administrative Officer of the House of Representatives, in entering into any contract under subsection (a), shall seek to ensure that—

(1) traditional and nontraditional outreach efforts are used to attract individuals with disabilities for educational benefit and employment opportunities in the House;

(2) the non-governmental entity provides adequate education and training for individuals with disabilities to enhance such employment opportunities; and

(3) efforts are made to educate employing offices in the House about opportunities to employ individuals with disabilities.

(c) FUNDING.—There are authorized to be appropriated from the applicable accounts of the House of Representatives $500,000 to carry out this section for each of the fiscal years 2003 through 2007.

JOINT ITEMS

For Joint Committees, as follows:

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $3,658,000, to be disbursed by the Secretary of the Senate.

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $7,323,000, to be disbursed by the Chief Administrative Officer of the House: *Provided,* That $590,000 of such amount shall not be made available until the Joint Committee publicly releases the report on tax evasion by expatriates which was requested by the Honorable William Archer, the former chair of the Committee on Ways and Means of the House of Representatives.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including: (1) an allowance of $2,175 per month to the Attending Physician; (2) an allowance of $725 per month each to four medical officers while on duty in the Office of the Attending Physician; (3) an allowance of $725 per month to two assistants and $580 per month each not to exceed 11 assistants on the basis heretofore provided for such assistants; and (4) $1,414,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, which shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $3,000,000, of which $300,000 shall remain available until expended, to be disbursed by the Chief Administrative Officer of the House of Representatives.

CAPITOL GUIDE SERVICE AND SPECIAL SERVICES OFFICE

For salaries and expenses of the Capitol Guide Service and Special Services Office, $3,035,000, to be disbursed by the Secretary of the Senate: *Provided,* That no part of such amount may be used to employ more than 58 individuals: *Provided further,* That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than 120 days each, and not more than 10 additional individuals for not more than 6 months each, for the Capitol Guide Service.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and the House of Representatives, of the statements for the second session of the One Hundred Seventh Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $30,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

CAPITOL POLICE

SALARIES

For the Capitol Police for salaries of officers, members, and employees of the Capitol Police, including overtime, hazardous duty pay differential, and Government contributions for health, retirement, Social Security, and other applicable employee benefits, $175,675,000, to be disbursed by the Capitol Police.

GENERAL EXPENSES

For the Capitol Police for necessary expenses, including motor vehicles, communications and other equipment, security equipment and installation, uniforms, weapons, supplies, materials, training, medical services, forensic services, stenographic services, personal and professional services, the employee assistance program, not more than $2,000 for the awards program, and not more than $5,000 to be expended on the certification of the Chief of the Capitol Police in connection with official representation and reception expenses, postage, communication services, travel advances, relocation of instructor and liaison personnel for the Federal Law Enforcement Training Center, $43,000,000, of which $7,632,000 shall remain available until expended, to be disbursed by the Capitol Police or their delegee: *Provided,* That $5,000,000 of the amount provided is withheld from obligation subject to the approval of the House and Senate Committees on Appropriations: *Provided further,* That, notwithstanding any other provision of law, the cost of basic training for the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 2003 shall be paid by the Secretary of the Treasury from funds available to the Department of the Treasury.

ARCHITECT OF THE CAPITOL

CAPITOL POLICE BUILDINGS AND GROUNDS

(INCLUDING TRANSFER OF FUNDS)

For all necessary expenses for the maintenance, care, and operation of buildings and grounds of the United States Capitol Police, $37,500,000, of which $36,500,000 shall remain available until September 30, 2007: *Provided,* That $13,000,000 of the amount provided is withheld from obligation subject to the approval of the Committees on Appropriations of the House of Representatives and Senate: *Provided further,* That of this amount, not more than $3,500,000 may be used for studying, planning, designing, and architect and engineer services, except that this amount may be increased to a greater amount determined by the Architect of the Capitol to be necessary for such purposes if the Architect notifies the Committees on Appropriations of the House of Representatives and Senate of the determination, the greater amount, and the Architect's reasons therefor: *Provided further,* That any amounts provided to the Architect of the Capitol prior to the date of the enactment of this Act for maintenance, care, and operation of buildings of the United States Capitol Police which remain unobligated as of the date of the enactment of this Act shall be transferred to the account under this heading.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 107. Amounts appropriated for fiscal year 2003 for the Capitol Police may be transferred between the headings ''SALARIES'', ''GENERAL EXPENSES'', and ''ARCHITECT OF THE CAPITOL'', ''CAPITOL POLICE BUILDINGS AND GROUNDS'', upon the approval of the Committees on Appropriations of the Senate and the House of Representatives.

SEC. 108. During fiscal year 2003 and any succeeding fiscal year, the Capitol Police may—

(1) enter into contracts for the acquisition of severable services for a period that begins in 1 fiscal year and ends in the next fiscal year to the same extent as the head of an executive agency under the authority of section 303L of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 2531); and

(2) enter into multi-year contracts for the acquisitions of property and nonaudit-related services to the same extent as executive agencies under the authority of section 304B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c).

SEC. 109. (a) Within the limits of available appropriations, the Capitol Police may dispose of surplus or obsolete property of the Capitol Police by inter-agency transfer, donation, sale, trade-in, or any other appropriate method.

(b) Any amounts received by the Capitol Police from the disposition of property pursuant to subsection (a) shall be credited to the account established for the general expenses of the Capitol Police, and shall be available to carry out the purposes of such account during the fiscal year in which the amounts are received and the following fiscal year.

(c) This section shall apply with respect to fiscal year 2003 and each succeeding fiscal year.

SEC. 110. (a) TRANSFER OF DISBURSING FUNCTION.—(1) The Chief of the Capitol Police shall be the disbursing officer for the Capitol Police. Any reference in any law or resolution before the enactment of this section to funds paid or disbursed by the Chief Administrative Officer of the House of Representatives and the Secretary of the Senate relating to the pay and allowances of Capitol Police officers, members, and employees shall be deemed to refer to the Chief of the Capitol Police.

(2) Any statutory function, duty, or authority of the Chief Administrative Officer of the House of Representatives or the Secretary of the Senate as disbursing officers for the Capitol Police shall transfer to the Chief as the single disbursing officer for the Capitol Police.

(3) Until such time as the Chief notifies the Chief Administrative Officer of the House of Representatives and the Secretary of the Senate that systems are in place for discharging the disbursing functions under this subsection, the House of Representatives and the Senate shall continue to serve as the disbursing authority on behalf of the Capitol Police.

(b) TREASURY ACCOUNTS.—(1) There is established in the Treasury of the United States a separate account for the Capitol Police, to be deposited appropriations received by the Chief of the Capitol Police and available for the salaries of the Capitol Police.

(2) There is established in the Treasury of the United States a separate account for the Capitol Police, to be deposited appropriations received by the Chief of the Capitol Police and available for the general expenses of the Capitol Police.

(c) TRANSFER OF FUNDS, ASSETS, ACCOUNTS, RECORDS, AND AUTHORITY.—(1) The Chief Administrative Officer of the House of Representatives and the Secretary of the Senate are hereby authorized and directed to transfer to the Chief of the Capitol Police all funds, assets, accounts, and copies of original records of the Capitol Police that are in the possession or under the control of the Chief Administrative Officer of the House of Representatives or the Secretary of the Senate in order that all such items may be available for the unified operation of the Capitol Police. Any funds so transferred shall be deposited in the Treasury accounts established under subsection (b) and be available to the Chief for the same purposes as, and in like manner and subject to the

same conditions as, the funds prior to the transfer.

(2) Any transfer authority existing prior to the enactment of this Act granted to the Chief Administrative Officer of the House of Representatives or the Secretary of the Senate for salaries, expenses, and operations of the Capitol Police shall be transferred to the Chief.

(d) UNEXPENDED BALANCES.—Notwithstanding the provisions of any other law, the unexpended balances of appropriations for the fiscal year 2003 and succeeding fiscal years that are subject to disbursement by the Chief of the Capitol Police shall be withdrawn as of September 30 of the second fiscal year following the period or year for which provided. Unpaid obligations chargeable to any of the balances so withdrawn or appropriations for prior years shall be liquidated from any appropriations for the same general purpose, which, at the time of payment, are available for disbursement.

(e) HIRING AUTHORITY; ELIGIBILITY FOR SAME BENEFITS AS HOUSE EMPLOYEES.—(1) The Chief of the Capitol Police, in carrying out the duties of office, is authorized to appoint, hire, discharge, and set the terms, conditions, and privileges of employment of officers, members, and employees of the Capitol Police, subject to and in accordance with applicable laws and regulations.

(2) Officers, members, and employees of the Capitol Police who are appointed by the Chief under the authority of this subsection shall be subject to the same type of benefits (including the payment of death gratuities, the withholding of debt, and health, retirement, Social Security, and other applicable employee benefits) as are provided to employees of the House of Representatives, and any such individuals serving as officers, members, and employees of the Capitol Police as of the date of the enactment of this Act shall be subject to the same rights, protections, pay, and benefits received prior to such date.

(f) WORKER'S COMPENSATION.—(1) There shall be established a separate account in the Capitol Police for purposes of making payments for officers, members, and employees of the Capitol Police under section 8147 of title 5, United States Code.

(2) Notwithstanding any other provision of law, payments may be made from the account established under paragraph (1) of this subsection without regard to the fiscal year for which the obligation to make such payments is incurred.

(g) EFFECT ON EXISTING LAW.—(1) The provisions of this section shall not be construed to reduce the pay or benefits of any officer, member, or employee of the Capitol Police whose pay was disbursed by the Chief Administrative Officer of the House of Representatives or the Secretary of the Senate prior to the enactment of this Act.

(2) All provisions of law inconsistent with this section are hereby superseded to the extent of the inconsistency.

(h) CONFORMING AMENDMENTS.—(1) Section 1821 of the Revised Statutes of the United States (40 U.S.C. 206) is amended by striking the third sentence.

(2) Section 1822 of the Revised Statutes of the United States (40 U.S.C. 207) is repealed.

(3) Section 9C of the Act entitled ''An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes'', approved July 31, 1946 (40 U.S.C. 207a) is amended by striking the second sentence.

(4) Section 111 of title I of the Act entitled ''Making supplemental appropriations for the fiscal year ending September 30, 1977, and for other purposes'', approved May 4, 1977 (2 U.S.C. 64–3), is amended—

(A) by striking ''Secretary of the Senate'' and inserting ''Chief of the Capitol Police''; and

(B) by striking ''United States Senate'' and inserting ''Capitol Police''.

(i) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect October 1, 2002, or the date of the enactment of this Act, whichever is later.

SEC. 111. (a) CONDITIONS FOR RECRUITMENT AND RELOCATION BONUSES.—Section 909(a) of chapter 9 of the Emergency Supplemental Act, 2002 (40 U.S.C. 207b–2; Public Law 107–117; 115 Stat. 2320) (in this section referred to as the ''Act'') is amended—

(1) in paragraph (1), by striking ''determines that the Capitol Police would be likely, in the absence of such a bonus, to encounter difficulty in filling the position'' and inserting '', in the sole discretion of the Chief, determines that such a bonus will assist the Capitol Police in recruitment efforts''; and

(2) by adding at the end the following:

''(6) DETERMINATIONS NOT APPEALABLE OR REVIEWABLE.—Any determination of the Chief under this subsection shall not be appealable or reviewable in any manner.''.

(b) CONDITIONS FOR RETENTION ALLOWANCES.—Section 909(b) of the Act is amended—

(1) in paragraph (1)—

(A) by striking subparagraphs (A) and (B); and

(B) by striking ''if—'' and inserting ''if the Chief, in the sole discretion of the Chief, determines that such a bonus will assist the Capitol Police in retention efforts.''; and

(2) in paragraph (3), by striking ''the reduction or elimination of a retention allowance may not be appealed'' and inserting ''any determination of the Chief under this subsection, or the reduction or elimination of a retention allowance, shall not be appealable or reviewable in any manner''.

(c) TUITION REIMBURSEMENT.—

(1) IN GENERAL.—Section 909 of the Act is amended—

(A) by redesignating subsections (f) and (g) as subsections (g) and (h); and

(B) by inserting after subsection (e) the following new subsection:

''(f) TUITION REIMBURSEMENT.—

''(1) IN GENERAL.—In order to recruit or retain highly qualified personnel, the Chief of the Capitol Police shall establish a tuition reimbursement program for officers and members of the Capitol Police who are enrolled in or accepted for enrollment in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education in a course of study relating to law enforcement.

''(2) CONDITIONS FOR ELIGIBILITY.—In addition to meeting any other conditions the Chief may by regulation impose, an officer or member of the Capitol Police may participate in the tuition reimbursement program under this subsection only if—

''(A) the officer or member agrees in writing, before receiving any reimbursement under the program, to remain in the service of the Capitol Police for a period specified by the Chief (not less than 3 years), unless involuntarily separated; and

''(B) the officer or member has not participated, and agrees in writing not to participate in, any student loan repayment program covering the academic program involved.

''(3) CAP ON AMOUNT OF REIMBURSEMENT.—The total amount reimbursed with respect to any individual under the program established under this subsection may not exceed $40,000.''.

(2) DEADLINE FOR REGULATIONS.—Not later than 60 days after the date of the enactment of this Act, the Chief of the Capitol Police shall promulgate any regulations required to carry out the amendment made by paragraph (1).

SEC. 112. (a) ADDITIONAL COMPENSATION FOR EMPLOYEES WITH SPECIALTY ASSIGNMENTS AND PROFICIENCIES.—

(1) ESTABLISHMENT OF POSITIONS.—The Chief of the Capitol Police may establish and determine, from time to time, positions in salary classes of officers, members, and employees of the Capitol Police to be designated as employees with specialty assignments or proficiencies, based on the experience, education, training, or other appropriate factors required to carry out the duties of such employees.

(2) ADDITIONAL COMPENSATION.—In addition to the regularly scheduled rate of basic pay, each officer, member, or employee holding a position designated under this subsection shall receive a per annum amount determined by the Chief, except that—

(A) such amount may not exceed 25% of the member's or employee's annual rate of basic pay; and

(B) such amount may not be paid in a calendar year to the extent that, when added to the total basic pay paid or payable to such officer, member, or employee for service performed in the year, such amount would cause the total to exceed the annual rate of basic pay payable for level II of the Executive Schedule, as of the end of such year.

(3) MANNER OF PAYMENT.—The additional compensation authorized by this subsection shall be paid to an officer or employee in the same manner as the regular compensation paid to the officer or employee.

(b) RECRUITMENT OF FORMER MILITARY AND LAW ENFORCEMENT PERSONNEL WITHOUT REGARD TO AGE.—

(1) IN GENERAL.—The Chief of the Capitol Police shall carry out any activities and programs to recruit former members of the uniformed services and former officers of other law enforcement agencies to serve as members of the Capitol Police without regard to the age of such former members and former officers.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to affect any provision of law or any rule or regulation providing for the mandatory separation of members of the Capitol Police on the basis of age, or any provision of law or any rule or regulation regarding the calculation of retirement or other benefits for members of the Capitol Police.

(c) AUTHORIZING PREMIUM PAY TO ENSURE AVAILABILITY OF PERSONNEL.—

(1) IN GENERAL.—The Chief of the Capitol Police may provide premium pay to officers and members of the Capitol Police to ensure the availability of such officers and members for unscheduled duty in excess of a 40-hour work week, based on the needs of the Capitol Police, in the same manner and subject to the same terms and conditions as premium pay provided to criminal investigators under section 5545a of title 5, United States Code (subject to paragraph (2)).

(2) CAP ON TOTAL AMOUNT PAID.—Premium pay for an officer or member under this subsection may not be paid in a calendar year to the extent that, when added to the total basic pay paid or payable to such officer or member for service performed in the year, such pay would cause the total to exceed the annual rate of basic pay payable for level II of the Executive Schedule, as of the end of such year.

(d) INCREASE IN RATES APPLICABLE TO NEWLY-APPOINTED MEMBERS AND EMPLOYEES.—The Chief of the Capitol Police may compensate newly-appointed officers, members, and civilian employees of the Capitol Police at an annual rate of basic compensation in excess of the lowest rate of compensation otherwise applicable to the position to which the employee is appointed, except that in no case may such a rate be

greater than the maximum annual rate of basic compensation otherwise applicable to the position.

(e) OVERTIME COMPENSATION FOR OFFICERS AND MEMBERS AT RANK OF LIEUTENANT OR HIGHER.—

(1) IN GENERAL.—The Chief of the Capitol Police may provide for the compensation of overtime work of officers and members of the Capitol Police at the rank of lieutenant and higher. Nothing in this subsection may be construed to affect the compensation of overtime work of officers and members of the Capitol Police at any rank not described in the previous sentence.

(2) TERMS AND CONDITIONS.—In providing for the compensation of overtime work under this subsection, the Chief shall provide the compensation in the same manner and subject to the same terms and conditions which are applicable to the compensation of overtime work of officers and members of the United States Secret Service Uniformed Division and the United States Park Police who serve at the rank of lieutenant and higher, in accordance with section 1 of the Act entitled ''An Act to provide a 5-day week for officers and members of the Metropolitan Police force, the United States Park Police force, and the White House Police force, and for other purposes'', approved August 15, 1950 (sec. 5–1304, D.C. Official Code).

(f) TRAINING PROGRAMS FOR PERSONNEL.—

(1) IN GENERAL.—Chapter 41 of title 5, United States Code, is amended by adding at the end the following new section:

''§ 4120. Training for officers, members, and employees of the Capitol Police

''(a) The Chief of the Capitol Police may, by regulation, make applicable such provisions of this chapter as the Chief determines necessary to provide for training of officers, members, and employees of the Capitol Police. The regulations shall provide for training which, in the determination of the Chief, is consistent with the training provided by agencies under the preceding sections of this chapter.

''(b) The Office of Personnel Management shall provide the Chief of the Capitol Police with such advice and assistance as the Chief may request in order to enable the Chief to carry out the purposes of this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 41 of such title is amended by adding at the end the following:

''4120. Training for officers, members, and employees of the Capitol Police.''.

(g) APPLICATION OF PREMIUM PAY LIMITS ON ANNUALIZED BASIS.—

(1) IN GENERAL.—Any limits on the amount of premium pay which may be earned by officers and members of the Capitol Police during emergencies (as determined by the Capitol Police Board) shall be applied by the Chief of the Capitol Police on an annual basis and not on a pay period basis.

(2) EFFECTIVE DATE.—Paragraph (1) shall apply with respect to hours of duty occurring on or after September 11, 2001.

(h) CORRECTION OF DISPARITY WITHIN CLASSES.—

(1) IN GENERAL.—The Chief of the Capitol Police shall adjust the basic pay of members of the Capitol Police to the extent necessary to ensure that all members within the same rank who are within the same service class are paid the same annual rate of basic pay, except that no member of the Capitol Police may be subject to a reduction in the member's rate of basic pay as a result of this subsection.

(2) EFFECTIVE DATE.—Paragraph (1) shall apply with respect to pay periods beginning on or after October 1, 2001.

(i) EFFECTIVE DATE; REGULATIONS.—

(1) EFFECTIVE DATE.—Except as otherwise provided, this section shall apply with respect to pay periods beginning on or after the date of the enactment of this Act.

(2) DEADLINE FOR REGULATIONS.—Not later than 60 days after the date of the enactment of this Act, the Chief of the Capitol Police shall promulgate any regulations required to carry out this section.

SEC. 113. (a) CAPITOL POLICE BOARD; COMPOSITION; REDEFINING MISSION.—

(1) PURPOSE.—The purpose of the Capitol Police Board is to oversee and support the Capitol Police in its mission and to advance coordination between the Capitol Police and the Sergeants at Arms of the House of Representatives and the Senate, in their law enforcement capacities, and the Congress. Consistent with this purpose, the Capitol Police Board shall establish general goals and objectives covering its major functions and operations to improve the efficiency and effectiveness of its operations.

(2) COMPOSITION.—The Capitol Police Board shall consist of the Sergeant at Arms of the House of Representatives, the Sergeant at Arms of the Senate, the Chief of the Capitol Police, and the Architect of the Capitol. The Chief of Capitol Police shall serve in an ex-officio capacity and be a non-voting member of the Board.

(3) CHAIR POSITION.—The position of chair of the Capitol Police Board shall rotate between the Sergeant at Arms of the House of Representatives and the Sergeant at Arms of the Senate every other year.

(b) INITIAL REVIEW AND REPORT.—Not later than 180 days after the date of the enactment of this Act, the Capitol Police Board shall—

(1) examine the mission of the Capitol Police Board and, based on that analysis, redefine the Capitol Police Board's mission, mission-related processes, and administrative processes;

(2) conduct an assessment of the effectiveness and usefulness of its statutory functions in contributing to the Capitol Police Board's ability to carry out its mission and meet its goals, including an explanation of the reasons for any determination that the statutory functions are appropriate and advisable in terms of its purpose, mission, and long-term goals; and

(3) submit to the Speaker and minority leader of the House of Representatives and the majority leader and minority leader of the Senate a report on the results of its examination and assessment, including recommendations for any legislation that the Capitol Police Board considers appropriate and necessary.

(c) EXECUTIVE DIRECTOR.—

(1) ESTABLISHMENT.—There shall be established in the Capitol Police an Executive Director for the Capitol Police Board to act as a central point for communication and enhance the overall effectiveness and efficiency of the Capitol Police Board's administrative activities.

(2) APPOINTMENT; COMPENSATION.—The Executive Director shall be appointed by the Chief of Police in consultation with the Sergeant at Arms of the House of Representatives and the Sergeant at Arms of the Senate. The Executive Director shall be paid at an annual rate of compensation equal to the annual rate of basic pay payable under level IV of the Executive Schedule.

(3) DUTIES.—The Executive Director shall be assigned to, and report to, the Chairman of the Board. The Executive Director shall assist the Capitol Police Board in developing, documenting, and implementing a clearly defined process for additional tasks assigned to the Capitol Police Board under this section, and shall perform any additional duties assigned by the Capitol Police Board.

(d) DOCUMENTATION.—

(1) FUNCTIONS AND PROCESSES.—The Capitol Police Board shall document its functions and processes, including its mission statement, policies, directives, and operating procedures established or revised under subsection (a)(1) or (b), and make such documentation available for examination to the Speaker and minority leader of the House of Representatives, the majority leader and minority leader of the Senate, the Capitol Police, and the Comptroller General.

(2) MEETINGS.—The Capitol Police Board shall document Board meetings and make the documentation available for distribution to the Speaker and minority leader of the House of Representatives and the majority leader and minority leader of the Senate.

(e) ASSISTANCE OF COMPTROLLER GENERAL.—Upon request, the Comptroller General shall provide assistance to the Capitol Police Board in carrying out its responsibilities under this subsection.

(f) REFERENCES IN LAW; EFFECT ON OTHER LAWS.—(1) Any reference in any law or resolution in effect as of the date of the enactment of this Act to the ''Capitol Police Board'' shall be deemed to refer to the Capitol Police Board as composed under subsection (a)(2).

(2) Nothing in this section shall be construed to affect the jurisdiction, powers, or prerogatives of the Capitol Police Board or its individual members unless specifically provided herein.

SEC. 114. (a) Subsection (c) of the first section of Public Law 96–152 (40 U.S.C. 206–1) is amended to read as follows:

''(c) The annual rate of pay for the Chief of the Capitol Police shall be the amount equal to $1,000 less than the lower of the annual rate of pay in effect for the Sergeant-at-Arms of the House of Representatives or the annual rate of pay in effect for the Sergeant-at-Arms and Doorkeeper of the Senate.''.

(b) Section 907(b) of the Emergency Supplemental Act, 2002 (40 U.S.C. 206 note) is amended to read as follows:

''(b) The annual rate of pay for the Assistant Chief of the Capitol Police shall be the amount equal to $1,000 less than the annual rate of pay in effect for the Chief of the Capitol Police.''.

(c) The amendments made by subsections (a) and (b) shall apply with respect to the first pay period beginning on or after the date of the enactment of the Act.

OFFICE OF COMPLIANCE

SALARIES AND EXPENSES

For salaries and expenses of the Office of Compliance, as authorized by section 305 of the Congressional Accountability Act of 1995 (2 U.S.C. 1385), $2,059,000, of which $254,000 shall remain available until September 30, 2004.

ADMINISTRATIVE PROVISION

SEC. 115. (a) If any person files with the Office of Compliance or the Board of Directors of the Office of Compliance a written response to any decision or report of the Office or the Board (as the case may be), the Office or the Board shall include such response in its final publication of the decision or report, unless the person directs the Office or the Board to exclude the response from publication.

(b) This section shall apply with respect to decisions and reports issued during fiscal year 2003 or any succeeding fiscal year.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary for operation of the Congressional Budget Office, including not more than $3,000 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, $32,390,000, of which not more

than $100,000 shall remain available until expended for the acquisition and partial support for implementation of a Central Financial Management System: *Provided*, That no part of such amount may be used for the purchase or hire of a passenger motor vehicle.

ADMINISTRATIVE PROVISIONS

SEC. 116. The Director of the Congressional Budget Office may, by regulation, make applicable such provisions of section 3396 of title 5, United States Code, as the Director determines necessary to establish hereafter a program providing opportunities for employees of the Office to engage in details or other temporary assignments in other agencies, study, or uncompensated work experience which will contribute to the employees' development and effectiveness.

SEC. 117. The Director of the Congressional Budget Office is hereafter authorized to enter into agreements or contracts without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).

ARCHITECT OF THE CAPITOL

CAPITOL BUILDINGS AND GROUNDS

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For salaries for the Architect of the Capitol, the Assistant Architect of the Capitol, and other personal services, at rates of pay provided by law; for surveys and studies in connection with activities under the care of the Architect of the Capitol; for all necessary expenses for the general and administrative support of the operations under the Architect of the Capitol including the Botanic Garden; electrical substations of the Capitol, Senate and House office buildings, and other facilities under the jurisdiction of the Architect of the Capitol; including furnishings and office equipment; including not more than $5,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; for purchase or exchange, maintenance, and operation of a passenger motor vehicle, $61,927,000, of which $6,450,000 shall remain available until September 30, 2007.

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol, $32,062,000, of which $19,065,000 shall remain available until September 30, 2007: *Provided*, That of this amount, not more than $4,465,000 may be used for studying, planning, designing, and architect and engineer services, except that this amount may be increased to a greater amount determined by the Architect of the Capitol to be necessary for such purposes if the Architect notifies the Committees on Appropriations of the House of Representatives and Senate of the determination, the greater amount, and the Architect's reasons therefor.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, $8,125,000, of which $1,530,000 shall remain available until September 30, 2007: *Provided*, That of this amount, not more than $330,000 may be used for studying, planning, designing, and architect and engineer services, except that this amount may be increased to a greater amount determined by the Architect of the Capitol to be necessary for such purposes if the Architect notifies the Committees on Appropriations of the House of Representatives and Senate of the determination, the greater amount, and the Architect's reasons therefor.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, $58,460,000, of which $23,110,000 shall remain available until September 30, 2007: *Provided*, That of this amount, not more than $10,020,000 may be used for studying, planning, designing, and architect and engineer services, except that this amount may be increased to a greater amount determined by the Architect of the Capitol to be necessary for such purposes if the Architect notifies the Committee on Appropriations of the House of Representatives of the determination, the greater amount, and the Architect's reasons therefor.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and air conditioning refrigeration not supplied from plants in any of such buildings; heating the Government Printing Office and Washington City Post Office, and heating and chilled water for air conditioning for the Supreme Court Building, the Union Station complex, the Thurgood Marshall Federal Judiciary Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, $107,173,000, of which $66,450,000 shall remain available until September 30, 2007: *Provided*, That not more than $4,400,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 2003: *Provided further*, That of this amount, not more than $450,000 may be used for studying, planning, designing, and architect and engineer services, except that this amount may be increased to a greater amount determined by the Architect of the Capitol to be necessary for such purposes if the Architect notifies the Committees on Appropriations of the House of Representatives and Senate of the determination, the greater amount, and the Architect's reasons therefor.

ADMINISTRATIVE PROVISIONS

SEC. 118. Notwithstanding any other provision of law: (a) section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) shall apply with respect to purchases and contracts for the Architect of the Capitol as if the reference to ''$25,000'' in clause (1) of such section were a reference to ''$100,000''; and (b) the Architect may procure services, equipment, and construction for security related projects in the most efficient manner he determines appropriate.

SEC. 119. (a) Section 133(a) of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68; 115 Stat. 581), is amended—

(1) by adding at the end of paragraph (2) the following new subparagraph:

''(E) An individual who is covered by a collective bargaining agreement entered into by the Architect of the Capitol establishing terms and conditions of employment which include eligibility for life insurance, health insurance, retirement, and other benefits.''; and

(2) by adding at the end the following new paragraph:

''(4) The Architect of the Capitol shall make employer contributions for benefits for employees of the Architect (including temporary employees) directly to any third party designated to receive such contributions on behalf of the employees under a collective bargaining agreement, participation agreement, or any other arrangement entered into by the Architect which provides for such contributions.''.

(b) Any individual who exercised an option offered by the Architect of the Capitol under section 133(a)(2) of the Legislative Branch Appropriations Act, 2002, prior to the date of the enactment of this Act may revoke the option during the 90-day period which begins on the date of the enactment of this Act.

(c) The amendments made by subsection (a) shall take effect as if included in the enactment of section 133(a) of the Legislative Branch Appropriations Act, 2002.

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $86,241,000: *Provided*, That no part of such amount may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

(INCLUDING TRANSFER OF FUNDS)

For authorized printing and binding for the Congress and the distribution of Congressional information in any format; printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (section 902 of title 44, United States Code); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $90,143,000: *Provided*, That this appropriation shall not be available for paper copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under section 906 of title 44, United States Code: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years: *Provided further*, That notwithstanding the 2-year limitation under section 718 of title 44, United States Code, none of the funds appropriated or made available under this Act or any other Act for printing and binding and related services provided to Congress under chapter 7 of title 44, United States Code, may be expended to print a document, report, or publication after the 27-month period beginning on the date that such document, report, or publication is authorized by Congress to be printed, unless Congress reauthorizes such printing in accordance with section 718 of title 44, United States Code: *Provided further*, That any unobligated or unexpended balances in this account or accounts for similar purposes for preceding fiscal years may be transferred to the Government Printing Office revolving fund for carrying out the purposes of this heading, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

This title may be cited as the ''Congressional Operations Appropriations Act, 2003''.

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic

Garden and the nurseries, buildings, grounds, and collections; and purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $5,936,000, of which $120,000 shall remain available until September 30, 2007: *Provided,* That of this amount, not more than $120,000 may be used for studying, planning, designing, and architect and engineer services, except that this amount may be increased to a greater amount determined by the Architect of the Capitol to be necessary for such purposes if the Architect notifies the Committees on Appropriations of the House of Representatives and Senate of the determination, the greater amount, and the Architect's reasons therefor: *Provided further,* That this appropriation shall not be available for any activities of the National Garden.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress not otherwise provided for, including development and maintenance of the Union Catalogs; custody and custodial care of the Library buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog records and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $358,797,000, of which not more than $6,500,000 shall be derived from collections credited to this appropriation during fiscal year 2003, and shall remain available until expended, under the Act of June 28, 1902 (chapter 1301; 32 Stat. 480; 2 U.S.C. 150) and not more than $350,000 shall be derived from collections during fiscal year 2003 and shall remain available until expended for the development and maintenance of an international legal information database and activities related thereto: *Provided,* That the Library of Congress may not obligate or expend any funds derived from collections under the Act of June 28, 1902, in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further,* That the total amount available for obligation shall be reduced by the amount by which collections are less than the $6,850,000: *Provided further,* That of the total amount appropriated, $10,886,000 is to remain available until expended for acquisition of books, periodicals, newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: *Provided further,* That of the total amount appropriated, not more than $12,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Overseas Field Offices: *Provided further,* That of the total amount appropriated, $2,200,000 shall remain available until expended for the acquisition and partial support for implementation of an Integrated Library System (ILS): *Provided further,* That of the total amount appropriated, $9,600,000 shall remain available until expended for the purpose of teaching educators how to incorporate the Library's digital collections into school curricula and shall be transferred to the educational consortium formed to conduct the ''Joining Hands Across America: Local Community Initiative'' project as approved by the Library: *Provided further,* That of the amount appropriated, $500,000, shall remain available until expended, shall be transferred to the Abraham Lincoln Bicentennial Commission for carrying out the purposes of Public Law 106–173, of which amount $10,000 may be used for official representation and reception expenses of the Abraham Lincoln Bicentennial Commission: *Provided further,* That of the total amount appropriated, $5,250,000 shall remain available until expended for the acquisition and partial support for implementation of a Central Financial Management System: *Provided further,* That of the total amount appropriated, $10,000,000 shall remain available until expended for the purpose of developing a high-speed data transmission between the Library of Congress and educational facilities, libraries, or networks serving Western North Carolina.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, $44,876,000, of which not more than $24,911,000, to remain available until expended, shall be derived from collections credited to this appropriation during fiscal year 2003 under section 708(d) of title 17, United States Code: *Provided,* That the Copyright Office may not obligate or expend any funds derived from collections under such section, in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further,* That not more than $6,191,000 shall be derived from collections during fiscal year 2003 under sections 111(d)(2), 119(b)(2), 802(h), and 1005 of such title: *Provided further,* That the total amount available for obligation shall be reduced by the amount by which collections are less than $31,102,000: *Provided further,* That not more than $100,000 of the amount appropriated is available for the maintenance of an ''International Copyright Institute'' in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies: *Provided further,* That not more than $4,250 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for activities of the International Copyright Institute and for copyright delegations, visitors, and seminars.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the Act of March 3, 1931 (chapter 400; 46 Stat. 1487; 2 U.S.C. 135a), $56,522,000, of which $20,256,000 shall remain available until expended.

ADMINISTRATIVE PROVISIONS

SEC. 201. Of the amounts appropriated to the Library of Congress in this Act, not more than $5,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the incentive awards program.

SEC. 202. (a) For fiscal year 2003, the obligational authority of the Library of Congress for the activities described in subsection (b) may not exceed $109,929,000.

(b) The activities referred to in subsection (a) are reimbursable and revolving fund activities that are funded from sources other than appropriations to the Library in appropriations Acts for the legislative branch.

(c) For fiscal year 2003, the Librarian of Congress may temporarily transfer funds appropriated in this Act under the heading ''LIBRARY OF CONGRESS—SALARIES AND EXPENSES'' to the revolving fund for the FEDLINK Program and the Federal Research Program established under section 103 of the Library of Congress Fiscal Operations Improvement Act of 2000 (Public Law 106–481; 2 U.S.C. 182c): *Provided,* That the total amount of such transfers may not exceed $1,900,000: *Provided further,* That the appropriate revolving fund account shall reimburse the Library for any amounts transferred to it before the period of availability of the Library appropriation expires.

SEC. 203. NATIONAL DIGITAL INFORMATION INFRASTRUCTURE AND PRESERVATION PROGRAM.—The Miscellaneous Appropriations Act, 2001 (as enacted by section 1(a)(4) of Public Law 106–554, 114 Stat. 2763A–194), division A, chapter 9, under the heading ''Library of Congress'' ''Salaries and Expenses'' is amended by striking ''March 31, 2003'' and inserting in lieu thereof ''March 31, 2005''.

SEC. 204. Section 2(c)(3) of the History of the House Awareness and Preservation Act (2 U.S.C. 183(c)(3)) is amended by inserting ''excerpts of'' after ''dissemination of''.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $35,319,000, of which $15,887,000 shall remain available until September 30, 2007 and $5,500,000 shall remain available until expended: *Provided,* That of this amount, not more than $2,958,000 may be used for studying, planning, designing, and architect and engineer services, except that this amount may be increased to a greater amount determined by the Architect of the Capitol to be necessary for such purposes if the Architect notifies the Committees on Appropriations of the House of Representatives and Senate of the determination, the greater amount, and the Architect's reasons therefor.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, $29,661,000: *Provided,* That amounts of not more than $2,000,000 from current year appropriations are authorized for producing and disseminating Congressional serial sets and other related publications for 2001 and 2002 to depository and other designated libraries: *Provided further,* That any unobligated or unexpended balances in this account or accounts for similar purposes for preceding fiscal years may be transferred to the Government Printing Office revolving fund for carrying out the purposes of this heading, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the Government Printing Office revolving fund: *Provided,* That not more than $2,500 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further,* That the revolving fund shall be available for the hire or

purchase of not more than 12 passenger motor vehicles: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of such title: *Provided further*, That the revolving fund and the funds provided under the headings ''OFFICE OF SUPERINTENDENT OF DOCUMENTS'' and ''SALARIES AND EXPENSES'' together may not be available for the full-time equivalent employment of more than 3,219 workyears (or such other number of workyears as the Public Printer may request, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate): *Provided further*, That activities financed through the revolving fund may provide information in any format.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not more than $12,500 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with section 3324 of title 31, United States Code; benefits comparable to those payable under sections 901(5), 901(6), and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6), and 4081(8)); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries, $453,534,000: *Provided*, That not more than $2,210,000 of payments received under section 782 of title 31, United States Code, shall be available for use in fiscal year 2003: *Provided further*, That not more than $790,000 of reimbursements received under section 9105 of title 31, United States Code, shall be available for use in fiscal year 2003: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of either Forum's costs as determined by the respective Forum, including necessary travel expenses of non-Federal participants: *Provided further*, That payments hereunder to the Forum may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences.

PAYMENT TO THE RUSSIAN LEADERSHIP DEVELOPMENT CENTER TRUST FUND

For a payment to the Russian Leadership Development Center Trust Fund for financing activities of the Center for Russian Leadership Development, $13,000,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration and for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of the funds appropriated in this Act shall remain available for obligation beyond fiscal year 2003 unless expressly so provided in this Act.

SEC. 303. Whenever in this Act any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for or the rate of compensation or designation of any office or position appropriated for is different from that specifically established by such Act, the rate of compensation and the designation in this Act shall be the permanent law with respect thereto: *Provided*, That the provisions in this Act for the various items of official expenses of Members, officers, and committees of the House of Representatives and Senate, and clerk hire for Senators and Members of the House of Representatives shall be the permanent law with respect thereto.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. Such sums as may be necessary are appropriated to the account described in subsection (a) of section 415 of the Congressional Accountability Act to pay awards and settlements as authorized under such subsection.

SEC. 306. Amounts available for administrative expenses of any legislative branch entity which participates in the Legislative Branch Financial Managers Council (LBFMC) established by charter on March 26, 1996, shall be available to finance an appropriate share of LBFMC costs as determined by the LBFMC, except that the total LBFMC costs to be shared among all participating legislative branch entities (in such allocations among the entities as the entities may determine) may not exceed $2,000.

SEC. 307. The Architect of the Capitol, in consultation with the District of Columbia, is authorized to maintain and improve the landscape features, excluding streets and sidewalks, in the irregular shaped grassy areas bounded by Washington Avenue, SW on the northeast, Second Street SW on the west, Square 582 on the south, and the beginning of the I–395 tunnel on the southeast.

SEC. 308. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 309. (a) IN GENERAL.—Section 313 of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1151), as enacted by reference in section 1(a)(2) of the Consolidated Appropriations Act, 2001, is amended—

(1) by redesignating subsections (c) through (h) as subsections (d) through (i); and

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

''(c) RUSSIAN EXCHANGE PROGRAM FOR AMERICAN LEADERSHIP.—

''(1) IN GENERAL.—In addition to the program established under subsection (b), the Center shall establish a program to carry out activities (including the awarding of grants) to enable emerging political leaders of the Federal Government and State and local governments to visit the Russian Federation to study the operation of political institutions, business organizations, and nongovernmental organizations of the Russian Federation.

''(2) ADMINISTRATION.—The provisions of paragraphs (3) and (4) of subsection (b) shall apply with respect to the program under this subsection in the same manner as such provisions apply to the program under subsection (b).''.

(b) CONFORMING AMENDMENTS.—Section 313 of such Act (2 U.S.C. 1151) is amended—

(1) in subsection (b)(1), by striking the period at the end and inserting the following: '', and to establish and administer the program described in subsection (c).''.; and

(2) in subsection (i)(2) (as redesignated by subsection (a)(1)), by striking ''Subsection (g)'' and inserting ''Subsection (h)''.

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

SEC. 310. (a) The Librarian of Congress and the Director of the Congressional Research Service shall take such steps as may be necessary to ensure that all materials of the Congressional Research Service which are provided and available to Members of Congress and officers and employees of the House of Representatives and Senate at the United States Capitol and Congressional office buildings (including materials provided through electronic means) may be provided and available to such individuals in the same manner and to the same extent at all other locations where such individuals carry out their official duties.

(b) This section shall apply to materials of the Congressional Research Service which are provided and available at any time after the date of the enactment of this Act.

SEC. 311. (a) Each office in the legislative branch which is responsible for preparing any written statement furnished under part 3 of subchapter A of chapter 61 of the Internal Revenue Code of 1986 on behalf of an person shall make the statement available to the person in an electronic format (at the direction of the person) which will enable the person to provide the statement electronically to a tax preparer or other provider of financial services.

(b) Subsection (a) shall apply with respect to statements prepared for taxable years ending on or after December 31, 2002.

The CHAIRMAN. Are there any points of order to that portion of the bill?

POINT OF ORDER

Mr. NEY. Mr. Chairman, I raise a point of order against section 110 on page 16, line 21 through page 21, line 17 of H.R. 5121 on the ground that this provision changes existing law in violation of clause 2 of House rule XXI and therefore is legislation included in a general appropriations bill.

The CHAIRMAN. Are there any Members that desire to be heard on the point of order?

Mr. MORAN of Virginia. Mr. Chairman, I would like to be heard on this point of order, because section 110 would improve the administration of the Capitol Police in a couple of ways. It eliminates the last vestiges of the old bifurcated payroll system from an earlier era in which some officers were

paid on the House payroll and others on the Senate payroll in placing all Capitol Police officers under a single, unified payroll. That is what we are trying to do in this bill. It also provides for vesting administrative responsibility for the funds, for personnel and for other resources of the agency in the chief of the Capitol Police. If the gentleman is successful in striking the language in this bill, you will continue the current inefficient system in which some paychecks for Capitol Police officers are paid by the House administration office while other officers are paid out of the Senate disbursing office. You will have two payrolls which does not make sense given that we have one police force that protects both the House and Senate. This is a serious administrative burden for the House, the Senate and the Capitol Police which we are trying to correct in this bill.

Currently officers may be posted on the House end of the Capitol and then moved to the Senate on another shift. Yet that same officer will be paid out of one payroll office or the other. We are just trying to update, to modernize, to make more intelligent the system of compensation and the system of management so that the chief of the Capitol Police has more direct authority over his officers. That is why the language is in. This should not be controversial language. This is constructive language. I would urge the gentleman to withdraw his point of order.

The CHAIRMAN. Are there other Members who would like to speak to the point of order?

Mr. NEY. Mr. Chairman, I think this is in the best interests of the entire force. It is not a matter of what has been completely historical but having elected officials of the House and the Senate to have a say about payroll versus turning it over to completely unelected individuals within this Capitol.

I would ask for a ruling, Mr. Chairman.

The CHAIRMAN. The Chair is prepared to rule.

The general provision identified by the point of order—section 110 of the bill—proposes to convey statutory authorities, to establish new accounts in the Treasury, and to directly change sundry existing laws. As such it constitutes legislation, in violation of clause 2(b) of rule XXI. The point of order is sustained, and section 110 is stricken from the bill.

Are there further points of order?

POINT OF ORDER

Mr. HERGER. Mr. Chairman, I raise a point of order against the provisions contained in title I, section 106, page 11, line 4 beginning with the word ''Provided'' through line 9 of this bill, H.R. 5121, on the grounds that this provision violates clause 2 of House rule XXI because it is legislation included in a general appropriations bill.

The CHAIRMAN. Are there Members who want to speak to the point of order?

Mr. MORAN of Virginia. Yes, I do, Mr. Chairman. We were hoping that this would not be struck. I know the gentleman listened to the debate on the rule. It can become a partisan and contentious issue which we would prefer to avoid. That is why we put this language in the committee. We do not want to be punitive. We do not even want to be particularly divisive. All we wanted to do is to say this increase, beyond the $6,377,000 that is going to the Joint Committee on Taxation, this increase of $590,000 is simply suspended until the Congress receives the report that was requested 3 years ago and from what we understand was completed 2 years ago. If this language is not struck, then there is no more debate, we conclude this bill, we get the report, the Joint Committee on Taxation gets its increase and we avoid a very contentious and perhaps embarrassing debate for some people. We are not going to be embarrassed about it because we know we are doing the right thing by simply getting the report that we are told was done. I guess I sound a little like I am suggesting that we try to save you from yourselves, those people who really want to have this debate. We are ready for the debate, but we also think we ought to say we told you so, that if we go forward in this manner, I will raise an amendment, offer my amendment, it is, of course, in order and we are going to have an extended debate and a contentious one.

I would really suggest to the gentleman to avoid that divisiveness. I know he wants to see the report as much as I do. It is done. The taxpayers of America paid for it. I know they would like to know who has denounced their U.S. citizenship and gone overseas to avoid paying U.S. taxes. I know we would both like to see that. Let us withdraw the point of order. Let us go ahead, suspend the money and then the Joint Committee can get all the money that they have asked for once they give us the report that was asked for 3 years ago.

The CHAIRMAN. Are there other Members who want to speak to the point of order? If not, the Chair is prepared to rule.

The proviso identified by the point of order subjects a portion of the accompanying appropriation to a legislative condition precedent. It therefore constitutes a violation of clause 2(b) of rule XXI.

The point of order is sustained, and the proviso is stricken from the bill.

No amendment shall be in order except the amendment printed in House Report 107–586 and pro forma amendments offered by the chairman and ranking minority member of the Committee on Appropriations, or their designees, for the purpose of debate.

The amendment printed in the report may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment.

It is now in order to consider the amendment printed in House Report 107–586.

AMENDMENT OFFERED BY MR. MORAN OF VIRGINIA

Mr. MORAN of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORAN of Virginia:

Page 11, line 3, after the dollar amount, insert the following: ''(reduced by $590,000)''.

The CHAIRMAN. Pursuant to House Resolution 489, the gentleman from Virginia (Mr. MORAN) and the gentleman from North Carolina (Mr. TAYLOR) each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

As my colleagues know, I am reluctant to offer this, but I see no other way to insist that this report be released. After all, it has been 3 years since the report was requested.

In 1999, to prevent action on the gentleman from New York (Mr. RANGEL)'s bill that would have restricted the ability of people to renounce their American citizenship and go overseas to avoid paying taxes, the chairman of the Committee on Ways and Means requested the Joint Committee on Taxation to do a study and report on that study the following year, 2000. We all know we do that a lot. If we do not want to face up to actions that many people feel necessary, we come up with a compromise. We say, ''Well, let's do a study.'' And so that study was accepted by the gentleman from New York (Mr. RANGEL) but not forgotten. He was willing to have the study done, but he feels very strongly, and I know he is going to want to speak for himself, that some action needs to be taken. The report has never been provided, presumably because its conclusions are very disturbing. The gentleman from New York (Mr. RANGEL) has repeatedly requested the results of this report. The Joint Committee has refused to release it. These delays apparently have been efforts to protect wealthy expatriates. We have heard some debate excusing that decision to denounce their American citizenship and to move overseas in order to avoid paying their taxes to the United States Government. The gentleman from Georgia suggested this was understandable because they have lower rates of taxation. Let me just say to the gentleman, for those people who have moved to Bermuda or to Barbados or to Antigua or to any of these islands where the taxes, granted, are much lower, I doubt that those individuals if they are ever attacked are going to turn to the Bermuda navy to protect

them, or the Antigua air force, or the Jamaican marines. We pay for what we get, the strongest military in the world, and we all ought to be willing to pay for it. We all ought to be willing to pay for the costs of this government that keeps this country as prosperous and strong and free as it is. But freedom and democracy does not come cheap. And it is wrong for these people to denounce their citizenship because they are so wealthy they do not want to pay their share of funding our American military, their share of funding the education of our workforce, their share of the roads and the transportation systems that provide the infrastructure for their businesses. It is wrong. And the Committee found the specifics apparently to be very disturbing as to who has done this and how much money is being avoided. Yet the majority seems unwilling to release this information so we can act in an informed way and take appropriate legislative action on behalf of the American people, on behalf of all the other American taxpayers who are having to pay more money because these people, these cheats, are willing to go overseas, denounce their citizenship and avoid the responsibility of paying their fair share of taxes. It is not right. We need to get this information, and it is time. Three years later, it is time to get this information.

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

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. CRANE).

□ 1515

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

Mr. Chairman, I rise in opposition to the amendment to strike $595,000 in funding for the Joint Committee on Taxation, a committee on which I serve. A reduction in funding will place a terrible burden on Congress as it attempts to produce important and necessary changes to the Tax Code.

That said, there is no doubt in my mind that the current revenue estimating process is flawed. Estimates do not take into account the total effect of revenue changes on the economy, including wages, prices, and consumer spending. We are locked into a model of estimating that only tips its hat to our dynamic economy.

In response to my inquiry during a February hearing of the Committee on Ways and Means, the Treasury Secretary stated, ''Since I have been at Treasury, we have been working hard on this, the subject of estimation and looking at ways that we can bring to the Congress and to the American people not just the static estimates of the past but, as you characterize it, dynamic estimates so that everyone will have an opportunity to see the difference and, as we go through time, we can see which estimates turn out to be more correct through this process.''

In another hearing, the Director of the Office of Management and Budget, in commenting on the revenue estimating process, made the following observation: ''We make the one assumption that we know is wrong. That is, that lower taxes have a zero effect, and honest people can differ about how big the effect of any given measure might be, but the answer we know is wrong is the one we use. And I am hopeful that some progress will be made.''

This is not a criticism of the committee or its staff. Instead, it is a criticism of the process that we as Members of Congress have allowed to develop over the years to ensure that we do not get the most comprehensive revenue estimates.

Fundamental reform to the revenue-estimating process which I am developing must occur. A reduction in funding to the joint committee will only lead to more incomplete estimates.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself 1 minute, just to respond to the distinguished gentleman from Illinois on the Committee on Ways and Means. We want the Joint Committee on Taxation to perform its legitimate function. We wanted them to get all of the increase they asked for. What we wanted to do was simply suspend that increase until we get the report the Congress asked for. Chairman Bill Archer asked for it 3 years ago. It was due in the year 2000. We keep getting newspaper reports about what was in it, but apparently, people do not want to reveal what is in it.

Now, the majority, for some reason that eludes me, wants to help the committee avoid this being revealed to the public. It is the public's money. Every single taxpayer in America is paying more money because some of the wealthiest people who are earning their money in the United States are denouncing their citizenship and going overseas to these islands so that they do not have to pay their taxes. These no tax countries do not have any military, they do not have any infrastructure, they do not educate their people, and they live there because they can afford to because they are making money in the United States off the taxes that the American taxpayer is putting in to enable them to have an economy that is the strongest in the world. What parasites. They are safe and secure because the other American taxpayers are paying for their military that protects them. They make lots of money because of the investment other American taxpayers have made in America's infrastructure.

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

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. THOMAS).

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

Mr. THOMAS. Mr. Chairman, I take the floor as Chairman of the Committee on Ways and Means because the Joint Committee on Taxation is a bipartisan, nonpartisan research structure that is shared by both the House and the Senate. Some misstatements of fact have been made and I want to put it in its proper context.

If anyone does not think this is not a pure partisan political contest, they did not hear the gentleman from Virginia. They have decided this now is an issue that they can ride, and of all the people to make the statement is the gentleman from Virginia.

The chairman of the Joint Committee on Taxation is the United States Senator from Montana, the Democrat, Senator BAUCUS. The request that was made to release this statement cannot be a former Member of Congress; it has to be a current Member of Congress. That request was made by the gentleman from New York (Mr. RANGEL).

It has been said that the report has been completed. That simply is not true. How in the world could a report about ex-patriots started several years ago not be completed? The answer, very simple. The primary reason people give up their citizenship is not to pay taxes, but, more importantly, not to pay estate or death taxes.

Somebody may have noticed last year, the United States House of Representatives, the United States Senate changed the estate or death taxes. That is now the law of the land, a fundamentally different way that we are taxing death or estates. The committee had to go back and reevaluate the question of who was and who was not going to leave based upon a change in the law. It is the Joint Committee on Taxation, and the underlying tax structure changed, so they are not going to release a document based upon old law; they are going to offer a document on new law, and it is just about here.

So the statements saying it is finished are flat out not true. A Democrat asked for it, a Democrat is the chairman of the Joint Committee on Taxation, and is it not ironic that it is Democrats who are going to punish nonpartisan, bipartisan professionals who they argue they are supportive of in terms of working conditions and requirements by cutting their money.

Now, if my colleagues understand it is politics, they understand what this amendment is all about. Ironically, it was the gentleman from Virginia who offered the motion that was declared out of order, passed by a voice vote of the Committee on Appropriations, so the Committee on Appropriations knew what it was doing. It was violating the Rules of the House in its own measure, and now we are forcing him to offer an amendment and exposing the political nature of the amendment.

Mr. MORAN of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. STARK), a distinguished member of the Committee on Ways and Means.

Mr. STARK. Mr. Chairman, I appreciate the gentleman yielding me this

time. I was wondering if the distinguished chairman of the Committee on Ways and Means would indulge me for an inquiry which might put this to rest.

I must plead that I am not familiar with all of the details; I did not read the Forbes article, so I am not sure what is purported to be in the report. But it is my understanding that Members of the House and certainly members of the committee, which he and I are, have the right to go in and look at committee files. Is that the gentleman's understanding?

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from California.

Mr. THOMAS. Mr. Chairman, Members have a right to examine files. This is a report that is in progress. If the gentleman wishes to try to examine a report that is in progress, which clearly would not be conclusive, I think we can arrange that, if that is the concern that Members have.

Mr. STARK. Mr. Chairman, I think that if that were the case, and I do not know, somebody would have some idea, it is certainly not secret.

I yield to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Chairman, I think the gentleman has an excellent idea, and I think, in fact, if the goal is to get to the bottom of where the committee is and where it is not, that would solve the problem, but to cut the money of these hard-working professionals is not the answer.

Mr. STARK. Mr. Chairman, reclaiming my time, as I say, that may very well be the solution to the gentleman's concern, that if Members were able to look at wherever the product is, it might satisfy the concerns that if there is something secret and untoward being held there, it might very well be the solution.

Mr. THOMAS. Mr. Chairman, if the gentleman will yield further, it is a fact that the report is not completed. The argument that it is completed is simply not so because of the change in the tax law. But if someone wants to look at what is going on, we would assume the proper approach would be to ask the people who are involved.

The current chairman is the chairman of the Finance Committee, MAX BAUCUS, I would tell my colleague from California, but I am quite sure that we can work it out if somebody really wants to look at the report rather than making some kind of a partisan gesture.

Mr. MORAN of Virginia. Mr. Chairman, as the person that represents the Committee on Ways and Means on the Republican side very well knows, there are more than 50 provisions in this bill that required a waiver of a point of order. This provision did not get that waiver and stands out by exception.

Now, he makes a point about observing the rules. The point is, from our perspective, this was an exception to the rule. Why? We had tried to work together, Republicans and Democrats; the gentleman from North Carolina (Mr. TAYLOR) and I have worked very well together. The gentleman is aware that he is the one that came in and said no, do not provide the waiver for this one issue on the study.

We do not want to punish the Joint Committee on Taxation employees. What we wanted to do was provide their entire increase. We are providing the base level that is currently funding their employees at $6.3 million, but the increase, let us just suspend it so we can get the report, because for 3 years, we have not gotten the report.

I do not know why the gentleman does not want that report, He has the ability to get that report. If he was interested in providing legislation to stop these people who are denouncing their citizenship to avoid taxes, he has the ability to get that legislation. It is only the gentleman from New York (Mr. RANGEL) that has had to continue putting on the pressure to get this information. The American people want this information. They deserve to get it.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I will yield every time the gentleman has a right to expect me to yield, so I am not yielding, I am going to respond to his points.

He has the opportunity and the responsibility to deal legislatively with the millions, tens of millions, probably hundreds of millions of dollars that are not being paid in to the American Treasury because there are some people, parasites, who will take advantage of our economy and take advantage of our military while making all kinds of money off the taxpayers' investments.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. MORAN) has expired.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Chairman, I would agree with the gentleman from Virginia on the point that he indicates there are parasites in the system and there are people who live off of others' hard-earned money by the way in which they conduct themselves.

I would tell the gentleman the reason we objected to legislating on an appropriations bill, which is what the gentleman was trying to do, is the gentleman does not let us appropriate on our legislative vehicles. So it seems reasonable that if we get to legislate and you appropriate, that we do not confuse the two.

Let me then also say that this report is coming out. If the gentleman's concern is getting this report out, the gentleman's report is going to be gotten out but, surely, someone would notice the fundamental tax change, at least the gentleman often mentions it on the floor about how big it is and how sweeping it is, and perhaps we should not have done it.

□ 1530

And here we are not even willing to take it into consideration as a reason why the professionals at the Joint Committee on Taxation have to go back and completely rewrite the report on expatriation because of the principal role of estate taxes.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana (Mr. MCCRERY).

Mr. MCCRERY. Mr. Chairman, I would say to the gentleman from Virginia, I do not disagree with the gentleman's purpose here, but there seems to be either some misunderstanding or some misstatement of fact by somebody as to the status of the report.

I think the gentleman from California (Mr. STARK) said it correctly when he said that if the report is unfinished, indeed, and it is not a matter of somebody withholding a finished product, then maybe we could get to the bottom of it by inspecting the product in its current state.

I was prepared to debate this based on our information from the Joint Committee on Taxation that the report is indeed unfinished; that it was requested by Mr. Archer, and they began work on it. When Mr. Archer left, they stopped work on it. Then the gentleman from New York (Mr. RANGEL) just a few months ago requested that the report proceed, and indeed, they are proceeding. In fact, we are told that the Joint Committee on Taxation wrote the gentleman from Virginia (Mr. MORAN).

Mr. Chairman, I would ask that the gentleman withdraw his amendment and let us work together to get to the bottom of this. I think there is a misunderstanding.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Virginia. I consider myself a good friend of the gentleman from Virginia (Mr. MORAN), but he is wrong by offering this amendment today. We all feel we are supporters of our public employees.

Here is a situation: I, as a member of the Committee on Ways and Means, have a request in to the tax staff all the time, and sometimes they do not move fast enough, I think, or give me the response that I want; but I am not going to threaten their pay raise or threaten to take away their money, or to cut the number of staff in the Joint Committee on Taxation if they do not give me the result that I want.

The gentleman from California (Chairman THOMAS) and, of course, I assume the gentleman from Alabama (Chairman BACHUS), would say the same thing, the Democrat who is the Chairman of the Joint Committee on Taxation says the report is going through the process and we are going to receive it.

But if I am not going to get the answer I want when I request a revenue

estimate on the proposal I have, whether it is to eliminate the marriage tax penalty or any other issue, I am not going to threaten the staff and threaten to take away their cost-of-living increase.

That is what this amendment does. If we adopt this amendment, we are taking away a cost-of-living increase for public servants, nonpartisan public servants.

I urge a ''no'' vote on this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I rise again in opposition to the Moran amendment. It is very creative. In fact, if we did this on everything we were unhappy with in this process, not only would we balance the budget, we would save the taxpayers billions of dollars.

Mr. Chairman, we hear there is a discrepancy in the report, but I think there has been a genuine effort on behalf of the majority to try to work out the time schedule and advance this report. Nobody is hiding anything. Nobody is shielding any report. In fact, we all want to see this very, very important information.

But I think, as the gentleman from Illinois just said, to cut salaries and budgets and use money as a fulcrum point against hard-working employees is unreasonable.

But if it is, in fact, reasonable under the gentleman's amendment, let us offer it on every appropriations bill, on every expenditure. In fact, let us reduce the spending in government because we are not satisfied, totally, with the reports. We could save billions of dollars by doing it.

This is not the appropriate time, not the appropriate place. We will get the report, and we will answer the charges. The Joint Committee on Taxation needs the funding. They should not have a punitive amendment on the floor today.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself the balance of my time.

Mr. RYAN of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from Wisconsin.

Mr. RYAN of Wisconsin. Mr. Chairman, I think there is a misunderstanding. This is not about expatriates; it is about whether or not we are going to cut the Joint Committee on Taxation, a committee that is overworked right now. They take about 4,500 Member requests and process them. If we cut this back and deprive them of any cost-of-living adjustments, which Members of Congress get, we are doing a disservice to the revenue-estimating function of this Congress.

The study is not done yet. There is new tax policy to factor. They are going to get the study. We want to see the study. Let us not do this amendment and cut this vital funding, because if we do, Congress will not be well served in trying to do its job.

Mr. TAYLOR of North Carolina. Mr. Chairman, reclaiming my time, it is unfortunate that this argument has occurred for this bill. I hope we can get some reconciliation in the future. But we do not need to cut $590,000 for this study and these employees.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. MORAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MORAN of Virginia. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 206, noes 213, not voting 15, as follows:

[Roll No. 320]

AYES—206

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Duncan
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
Hilleary
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
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)
Lofgren
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
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
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shimkus
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Wamp
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—213

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
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
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
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (OK)
Manzullo
McCrery
McInnis
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
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
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—15

Barrett
Berkley
Bonior
Carson (OK)
Clayton
Fossella
Hooley
Lowey
Mascara
McCarthy (NY)
McHugh
McKeon
Roukema
Traficant
Wicker

□ 1601

Messrs. TOM DAVIS of Virginia, JONES of North Carolina and EHLERS changed their vote from ''aye'' to ''no.''

Messrs. ANDREWS, BLUMENAUER, PETERSON of Minnesota, DELAHUNT, HILLIARD, BARCIA, HILLEARY, DUNCAN and HALL of Texas changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read the final lines of the bill.

The Clerk read as follows:

This Act may be cited as the ''Legislative Branch Appropriations Act, 2003''.

The CHAIRMAN. There being no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GILLMOR) having assumed the chair, Mr. HANSEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5121) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes, pursuant to House Resolution 489, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

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

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 365, nays 49, not voting 20, as follows:

[Roll No. 321]

YEAS—365

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Castle
Chambliss
Clay
Clement
Clyburn
Coble
Combest
Condit
Conyers
Cooksey
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Goss
Granger
Graves
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
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 (RI)
Kildee
Kilpatrick
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Matsui
McCarthy (MO)
McCollum
McCrery
McDermott
McGovern
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Mink
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Pitts
Platts
Pombo
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Rush
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Serrano
Sessions
Shaw
Sherman
Sherwood
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—49

Barr
Bartlett
Berry
Blagojevich
Chabot
Collins
Costello
Cox
Crane
Deal
Doggett
Duncan
Everett
Flake
Goode
Goodlatte
Green (TX)
Green (WI)
Hefley
Holt
Hulshof
Israel
Kennedy (MN)
Kerns
Kind (WI)
Lucas (KY)
Luther
Matheson
Miller, Jeff
Moore
Moran (KS)
Norwood
Paul
Petri
Phelps
Pickering
Roemer
Royce
Ryan (WI)
Schaffer
Sensenbrenner
Shadegg
Shays
Shimkus
Stearns
Tancredo
Taylor (MS)
Toomey
Turner

NOT VOTING—20

Barrett
Berkley
Bonior
Carson (OK)
Clayton
Dunn
Fossella
Graham
Hastings (FL)
Hooley
Lampson
Lowey
Mascara
McCarthy (NY)
McHugh
Pomeroy
Roukema
Traficant
Waters
Wicker

□ 1821

Mr. EVERETT and Mr. BARTLETT of Maryland changed their vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. POMEROY. Mr. Speaker, on rollcall No. 321, final passage of H.R. 5121, Legislative Branch Appropriations for Fiscal Year 2003, I was absent due to a meeting with a constituent.

Had I been present, I would have voted ''yea''.

Mr. LAMPSON. Mr. Speaker, on July 18, 2002, I missed rollcall vote No. 321. Had I been able to record my vote, I would have voted ''yea'' on rollcall vote No. 321.

PERMISSION TO HAVE UNTIL MIDNIGHT, FRIDAY, JULY 19, 2002, TO FILE CONFERENCE REPORT ON H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that the managers on the part of the House have until midnight, Friday, July 19, 2002, to file a conference report on the bill (H.R. 4775) making supplemental appropriations for further recovery from and response to terrorists attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 5059

Mr. STEARNS. Mr. Speaker, I ask unanimous consent that the name of the gentleman from North Carolina (Mr. TAYLOR) be removed as a cosponsor of H.R. 5059.

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

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 5120, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2003

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 488 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 488

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the

House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R 5120) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived except as follows: beginning with ''Provided'' on page 12, line 19, through ''2003'' on line 23; beginning with ''Provided'' on page 74, line 15, through ''law'' on line 25; page 81, line 22, through page 82, line 7; page 102, line 19, through page 103, line 10. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. The Chairman of the Committee of the Whole shall accord priority in recognition to Representative Goss of Florida or his designee to offer the amendment printed in the report of the Committee on Rules accompanying this resolution, which may be offered only at the appropriate point in reading of the bill, shall be considered as read, and shall not be subject to amendment. All points of order against the amendment printed in the report are waived. Except as otherwise specified in this resolution, during consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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

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

Mr. Speaker, H. Res. 488 is an open rule providing for the consideration of H.R. 5120, the fiscal year 2003 Treasury, Postal Service appropriations bill. It provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, and it waives all points of order against consideration of the bill.

H. Res. 488 also waives points of order against provisions in the bill for failing to comply with clause 2 of rule XXI, which prohibits unauthorized appropriations or legislative provisions in an appropriations bill, except as specified in the resolution itself.

H. Res. 488 provides that the amendment printed in the Committee on Rules report accompanying the resolution may be offered only at the appropriate point in the reading of the bill, shall be considered as read, and shall not be subject to amendment. The rule provides that the Chairman of the Committee of the Whole shall accord priority in recognition of the gentleman from Florida (Mr. GOSS) or his designee to offer the amendment printed in the report.

The rule also waives all points of order against the amendment printed in the report. Further, the rule also authorizes the Chair to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD.

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

Once H. Res. 488 is approved, the House can begin its consideration of fiscal year 2003 Treasury, Postal Service appropriations bill, which is the fifth regular appropriations bill to come to the House floor.

H.R. 5120 provides roughly $18.5 billion in funding for a variety of Federal departments and agencies. The committee included funding supporting State and local law enforcement efforts, enhancements in Federal information technology, and homeland security.

I urge my colleagues to adopt the rule so that the House can proceed with general debate and consideration of the underlying bill.

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

Mr. MCGOVERN. Mr. Speaker, I want to thank my colleague from Georgia for yielding me the customary time, and I yield myself such time as I may consume.

Mr. Speaker, I rise in very strong opposition to this rule. My colleagues should know from the very outset of this debate that the vote on this rule is about one simple issue: The issue of corporate accountability. Members must decide if they support giving billions of dollars of taxpayer money to corporations that dodge their taxes by running off to the Bahamas or to Bermuda.

During the Committee on Appropriations' markup of the Treasury, Postal appropriations bill, the gentlewoman from Connecticut (Ms. DELAURO) offered an amendment to prohibit government contracts from being awarded to companies that reincorporate overseas to avoid paying U.S. taxes. The Committee on Appropriations approved her amendment by a bipartisan vote of 41 to 17.

But the majority in the Committee on Rules, and I assume in consultation with the Republican leadership, has decided that they do not like the work done by the Committee on Appropriations on this particular issue. This rule leaves the DeLauro amendment vulnerable to a point of order, essentially stripping it from the bill. That is wrong, Mr. Speaker, and this rule should be defeated because of it.

The DeLauro amendment does not even seek to close the overseas loophole, which we should have done long ago and which Democrats have been trying to do for months. The gentleman from Massachusetts (Mr. NEAL) and the gentleman from Connecticut (Mr. MALONEY) introduced a bill to eliminate the loophole over 4 months ago. It has been languishing in this House ever since. That is why Members right now are signing a discharge petition to free the Neal-Maloney bill from legislative purgatory.

All the DeLauro amendment says is that companies who shirk their responsibilities should not be rewarded with billions of American taxpayer dollars. For the life of me, I cannot figure out what is so controversial about that.

Now, the majority will argue that they are merely using the regular order of the House; that there are jurisdictional issues between the Committee on Appropriations and the Committee on Government Reform.

□ 1630

Well, I find it extraordinary that the majority has suddenly found religion on the virtues of regular procedure, because for months we have watched them treat regular order like the skunk at the garden party. Major trade legislation has been written by a single Member and then shoved through the House without hearings or proper committee action. Please, do not suddenly proclaim the virtues of following the regular procedures of this House or about the sanctity of committee prerogatives.

Now confronted with an issue that they do not like and that scares the political wits out of them, the Republican majority hides behind a parliamentary smoke screen. Well, I can see through that smoke screen, my colleagues can see through it, and the American people can see through it.

Mr. Speaker, the Committee on Appropriations, to their credit, decided to act in an overwhelming bipartisan way. Sadly, the majority on the Committee on Rules is attempting to dismantle that bipartisan work, once again siding with the greediest and most self-serving of corporate interests.

The Republicans say this issue is complicated. Complicated? What is so complicated about it? What is so hard to understand? What do they not get? Is there ever a point when the leadership on the other side of the aisle says enough is enough?

We can give all of the speeches we want about how concerned we are, but talk is cheap. The time for action is now, not tomorrow, not next week, not after Labor Day, but now. Again, the DeLauro amendment is modest in its scope. It does not even try to close the

loophole that allows companies to renounce their citizenship while continuing to reap the benefits that come with it.

All this amendment says is that those companies do not deserve to be rewarded with billions of dollars in government contracts. They do not deserve a pat on the back for bad behavior. If there are legitimate technical issues with the drafting of this amendment, they can be addressed in the conference committee. This issue is too important to keep sweeping it under the rug.

Mr. Speaker, the families in my district work hard and pay their taxes. The small businesses I represent in Worcester and Attleboro and Fall River pay their fair share. I do not believe that their hard-earned tax dollars should be funneled to corporations that skip out on their responsibilities. This is about fairness. It is about respecting the companies that actually play by the rules.

I say to my colleagues again, this issue is very clear. This vote is very simple. The vote on this rule is a vote up or down on whether these Cayman Island corporations that dodge their tax responsibilities deserve to receive billions of dollars in taxpayer money.

Let us draw the line in the sand against corporate misbehavior. Let us send a signal to the American people that we in this Chamber actually get it, that we are taking steps to fix the problem. No more stalling. I urge Members to vote ''no'' on this rule.

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

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

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from Utah (Mr. MATHESON).

Mr. MATHESON. Mr. Speaker, I rise today advocating a vote against the previous question, and doing so in opposition to a Member pay raise. Today we are considering a bill that is vital for the continued operation of our government, the safety of our citizens, and the security of our economy. But hidden deep within it is another congressional pay raise.

Mr. Speaker, since this session of Congress began, the Dow has lost 15 percent of its value. The Nasdaq has lost almost a third of its value. Unemployment is up. Profits are down. Retirement accounts are down. People are hurting, and we in this Congress should not be raising our pay. We cannot afford it.

Last year's government surpluses are long gone. We are swimming in red ink. We are fighting a war. We should not be asking the taxpayers to pay us more. I urge Members to vote against the previous question.

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

Mr. MCGOVERN. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY) because corporations are cheating the U.S. out of $4 billion in tax revenue by fleeing for international tax havens, and this government rewards these companies with billions of dollars in Federal contracts. This is wrong. This is unpatriotic, and this House should not run away from its responsibility to the fiscal health of this Nation by ignoring this issue.

PARLIAMENTARY INQUIRY

Mr. LINDER. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. GOODLATTE). The gentleman will state it.

Mr. LINDER. Mr. Speaker, do those 30-second editorials work against their time?

The SPEAKER pro tempore. They certainly do.

Mr. OBEY. Mr. Speaker, every week when I go home to my district and also here in my office, I talk to business people who work hard, who worry about their communities, their investors, and their workers. They try to produce a good product. They do their duty as citizens. They pay their fair share of taxes and they help pull the wagon, as a Senator from the other body often describes it. They help pull the wagon and meet their share of community and national responsibilities.

When they see corporations maneuver the Tax Code and avoid paying taxes by ostensibly moving their address while they do not move their operations, they move their address to exotic places such as Bermuda, they ask me, What in God's name are you guys doing? When are you going to put a stop to it? They resent carrying their fair share of the load while somebody else is ducking their responsibility to carry theirs.

So the DeLauro amendment which was offered in committee, which I was pleased to cosponsor, simply said, and it is an outrageous idea to some Members, I suppose, it simply said to these companies, Look, buster, if you are going to ignore your responsibilities to this society and the taxpayers who help see to it that you get police protection, the transportation system that you need to sell and move your products, if they see those folks abandoning their duty, they want us to do something about it. And most of all, they do not expect Uncle Sam to be Uncle Sucker by continuing to do business with the companies that refuse to pay taxes to the United States Government.

Now, the rule under which this bill is going to be considered will not protect the language of the DeLauro amendment, so there will be an easy way for this House to avoid bringing those companies to heel. That is why you are going to see a good many of us vote against the rule, because we believe that one of the first responsibilities of the most privileged of the taxpayers among us is to meet their own obligations to this society. It is unpatriotic for those companies to change their address in order to avoid pulling their fair share of the load, and it is outrageous that this Congress does not have enough anger and enough guts and enough determination to stand up to those actions and say enough is enough, buster, this is not going to happen any more.

We ought to be taking that stand immediately on this and every other appropriation bill so that no company that welches on their responsibility to this country can do a dime's worth of business with Uncle Sam. Until we take that position, these kinds of outrageous things are going to continue. I hope this House does the right thing on the rule.

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I want to speak in favor of the rule and the bill itself. I want to say in this time of uncertainty when homeland security is foremost on everybody's mind and agenda, this bill is probably one of the more significant votes we will take this year.

I have often heard Members say I am not going to vote for Treasury-Postal Service because it is Washington, it is bureaucratic, it is something that does not affect my constituents back home; but I want to remind Members about some of the important government functions that are in this bill.

One of the examples is the Federal Law Enforcement Training Center, which is in New Mexico and Georgia which trains 71 law enforcement agencies in the government, the Drug Enforcement Agency, the Secret Service, the Capitol Hill police, who we know and love and work with every single day. All that training takes place because of the Federal Law Enforcement Training Center, which is in this bill. In these times of homeland security, just look at all of the other things.

I am going to sort of bounce around, but this bill affects the Treasury Department; Air Transportation Stabilization; the Bureau of Alcohol, Tobacco and Firearms; the Bureau of Engraving and Printing; counterterrorism funding; and the Financial Crimes Enforcement Network. Who would want to vote against that during these times?

The Internal Revenue Service, and I can see why people may not be too fired up about that, but, frankly, Mr. Speaker, we need to have the IRS. Continuing on, the Interagency Crime Drug Enforcement Agency, the Office of Inspector General, the U.S. Mint, the United States Secret Service.

Moving on, the White House is funded in this, and all of the security concerns of the White House to protect the President of the United States is in this bill. The list goes on and on, Mr. Speaker.

What I want to say, Is the rule perfect? No. In my 10th year in Congress, I can say that I have not seen a perfect rule yet. Despite the good work of our very capable Committee on Rules, it is not always the way I would write it.

Is the bill perfect? Certainly not. There again, there are things I would change if I were the only Member of this 435 body. But to nitpick this bill and to nitpick this rule at this time is not the best thing in the security interests of our country because this, as I said before, is probably one of the number one homeland security votes we will take this year.

Mr. Speaker, I am going to support the rule, and certainly I am going to support the bill.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, last week the Committee on Appropriations adopted a bipartisan amendment that I offered along with my colleague, the gentleman from Wisconsin (Mr. OBEY), to prohibit corporate expatriates from winning Federal Government contracts. This rule wrongly strikes the amendment from this legislation.

These are corporations that set up an operation overseas in order to avoid paying U.S. taxes. They enjoy all of the benefits of corporate citizenship in America. They look like U.S. companies. The principal market that their stock is traded on is in the United States. Their physical assets are protected by our police, our firemen, our Armed Forces. They just refuse to pay for the benefits as every other American citizen and company does.

My own State of Connecticut witnessed this firsthand when Stanley Works tried to incorporate itself in Bermuda. They go to Bermuda, Barbados, the Cayman Islands, Switzerland and Luxembourg. Companies who put profit before patriotism, they continue to enjoy one more benefit. They still win hefty Federal contracts. Corporate expatriates benefit from over $2 billion in lucrative government contracts. That is $2 billion of taxpayer money going to companies who avoid taxes here in the United States.

Mr. Speaker, that is wrong. The government should not be doing business with those who want all of the benefits of citizenship without any of the responsibilities that come along with it. Congress must not allow these companies to leave individual Americans stuck with the tax bill while they put profits over patriotism. All we are saying is pay American taxes on American profits.

The President has told us that we are at a wartime footing, and we are: $45 billion for defense; $38 billion we want to spend for homeland security. And when these companies leave the United States, average American taxpayers have to pick up the bill.

□ 1645

I urge my colleagues, stand up to these corporations who are unpatriotic. At a time in our lives when we are asking people to pull together to do what we need to do for America, they take their business offshore and will not pay the taxes that are owed to the American government. Oppose this rule. More importantly, it is about opposing these corporations who truly do not have the well-being of the American people at heart. When they are doing business and enjoying every single benefit, they should not have the benefit of Federal contracts.

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

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I appreciate the gentleman's yielding time and I rise in opposition to the rule.

The gentleman from Virginia (Mr. MORAN) in the last rule talked about a missed opportunity. This is another missed opportunity. We say, all of us, most of the people that I have heard say that the act of moving overseas to avoid participating in supporting the government, our defense, our fight against terrorism, our homeland security is an act which they condemn. Each and every one of us have said that. The American public thinks that that is an unpatriotic effort. The average person in the street is not going to move to Bermuda. The average person in the street is not going to move to some far-off place so that they can avoid taxation.

The chairman of the Committee on Ways and Means in the debate on the last bill said, ''Well, we're changing that. We're changing the death tax, which is why most people move overseas.''

The average taxpayer, who does not have any liability for the death tax, has to pay a FICA tax, the average working guy, and 50 percent of them pay more FICA tax, Social Security tax, than they do income tax. They cannot move overseas to avoid that and, in fact, they do not. They pay their fair taxes. They do not want to pay more than their fair share, but they pay their fair share.

But what the gentlewoman from Connecticut is speaking to and what this amendment speaks to is saying that we are not going to tolerate in America people who earn their money here, become rich here, successful here, to move overseas to avoid participating in continuing to make this country strong and free. We ought not to miss that opportunity. I would tell my friends in this body that this amendment was adopted overwhelmingly and bipartisanly in the Committee on Appropriations.

Reject this rule. Adopt a new one. Let us pass the DeLauro amendment.

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

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Mrs. MEEK).

Mrs. MEEK of Florida. Mr. Speaker, I rise in strong opposition to the proposed rule that will allow the DeLauro amendment on corporate expatriates to be struck on a point of order even though it passed the Committee on Appropriations by a decisive vote of 41–17. Why should we allow companies to move offshore to avoid Federal taxes but nonetheless receive the benefits of future government contracts? That is not right, Mr. Speaker.

It is unconscionable that the Committee on Rules would refuse to protect the DeLauro language from being struck on a point of order. If any Member of this House believes that companies who incorporate outside the United States to avoid taxes should nonetheless receive Federal contracts without limitation, then they should offer an amendment to strike the DeLauro language from this bill and we should debate and vote on that particular amendment.

Instead, the Committee on Rules proposes to protect Republican Members who oppose controlling this type of corporate abuse from casting the politically difficult vote that would be required if they offered an amendment to strike the DeLauro language. It is understandable why Members who want to allow corporations to continue this type of tax abuse would want to remain faceless and anonymous. What is not understandable, Mr. Speaker, is why any of us who want to pass a rule that would assist them in doing so. This rule is an act of cowardice.

As a member of the Subcommittee on Treasury, Postal Service and General Government of the Committee on Appropriations, I would like to be able to support the rule so that we could move to consideration of our bill that deals with so many extremely important issues, ranging from homeland security to tax collection, Federal employee benefits and election reform, but I cannot be a party to such fundamental unfairness.

I say to all the Members, if you truly believe that the DeLauro language is improper, offer an amendment to strike it and let us debate and vote on it. Defeat this rule.

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

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

The silence on the other side is deafening. I submit for insertion in the RECORD an editorial that appeared in today's New York Times entitled Congressional Cowardice.

The editorial referred to follows:

[From the New York Times, July 18, 2002]

CONGRESSIONAL COWARDICE

While a panicky Congress has rushed in recent days to reform the business world, it has not entirely lost its well-developed instinct for catering to special interests. On two issues critical to cleaning up corporate malfeasance, Congress has opted to put the preferences of big business—and big campaign contributors—ahead of the public good.

The first involves the notorious Bermuda tax loophole that allows companies to avoid paying taxes by nominally moving their headquarters to Bermuda, even while they continue to operate from the United States. This is a blatant scam that should be eliminated. Closing the loophole would bring in an estimated $6.3 billion over 10 years.

Democrats and Republicans in the House have introduced dueling bills. The Republican version would temporarily close the tax loophole, but it is also larded with special-interest tax breaks that add up to almost 10 times the amount that would be realized from doing so. General Motors and Ford would be among the big winners under the Republican bill, which would make it easier to accumulate untaxed profits overseas.

Congress is also fearful of challenging corporate practices in the awarding of stock options, intimidated by the possibility that wealthy corporate executives will withhold campaign contributions from lawmakers who dare to tinker with the current system. Now that Coca-Cola and a few other companies are moving to reform the system themselves by counting stock options as an expense, Congressional action could speed the changeover to a more responsible approach.

Senator CARL LEVIN, Democrat of Michigan, introduced an amendment that would require the Financial Accounting Standards Board to review the issue within a year. It is likely that the standards board, which sets the rules for corporate accounting practices, will force companies to report options as expenses. But amid intense lobbying by corporations—particularly Silicon Valley companies, which rely heavily on options—the Levin amendment was blocked earlier this week.

The Senate majority leader, TOM DASCHLE, has promised an eventual vote on the Levin amendment. That is a good start, but some Democrats who normally support the leadership, like Senator JOSEPH LIEBERMAN of Connecticut, are opposed to expensing stock options. If the amendment fails to pass backers of tougher reform can add the Senate Democrats to the list of politicians caving in to pressure from big campaign contributors.

It is always troubling when special interests call the shots on Capitol Hill, but it is particularly disturbing that they are being allowed to hijack significant reform legislation. On matters like taxation, what's good for General Motors may not necessarily be good for the country.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, silence is the only defense that our Republican colleagues can offer on this rule because a vote for this rule is a vote for more permissiveness, to condone those corporations that abandon our country, and it is nothing but a vote in favor of the same kind of permissive atmosphere that has resulted in investors, retirees and the Federal Treasury all suffering as a result of ongoing corporate corruption.

Seven years ago, I stood here at this same podium to challenge the Gingrich ''Contract on America'' as protection for plutocrats. Today, little has changed, because our Republican colleagues through this rule are rushing to defend corporations who have fled to Bermuda and other isles in the Caribbean, maintaining that these tax dodgers deserve contracts with America.

If in a time of war these corporate citizens must put profits over patriotism and cash over country, then we need to talk to them in the only language that they understand and that is money. They add insult to injury by not only refusing to pay their fair share but for asking for your share that you contribute, turning around and asking for government business after they have refused to help finance the government and our national security and our schools and all of our other needs in this country.

I presented this same language in the Committee on Ways and Means on another bill and the Bush administration was there, just like our Republican colleagues, opposing that and defending these corporations that flee our country but ask for more money from the government. I believe we need to take a pro-business stance. We need to level the playing field so that the thousands of businesses that stay here and pay their fair share are not put at a competitive disadvantage by those who flee to other shores and still have a hand out asking for assistance to work on government business.

Do not support those that give up on America. Reject this rule.

Mr. LINDER. Mr. Speaker, I yield myself 30 seconds to note that the permissiveness that led to such problems in this country with WorldCom and Enron and others was the permissiveness of the 1990s, and we know who was in charge of the institutions of regulation during that time.

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

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, in the 1,300 days that you have been Speaker, you will not let us vote on a balanced budget amendment to the Constitution, yet you have added through your leadership $511,040,208,939 to the Federal debt. That is more debt than was accumulated from the day this Republic started to 1975.

You will not give us an up-or-down vote on base closure. And now you will not give us an up-or-down vote on whether or not you want to reward your buddies who move their corporations overseas in a paper transaction, so while the average Joe in Mississippi pays his taxes, your big contributors do not have to pay theirs.

That is just one more reason why you should not be Speaker.

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

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

Mr. Speaker, let me again remind my colleagues what this vote is about. Essentially this vote says that no government contract shall be awarded to corporate tax dodgers who go to Bermuda or the Cayman Islands in order to escape paying U.S. taxes.

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

Mr. MCGOVERN. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, next week we are supposed to have completed the work on the new homeland security agency. Is the gentleman aware that there are lobby disclosure reports that have been filed right here in the Capitol by Pricewaterhouse Consulting which declared a new day in the Caribbean by calling itself Monday, has fled, is not paying its fair share of taxes but has filed a lobby disclosure report that it is up here lobbying ultimately for business from the new homeland security agency that we were told originally would cost no new dollars but now is apparently going to cost at least 3 billion new dollars? And apparently though they do not want to pay for our homeland security, they have already got their hand out looking for some business from the taxpayers with that new government agency.

Are you aware of that?

Mr. MCGOVERN. I thank the gentleman for making us all aware of that. I should also point out that since he brought up PricewaterhouseCoopers, on March 27, 2002, PricewaterhouseCoopers fled from New York for Bermuda, but this company continues to receive taxpayer dollars from the IRS, the Treasury Department, the GSA and the Postal Service, including three contracts worth up to $35.5 billion.

Mr. DOGGETT. Under the amendment that the gentleman is trying to get added that our colleagues, a vote in favor of this rule will be a vote to approve, of course, Pricewaterhouse, now called Monday, and all of these other corporations that will not pay their fair share, if you vote for the rule, you are voting to do that, but under the amendment, the reasonable amendment that you are advancing, that the gentleman from Wisconsin (Mr. OBEY) and the gentlewoman from Connecticut (Ms. DELAURO) have advanced, we do not punish those corporations, we simply say, if I understand it correctly, that they would not be able to seek help from the government and do business with the government at taxpayer expense if they did not want to contribute to the cost of the government.

Mr. MCGOVERN. The gentleman is correct. The DeLauro amendment, which was approved by a bipartisan vote in the Committee on Appropriations, which the majority is now attempting to strip out of the bill, basically refuses to reward bad corporate behavior. A vote for this rule would strip out of the bill the DeLauro language which says that we will not give government contracts to corporate tax dodgers, plain and simple. That is what this debate is all about.

So if you vote for this rule, you are voting to strip out that provision from this bill.

Mr. DOGGETT. One of these companies, Stanley Flees is the way one of my neighbors refers to Stanley Tool Company that has left, moved its mailbox from Connecticut to Bermuda, they would be under this amendment in no way restricted from doing business with the government of their fellow citizens in Bermuda or if they moved to Luxembourg or Lichtenstein

or one of these other tax havens, you would not restrict them from doing business there, would you?

Mr. MCGOVERN. The gentleman brings up Stanley Tools. I should also point out for my colleagues that that is a company that left the U.S. in 1997 to deprive the U.S. of $30 million every year. These funds could be used to pay for the salaries and other costs of the Secret Service as a result of the September 11 attacks.

We need to get serious about holding some of these corporations responsible. These corporations that open up these little tax havens in Bermuda or in the Cayman Islands and in other countries, they still take advantage of all the benefits of this country. They still enjoy all the benefits that this country has to offer, but they are not paying their fair share. In this time of war when we are all being asked to sacrifice, and everybody is sacrificing, I do not think it is too much to ask that these big corporate interests pay their fair share. That is what this is about, fairness.

Mr. DOGGETT. When I offered this same language in the Committee on Ways and Means, there was such concern by the chairman of that committee that he accepted the amendment. He did not want any Republican member on record against the amendment. Perhaps they will try to hide, saying this is a procedural vote, but there will probably not be another vote on the floor of this House other than this vote that is about to occur on which Members can so clearly record their views on whether they approve of corporations fleeing to Bermuda or Jamaica or Barbados.

□ 1700

I think there was a Beach Boys song about this some time back, but where they flee to one of these Caribbean islands that they will be able to still do business here on unfair competitive grounds against those companies that have stayed here. There will not be a clearer vote, will there, that we can foresee?

Mr. MCGOVERN. This vote is crystal clear; there is no confusion. A vote for this rule is a vote for rewarding corporate misbehavior, it is a vote to reward these corporations that dodge paying their fair share of U.S. taxes. There is no other way that this vote can be interpreted.

The Committee on Rules could have protected this language from a point of order like they do so many other provisions, not only in this bill, but in other bills, but they chose not to. I think it is unconscionable that after a strong vote in the Committee on Appropriations, that this language is being scuttled. I think it is wrong. I think the American people would be outraged over the fact that this language is being stripped from this bill.

Mr. DOGGETT. Mr. Speaker, if the gentleman will continue to yield, it is okay for these corporate executives to head off to the Caribbean Isles and get a tan, but not a tax break or a government contract. I certainly applaud the gentleman's leadership and his work to see that this is done.

It is not just corporations in the Northeast that have taken advantage of this loophole. We had one down in Houston, Texas that did the same thing, and it was the president of a competing company who recently wrote me to express his outrage, because he is loyal to this country. His workforce is here; his executive offices are here. He is willing to pay his fair share, but thinks it is mighty unfair that this Congress will not stand up and level the playing field and give his company the same fair basis for competing as those who fled and have decided they will not contribute their share of taxes.

I think it is also important to note that those who want to hide behind the fiction that this is just to avoid double taxation on foreign earnings need look no further than the prospectus on the Stanley Tool, or Stanley Flees, Company to note that they are planning to save much more in taxes than they pay in foreign taxes. I just really thank the gentleman for his leadership on this issue.

Mr. MCGOVERN. Mr. Speaker, reclaiming my time, I appreciate the gentleman's remarks. As always, he says it like it is.

Mr. Speaker, again, I would like to say to my colleagues that this vote turns on a very simple issue: Do you believe that companies that incorporate in other countries to avoid U.S. taxes deserve billions of dollars in taxpayer money or not? I believe they do not. We are at war, Mr. Speaker. All of us need to contribute our fair share, and that includes big corporations. There has been a lot of rhetoric and a lot of talk about corporate responsibility and the need for Congress to act. Well, the time has come for this Congress to back up its rhetoric with real action.

Mr. Speaker, I urge my colleagues to vote ''no'' on this rule, and I yield back the balance of my time.

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

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

Mr. DREIER. Mr. Speaker, I rise in strong support of this very fair and balanced rule which will allow us to proceed with the very important work that we have of appropriating the dollars that are necessary for our homeland security, among other things.

Let me say to my colleagues that as I have listened to this debate, I think that some might conclude that we are dealing with something other than an appropriations bill here. This is one of the 13 appropriations bills that must pass the House of Representatives and the Senate and get to the President's desk for signature. This is one of the most important. It is the Treasury-Postal appropriations bill. It deals with Customs, Secret Service; it deals with a wide range of very important issues that must be addressed.

Now, I sort of inferred from the debate that I was listening to that we were discussing a bill that will, at some point, possibly come from the Committee on Ways and Means. As I have listened to a number of my colleagues argue that this has to do with corporate greed and rewarding people who are less than patriotic, it is absolutely ridiculous.

If one looks at what has been described by even people on the other side of the aisle, Mr. Speaker, as a less than perfectly crafted amendment, this measure, as was pointed out to me by the chairman of the subcommittee just a few minutes ago, deals not with corporations, but with a subsidiary of that corporation here. So I think that the language in the amendment itself makes it very clear that the Committee on Ways and Means has to continue the work that it has already begun.

Now, when I listened to the gentleman from Massachusetts, Mr. Speaker, talk about the fact that if we vote for this rule, we are somehow voting to reward corporate greed and all of this sort of stuff, I cannot help but think about the fact that we have taken very strong and vigorous action here to deal with an issue that the President is outraged about and that both Republicans and Democrats are outraged about, and that happens to be corporate mismanagement and corruption that has taken place within the corporate community. We know it is there.

I will tell my colleagues, corporate CEOs, the President of the United States, Members of Congress, the American people are outraged at those who, in fact, have been responsible for wrongdoing. They need to be convicted, they need to do jail time. And guess what? By a vote of 391 to 28, we voted in this House 2 days ago to move ahead with language to do that. Back on April 24, just a few weeks after the President asked us, as a Congress, to step up to the plate and deal with the issue of corporate accountability, we passed a very good and a very strong bill in this House that will deal with the issue of transparency. I am very happy, while it took several months, the United States Senate has now acted and, just last night, the Speaker of the House appointed conferees who will be dealing with this issue.

So to somehow say that because we are proceeding with what is the proper order here; we are allowing committees of jurisdiction to deal with this very important question and doing it in a proper way is the right thing to do. Why? Because we do not want to jeopardize the free market process.

I will tell my colleagues that as angry as we are at those corporate

CEOs who are responsible for wrongdoing, we do not want to penalize the job-creators in this country. We do not want to paint with a broad brush everyone who happens to believe in the free market process. That is why proceeding with the language that was proposed and passed in the Committee on Appropriations would be very irresponsible. I will tell my colleagues that even my very good friend from Maryland, who is the ranking minority member of this subcommittee, said that it is his intent to work with the Committee on Ways and Means to make sure that we craft the kind of language that is addressed here.

So even he is acknowledging that this kind of work needs to be done in the Committee on Ways and Means. So that is why we are doing exactly what the Framers of our Constitution wanted. They wanted this to be a deliberative body. We can act quickly when we need to, but let us do it through the legislative process itself. We need to support this rule. It is a very balanced measure; it is the right thing to do. Let us get our appropriations work done on this measure so that we can proceed with the proper homeland security that we need to ensure that we will never face the kind of threat again that we faced this past September 11.

Mr. Speaker, I congratulate the gentleman from Georgia (Mr. LINDER) for his fine work on this.

Mr. MALONEY of Connecticut. Mr. Speaker, I urge my colleagues to oppose the rule.

During committee consideration of this important legislation, my colleague from Connecticut added an that would prohibit the awarding of Federal contracts to corporate expatriates who move their legal headquarters to a foreign tax haven. The rule before us today will allow my colleagues from the other side of the aisle to strip this provision from the underlying legislation.

I fail to see why the House would allow companies who abandon their corporate responsibilities to our country to continue to be awarded Federal contracts. Corporate expatriates benefit from over $2 billion in lucrative government contracts, from large consulting deals with U.S. government agencies, to equipping airport screeners, to helping the IRS collect taxes. They turn their backs on America at the same time that they reach their open hands out to America. Mr. Speaker, this is outrageous!

Because of the efforts to stifle consideration of this important issue on the floor of the House, I filed a discharge petition yesterday, and I urge those who have not already signed it to do so. To those who have signed it, thank you. The discharge petition will force a straight up or down vote on the Corporate Patriot Enforcement Act, H.R. 3884, introduced by myself and the gentleman from Massachusetts, Mr. NEAL.

Vote no on the resolution and tell tax evaders that they will no longer be able to feed at the Federal trough. If you leave this country to evade your tax obligations, you are no longer eligible to benefit from Federal contracts.

Mrs. MALONEY of New York. Mr. Speaker, I rise in opposition to this rule which prohibits important amendments from being fairly debated and voted on. However, I support the underlying bill and thank my colleagues on the subcommittee for continuing contraceptive coverage for all Federal employees. This important provision ensures that prescription contraceptives are covered by government employees' health plans, while it respects the rights of religious organizations.

Eighty-seven percent of Americans support access to birth control because it's smart policy. Though I support this language, I regret that it does not cover all necessary medical procedures. Similar women in the military, Federal employees, are prevented from access to coverage for abortion.

As the Nation's largest employer, I hope that the Federal Government will continue to work to consider all of the needs of its employees and their families.

Mr. LAFALCE. Mr. Speaker, I rise today to express very serious concerns about one provision in the legislation that affects the consumers of financial services.

I am troubled by the restrictions this bill places on the First Accounts grants program. The First Accounts program provides grants to financial institutions and community groups to help bring the millions of un-banked American families into the financial mainstream. This Treasury Appropriations legislation sets a completely arbitrary per account limit of $100 for these grants. If this restriction were in place in FY 2002, 13 of this year's 15 recipients would not have been eligible for grants.

One of the keys to the long-term economic security of lower- and middle-income families is easy access to affordable mainstream financial institutions and community oriented financial institutions. American families who operate outside of the financial services mainstream are forced to rely on high-cost alternative financial services companies, which often subject these families to predatory and abusive practices. Research suggests that once an unbanked family enters the door of a mainstream institutions for account services, they often become customers of the institution for loans and other services, and they begin to save and accumulate assets. That is why we should support programs like the First Accounts program, which provides critical financial support for efforts to bring America's un-banked families into the financial mainstream.

There has been no evidence of abuse of First Account grants or other problems with the program that would justify the restrictive language of this bill. I hope that these restrictions will be eliminated before the legislation is sent to the President.

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

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

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

Mr. MATHESON. 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.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 258, nays 156, not voting 20, as follows:

[Roll No. 322]

YEAS—258

Ackerman
Akin
Andrews
Armey
Baca
Ballenger
Barcia
Barr
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capuano
Cardin
Clay
Clyburn
Combest
Condit
Conyers
Cox
Coyne
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Ehlers
Engel
Eshoo
Farr
Fattah
Filner
Foley
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goss
Granger
Green (TX)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hansen
Harman
Hastings (WA)
Hefley
Herger
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Honda
Horn
Houghton
Hoyer
Hunter
Hyde
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kennedy (RI)
Kerns
Kilpatrick
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
Lampson
Lantos
Larson (CT)
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Lofgren
Lucas (OK)
Manzullo
Markey
Matsui
McCarthy (MO)
McCrery
McDermott
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, Dan
Miller, George
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schakowsky
Schrock
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Solis
Souder
Stark
Stenholm
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Towns
Velazquez
Visclosky
Walsh
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)

Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—156

Abercrombie
Aderholt
Allen
Bachus
Baird
Baker
Baldacci
Baldwin
Bartlett
Berry
Blagojevich
Boozman
Boswell
Boucher
Brady (TX)
Bryant
Capito
Capps
Carson (IN)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Cooksey
Costello
Cramer
Davis (CA)
Davis, Jo Ann
DeFazio
DeMint
Deutsch
Duncan
Edwards
Emerson
English
Etheridge
Evans
Everett
Ferguson
Flake
Fletcher
Forbes
Ford
Gekas
Gibbons
Goode
Gordon
Graham
Graves
Green (WI)
Hall (TX)
Hart
Hayes
Hayworth
Hill
Hilleary
Holden
Holt
Hostettler
Hulshof
Inslee
Isakson
Israel
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kind (WI)
Kucinich
LaHood
Langevin
Larsen (WA)
Latham
Leach
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Matheson
McCollum
McGovern
McIntyre
McKinney
Meehan
Mica
Miller, Jeff
Mink
Moore
Moran (KS)
Napolitano
Northup
Norwood
Nussle
Osborne
Ose
Otter
Paul
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pomeroy
Price (NC)
Ramstad
Riley
Rivers
Ross
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Schaffer
Schiff
Sensenbrenner
Shimkus
Shows
Shuster
Simmons
Smith (WA)
Snyder
Spratt
Stearns
Strickland
Stupak
Sullivan
Tanner
Taylor (MS)
Terry
Thune
Thurman
Tiahrt
Tierney
Toomey
Turner
Udall (CO)
Udall (NM)
Upton
Vitter
Walden
Wamp
Wu

NOT VOTING—20

Barrett
Berkley
Bonior
Carson (OK)
Clayton
Crane
Ehrlich
Fossella
Hastings (FL)
Hooley
Lowey
Mascara
McCarthy (NY)
McHugh
McInnis
Miller, Gary
Roukema
Stump
Thomas
Traficant

□ 1740

Messrs. COOKSEY, LINDER, MORAN of Kansas, LEACH, SULLIVAN, JEFF MILLER of Florida, TIAHRT, GIBBONS, TANNER, PETRI, PETERSON of Pennsylvania, OSBORNE, RILEY, SIMMONS, SCHAFFER, BACHUS, Ms. NAPOLITANO, and Mrs. NORTHUP changed their vote from ''yea'' to ''nay.''

Ms. WOOLSEY, Mr. OWENS, Ms. PELOSI, and Messrs. DICKS, BROWN of Ohio, WELLER, ROHRABACHER, and WALSH changed their vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GOODLATTE). The question is on the resolution.

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

RECORDED VOTE

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

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 224, noes 188, not voting 22, as follows:

[Roll No. 323]

AYES—224

Abercrombie
Akin
Andrews
Armey
Bachus
Baldacci
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Berman
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (PA)
Brady (TX)
Brown (SC)
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chambliss
Collins
Combest
Cooksey
Costello
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dingell
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Fattah
Ferguson
Fletcher
Foley
Forbes
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoeffel
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson, Sam
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lofgren
Lucas (OK)
Manzullo
Matsui
McCrery
McDermott
McKeon
Menendez
Mica
Miller, Dan
Miller, Jeff
Mink
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Oxley
Pallone
Pascrell
Pastor
Paul
Pence
Peterson (PA)
Petri
Pickering
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (NJ)
Smith (TX)
Souder
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Udall (CO)
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOES—188

Ackerman
Aderholt
Allen
Baca
Baird
Baker
Barcia
Becerra
Bentsen
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Boucher
Boyd
Brown (FL)
Brown (OH)
Bryant
Capps
Capuano
Cardin
Carson (IN)
Chabot
Clay
Clement
Clyburn
Coble
Condit
Conyers
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Farr
Filner
Flake
Ford
Frank
Frost
Gephardt
Gonzalez
Green (TX)
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
LoBiondo
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
McCarthy (MO)
McCollum
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Payne
Pelosi
Peterson (MN)
Phelps
Pitts
Platts
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schaffer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Simmons
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tierney
Towns
Turner
Udall (NM)
Velazquez
Visclosky
Waters
Waxman
Weiner
Wexler
Whitfield
Woolsey
Wu

NOT VOTING—22

Baldwin
Barrett
Berkley
Bonior
Carson (OK)
Clayton
Ehrlich
Evans
Fossella
Gordon
Hooley
Lowey
Mascara
McCarthy (NY)
McHugh
McInnis
Miller, Gary
Neal
Roukema
Smith (MI)
Stump
Traficant

□ 1752

Mr. BLUMENAUER changed his vote from ''aye'' to ''no.''

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.

PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO HAVE UNTIL MIDNIGHT, FRIDAY, JULY 19, 2002, TO FILE PRIVILEGED RESOLUTION AND REPORT

Mr. HEFLEY. Mr. Speaker, as chairman of the Committee on Standards of Official Conduct and with the concurrence of the gentleman from California (Mr. BERMAN), the ranking minority member on the committee, I ask unanimous consent that the Committee on Standards of Official Conduct be permitted to submit a privileged resolution and report to the House by midnight, Friday, July 19, 2002.

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

There was no objection.

PERMISSION FOR PERMANENT SELECT COMMITTEE ON INTELLIGENCE TO FILE REPORT ON H.R. 4628, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the Permanent Select Committee on Intelligence may have until midnight tonight, July, 18, 2002, to file a report on the bill, H.R. 4628, to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, community management account, the Central Intelligence Agency retirement and disability system, and for other purposes.

It is my expectation, Mr. Speaker, that the committee will file H.R. 4628 a little later today. Once the committee has filed the bill, I invite and encourage Members to come to H–405 in the Capitol to review the classified annex and allow committee staff to explain the provisions or answer any questions they may have about the bill.

This opportunity is offered to any Member of the House. It does not include staff. Members will be asked to sign the customary nondisclosure agreement prior to access to any classified annex. That is the routine. It has worked well over the years.

Members may call Mr. Bill McFarland of the Permanent Select Committee on Intelligence, the committee staff director of security, if they would like to review this material.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, I thank the gentleman. I support the request for us to hear the bill, but could the gentleman tell the Members how long that privilege to go upstairs to room 405 to review the bill will last until.

Mr. GOSS. Mr. Speaker, I believe the answer to that question is until we take up the rule, and that will probably be later next week. So it should be a couple of days next week.

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

There was no objection.

PERSONAL EXPLANATION

Mr. NADLER. Mr. Speaker, I was unable to be present for rollcall votes 296 through 318. Had I been present, I would have voted ''aye'' on rollcall votes 296, 297, 298, 299, 300, 301, 304, 308, 309, 310, 311, 312, 313, 315, 316 and 318. I would have voted ''no'' on rollcall votes 302, 303, 305, 306, 307, 314 and 317.

PERSONAL EXPLANATION

Mr. HOLT. Mr. Speaker, I was absent from the House on July 9 because of a personal emergency, a house fire, and was unable to vote. Had I been present, I would have voted ''yes'' on rollcall votes 285, 286 and 287.

Also, Mr. Speaker, I was unable to vote for rollcall vote 311. Had I been able to vote, I would have voted ''yes'' on rollcall No. 311.

LEGISLATIVE PROGRAM

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

Ms. PELOSI. Mr. Speaker, I rise for the purpose of determining the schedule for next week, and I am pleased to yield to the distinguished majority leader.

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

Ms. PELOSI. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I thank the gentlewoman for yielding; and Mr. Speaker, I am pleased to announce that the House has completed its legislative business for the week.

The House will next meet for legislative business on Monday, July 22 at 12:30 p.m. for morning hour and 2 o'clock p.m. for legislative business. I will schedule a number of measures under suspension of the rules, a list of which will be distributed to Members' offices tomorrow. Recorded votes on Monday will be postponed until 6:30 p.m.

On Tuesday and the balance of the week, I have scheduled the following measures for consideration in the House.

For Tuesday, H.J. Res. 101, disapproving the extension of the trade act waiver authority with respect to Vietnam; on Tuesday, H.R. 5117, the Defense and Homeland Security Supplemental Appropriations Act Conference Report; and on Tuesday, complete consideration for H.R. 5120, the Treasury and Postal Operations Appropriations Act.

Mr. Speaker, on Wednesday, we would expect to do H.R. 4965, the Partial Birth Abortion Ban Act of 2002. We would also expect on Wednesday to do, or possibly Thursday to do, H.R. 4628, the Intelligence Authorization Act, and on Wednesday, we would expect to begin consideration of H.R. 5005, the Homeland Security Act of 2002.

I would like to thank the gentlewoman for yielding.

Ms. PELOSI. Mr. Speaker, reclaiming my time, I thank the distinguished gentleman. I just want to clarify certain things.

On Tuesday, Vietnam, the supplemental Treasury-Postal. On Wednesday, late-term abortion, intelligence and beginning of the Homeland Security Act.

What will be the procedure for the consideration of the homeland security legislation?

Mr. ARMEY. Mr. Speaker, if the gentlewoman would continue to yield, I thank the gentlewoman again for her inquiry. It would be our suggestion that pursuant to the colloquy that the gentlewoman and I had earlier related to the agreement between the Speaker and the minority leader to propose a rule to the Committee on Rules, it would be my hope that they could make their proposal in such time that the Committee on Rules could meet on Tuesday evening and issue a rule for consideration of that bill, that I would anticipate to be a fairly open rule.

□ 1800

And that having that rule for consideration and available on Wednesday, it would be my expectation that we could then have some way of measuring the coordination of the bill, but to have ample time on Wednesday, Thursday and even Friday, if it is necessary, to consider that bill and any amendments proposed thereto.

Ms. PELOSI. Mr. Speaker, I am pleased to hear the gentleman say that he anticipates that the rule will be an open rule so that we can have a debate on many of the issues of concern of many Members here on both sides of the aisle.

Mr. ARMEY. Let me just remind the gentlewoman, according to our colloquy, that this would be a proposal made to the Committee on Rules by the Speaker and the minority leader. I, for one, would not deign to speak for them. They clearly will speak for themselves. But that is my anticipation; that it would be one that would be more on the open side.

Ms. PELOSI. Mr. Speaker, as one who engaged in the colloquy at the time of consideration of our select committee, the anticipation was that the Speaker and the minority leader would agree to an open rule, and I look forward to that discussion.

Does the gentleman anticipate late nights next week? It sounds like it from this schedule, but I did not know if the gentleman had any insights he could share with us about the scheduling.

Mr. ARMEY. I thank the gentlewoman for her inquiry, and I especially want to say I appreciate the gentlewoman from California for all the late nights she has already worked this week. Unfortunately, I would have to advise the gentlewoman and the body that we should expect to work late nights Tuesday, Wednesday, and Thursday of next week.

Ms. PELOSI. Now, Mr. Leader, will we be perhaps working on Saturday of next week as well?

Mr. ARMEY. I thank the gentlewoman, and, again, if the gentlewoman will continue to yield, it is my most fervent hope not. But, obviously, the week before a recess period, a week that has under consideration extremely important work that will be of interest to the entire body, is a week in which we must recognize that possibility.

While I do so, I do not anticipate that possibility.

Ms. PELOSI. Mr. Speaker, I just have one other concern that I wish to discuss with the distinguished majority leader.

As the gentleman knows, and we have discussed before, there is a crisis in our country, and it is the confidence in our markets that we want to restore. One way we can do that is by taking up the Sarbanes accounting reform bill and the conference report before going home for recess. I would hope that this bill would be coming to the floor next week.

Does the majority leader have any plans to bring the conference report to the floor?

Mr. ARMEY. Well, again, I want to thank the gentlewoman for that inquiry, and as the gentlewoman knows, we will always make available time on the floor for conference reports as soon as we can obtain them. I have had, just in the past hour, a very encouraging conversation with Chairman OXLEY about that conference. It meets tomorrow morning at 10:30.

It is clear that the conferees from both bodies are committed to getting this work done as quickly as possible, and I daresay we might hope and expect possibly to see that work. It will certainly be, I believe I am clear in my understanding, the desire of these conferees to complete that work as soon as possible. They are quite concerned and committed to it.

Ms. PELOSI. Of course, Mr. Speaker, one important option that we have, in order to restore confidence to the markets and diminish the crisis, is to bring the Sarbanes accounting reform bill directly to the floor for consideration. I hope that the majority leader will consider that option, because time is of the essence. We must move quickly.

As the gentleman knows, every day is a problem for America's families with their savings, hopes and aspirations for their children and the retirement of their parents. So I appreciate the gentleman saying it may be possible we would bring a conference report. I hope it is also possible we would bring the Sarbanes bill directly to the floor.

ADJOURNMENT TO MONDAY, JULY 22, 2002

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12:30 p.m. on Monday next for morning hour debates.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. 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 Texas?

There was no objection.

GENERAL LEAVE

Mr. PENCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the subject of the special order of the gentleman from Florida (Mr. BILIRAKIS).

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

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. 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 (Mr. SHUSTER). Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

(Mr. HINCHEY addressed the House. His remarks will appear hereafter in the Extension of Remarks.)

ON THE CHIEF OF THE S.E.C.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, we usually do not think about The New York Times like we would The Onion, providing humor for America, but today there is an extraordinarily humorous story on the front page. It says, ''Chief of S.E.C.,'' the Securities and Exchange Commission, ''Is Set to Pursue Former Clients.''

Now, let us think about that for a minute. This gentleman, who made a career out of lobbying for the securities industry and the accounting industry, opposing reforms, representing them in their misdeeds, is now going to pursue them. He is the best we can do in a country of 270 million people. The President cannot find anybody who knows about securities, who is not totally ethically and morally compromised from being the chief watchdog.

Here is the vision of Mr. Pitt as the pit bull. Of course, that is a toy poodle, but it says he is going to get tough. Well, if anyone believes that, I have several bridges I would like to talk to you about afterwards.

Now, here are some quotes from the story. This is Mr. Pitt talking to The New York Times. ''This will inevitably sound self-serving, but the fact is it is an enormous advantage to the public to have somebody who knows about the securities business and the securities law as I do, and it would be unthinkable to deprive people of my expertise.'' That was Mr. Pitt.

So the man who represented these miscreants, the man who lobbied against the tougher rules for accounting firms, the man who has had to recuse himself as the chief law enforcement officer of the Securities and Exchange Commission appointed by George Bush, and basically George Bush has continually expressed his utmost faith in Mr. Pitt, he has had to, 29 times in 10 months, in enforcement actions, recuse himself.

That means that people did not pay fines or get prosecuted by the SEC. In one case, unfortunately, both Mr. Pitt and one other Bush appointee both had to recuse themselves. So only one commissioner, who is a Clinton holdover, was left. He voted to fine the company, Ernst & Young, but an administrative law judge threw it out because they had to have two votes. Well, they could not have two votes. Is this not a wonderful Catch 22? The agency that is supposed to get tough and clean this up cannot even vote to prosecute or fine people because they are so compromised, the appointees of President Bush are so compromised because these are their friends, they are their clients, they are their benefactors, and they have worked for them and represented them for years. It borders on being humorous.

But, actually, it is quite sad. It is quite sad for the millions of Americans who have lost money in their stock funds, their 401(k)s, their retirements; the thousands who have lost their jobs when these firms were bankrupted. It is an incredible tragedy. This is the best that President Bush can do. Tell me that out of a country of 270 million people the best he can find is someone who lobbied for and put in place the policies that brought about these scandals and this fraud on the American people. Since he knows how to trick people, how to defraud people, and how to, in fact, make sure there is no real regulation, he is the best man for the job.

He also said in one of his earliest speeches, he fully intended, as head of the SEC, to make it a place that was kinder and gentler for accountants. Does that sound like a pit bull? He went on to say that he thought a regulatory agency was best that regulated least. Does that sound like a pit bull? And he had to recuse himself 29 times from voting because these were his former clients. They are the people he goes to lunch with. They are the people he goes down to visit their $10 million, $20 million homes in Florida, that are exempt under the bankruptcy laws, even if they got the money by fraud, taking money from the stockholders, the pensioners and the employees who were defrauded.

We know in America we can do better than this, and President Bush should

do better than this. Mr. Pitt should be removed and we should put in place at the Securities and Exchange Commission someone who will provide justice to American pensioners, stockholders, and employees.

GEORGE WASHINGTON AND THE HAND OF PROVIDENCE IN AMERICA'S HISTORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Mr. Speaker, in the next few moments this evening, I want to share a story about a remarkable act of providence in American history. By remarkable providence, I mean an example of one of those small twists and turns in history that could have turned out otherwise but did not. And as a function of that, in so many ways, we are gathered here today in a city that bears the name of a man named Washington.

It was the year 1755, 20 years before the American Revolution. The British were fighting the French over territory along the Ohio and Mississippi Rivers. And I think of a 23-year-old soldier who found himself in the midst of a conflagration.

The Americans were sided, Mr. Speaker, with the British, and most of the Indians sided with the French. Tensions grew, diplomatic solutions failed, so Great Britain sent 2,300 soldiers to join the rugged untrained American militias to fight the French.

A 23-year-old colonel led the Virginia militia, about 100 buckskins who had volunteered to fight. The British soldiers joined them, and over a thousand men made their way north toward Fort Duquesne, now known as the City of Pittsburgh. It was a long march in the summer, a few hundred miles along wooded paths. The Red Coats and militia could not have been more different; one orderly and disciplined, dressed in red wool and uniforms, another a ragtag bunch of young farmers, driven by passion, adventure, and a love of freedom. The differences would be important in what was about to confront them.

Seven miles from the fort on July 9, 1755, the soldiers were ambushed in a wooded ravine. They were trapped on every side. The French and Indians fired shots from behind rocks and deep in the woods from high in the trees and behind the brush. The British tried to line up in traditional military lines, shoulder to shoulder, but the shots came from behind them and above them. They were familiar with open field fighting, not ambushes deep in the woods.

Over 700 British and American troops died, compared to only 30 French and Indians. Eighty-six officers fought in the battle, according to historian David Barton, and only one of those officers remained unhurt after the ambush, and still bestride his horse. It was that 23-year-old American leader from the Virginia militia.

The colonel assembled what remained of his men and retreated to Fort Cumberland on the western side of Maryland. There he wrote a letter to his family explaining what had happened. He recounted the battle, the death of his men, the British officers, and how he had removed his jacket after the battle and found four bullet holes in it. Four horses had been shot out from underneath George Washington that day. Bullet fragments were in his hair. And he wrote a letter to his family that he was completely unharmed, and said, ''By the all powerful dispensations of Providence I have been protected beyond all human probability or expectation.''

Fifteen years later, in a time of peace, he would return to that same battlefield, and an Indian chief traveled a great distance to see him. That Indian chief had preyed upon those Virginia militiamen that day. He had ordered his men to shoot every officer. But as Washington would recount many times later in life, the Indian chief had sat him down and told him that he had come to meet him to pay homage ''to the man who is a particular favorite of heaven; a man who could never die in battle.''

Mr. Speaker, George Washington's life would lead him from those humble 23-year-old miraculous events in battle to greater things. He always understood throughout his life, with a deep Christian humility, that he was part of a grand design. A grand design for America.

□ 1815

A design yet to be fulfilled. That made him humble and grateful to be one such man that would shape the lives of millions to come. Like George Washington, I believe that every one of our lives is guided by that invisible hand, that everything happens for a reason. That in every moment from our greatest trials to our greatest triumphs, from small unanticipated events can come the great unimaginable feats of history, discovering land, freeing slaves, defeating tyranny, and maybe even defeating the mindlessness of terrorism. Behind each great turning point in history, I will always believe, as George Washington did, that there is a providential hand leading willing hearts.

The SPEAKER pro tempore (Mr. SHUSTER). Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

HONORING SYD FINLEY

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. Mr. Speaker, a few days ago a good friend of mine, Syd Finley, died at the Central DuPage Hospital in Winfield, Illinois. But before his death, his life personified that of a premier activist. He made effective use of himself to bring about positive and progressive change.

After graduating from high school and Knox College in Galesburg, Illinois, he began work as a recreational therapist for the State. He served in the military and fought in the Korean War and was awarded the Bronze Star with two oak leaf clusters, the Combat Medic Badge, United Nations Service Medal, National Defense Service Medal and the Merit Unit Citation.

In 1961, he was appointed Midwest director of the NAACP and moved his family from Galesburg to what was then segregated Wheaton. Real estate brokers only took him to the parts of town where African American families lived, and African American children were not bused to school like white children, and businesses would not consider hiring blacks.

Therefore, Syd started meeting with the school board and city council members. Mr. Finley's style of operating proved to be quite effective; and he not only brought about change in his neighborhood, but he also brought about change for thousands of others through his work at the NAACP.

Mr. Finley took his children to civil rights marches in Selma, St. Louis, Milwaukee, and Washington, D.C. As a leader of the NAACP's Fair Program in the 1980s, Mr. Finley got hundreds of people hired into management jobs at Fortune 500 companies and was appointed Illinois Governor Jim Thompson's Assistant for Minority Affairs.

Syd worked at Argonne National Laboratory from 1973 to 1980; and under his leadership, minority employment increased from 9 percent to 14 percent and female employment from 12 percent to 24 percent.

Mr. Finley joined Medical Management of America in 1994 and became vice president of Community and Media Relations for Doctor's Hospital of Hyde Park. He was a founder of the DuPage African Methodist Episcopal Church in 1979. He led a full and complete life.

He leaves to mourn and cherish his memory his wife, Mary Lou; three children, Sidney Finley, III; Robin Hines; and William Christopher Finley; two sisters, Dorothy Newman and Delores Ford; and two grandchildren.

Syd Finley was indeed a unique person and able to influence the thinking and behavior of others. He was an effective leader and a great American. We revere his life, mourn his passing, and shall cherish his memory.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

STOP MERCURY EMISSIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

Mr. KIRK. Mr. Speaker, the Great Lakes are under attack from many environmental threats, such as invasive species, PCB contamination, and other aquatic pollutants. In the next week, along with the gentleman from Michigan (Mr. UPTON), the gentleman from Michigan (Mr. STUPAK), and the gentleman from Wisconsin (Mr. KIND), I will be introducing the Great Lakes Mercury Reduction Act, which will prohibit the issuance of new permits under the Clean Air Act that will result in the deposition of any additional mercury into the Great Lakes.

Our legislation seeks to halt new mercury pollution sources that would deposit further amounts of mercury into the Great Lakes. Currently, the technology does not exist to stop mercury emissions from already-permitted sources. Therefore, we should not allow construction of new mercury pollution sources.

Our legislation will not affect existing sources already permitted under the Clean Air Act, but rather, will halt addition of new sources of mercury that will further degrade the Great Lakes with mercury pollution. Airborne mercury is the dominant source of mercury in the Great Lakes; and according to the Lake Michigan Federation, 1/70 of a teaspoon of mercury can contaminate a 25-acre lake. Mercury quickly bioaccumulates, contaminating the food chain and making the fish of the lakes inedible by humans.

The Federal Government must address mercury pollution, because sufficient reduction limits were not set in the Clean Air Act Amendments in 1990. The act only contained large general national emission numbers, and control studies monitoring the growing problems with mercury pollution. While the Clean Air Act required extensive studies of the potential dangers of mercury, it deferred much of the work on limiting mercury emissions to the States.

In 1997, the United States and Canada, as part of the Great Lakes Binational Toxics Strategy, met to address strategies for eliminating toxic substances in the Great Lakes. These talks resulted in each nation agreeing to address a number of toxic emissions, including mercury. According to this agreement, the United States will seek to reduce airborne emissions of mercury by 50 percent, and Canada by 90 percent by the year 2006.

President Bush and the Congress both made the elimination of mercury pollution an environmental priority of this Congress. In his Clear Skies Initiative, President Bush seeks to cut mercury emissions up to 69 percent and create the first-ever national cap for mercury emissions. Mercury emissions will be cut from current emissions from 48 tons to a cap of 26 tons in 2010, and 15 tons in 2018. Likewise, two similar proposals in Congress will seek to cap mercury emissions for the first time ever for air quality improvements.

In my district, Lake Michigan is the source of our drinking water, and the lake provides recreation in the summertime, and once provided fish for eating. We now know that Lake Michigan fish are harmful because of the toxins they contain. According to the EPA, each year over 3,000 pounds of mercury pollution are dumped into Lake Michigan, and 86 percent of that comes from direct atmospheric deposition. Recently, the North Shore Sanitary District obtained a permit from the Illinois Environmental Protection Agency to build a sludge sewage incinerator on the shores of Lake Michigan in Waukegan, Illinois. If construction commences, the mercury emitted from this sludge incinerator will be the first new source of mercury pollution in the Great Lakes in over a decade.

My top environmental goal in this Congress is to protect Lake Michigan and the Great Lakes. Earlier this year, I chaired the Nuclear Fuel Safety Caucus, which sought the safe removal of nuclear waste from key environmental ecosystems in the Great Lakes burdened with nuclear waste on our shores. The approval of the nuclear waste resolution in this Congress will make our 10th district nuclear free upon completion of the National Nuclear Waste Repository. But now, Congress must focus its attention on mercury pollution in the Great Lakes.

Airborne mercury pollution is an issue which the Federal Government has ignored in years past. Further mercury pollution of the Great Lakes will irreparably damage our fragile ecosystem.

I urge Members to support our bipartisan legislation. We joined in this effort to end mercury pollution in the Great Lakes just this week, but passage of our bill will go a long way to fulfilling our international commitments to our Canadian allies and fulfill the promise of President Bush's Clear Skies Initiative on mercury. But most importantly, Mr. Speaker, it will protect the mothers and children of the Midwest who are most at risk for mercury pollution.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GILMAN) is recognized for 5 minutes.

(Mr. GILMAN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TURKISH INVASION OF CYPRUS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker, it is my distinct honor and privilege to commemorate the 28th anniversary of the 1974 illegal Turkish invasion of Cyprus. I have commemorated this day since I came to Congress; and unfortunately, each year the occupation continues.

PSEKA, the International Coordinating Committee Justice for Cyprus; the Cyprus Federation of America, an umbrella organization representing the Cypriot American community in the United States; SAE, the World Council of Hellenes Abroad; and the Federation of Hellenic Societies, are all primarily located in the 14th Congressional District, which I am fortunate to represent.

These individuals refuse to believe that peace will not come to Cyprus and have chosen to commemorate this event in very special ways.

On Saturday, July 20, and Sunday, July 21, in the spirit of remembrance and commemoration, a concert will be held on July 20 at the Summer Stage in Central Park, New York, with the participation of two artists from Greece, Dionyssios Savopoulos and Alkinoos Ioannides.

These remarkable performers have been strong advocates against the division of Cyprus and the human rights violations by the Turkish Army in Cyprus.

On July 21, memorial services will be held for the victims of the Turkish invasion and occupation of Cyprus at the Cathedral of Holy Trinity in Manhattan. His Eminence, Archbishop Demetrios, Primate of the Greek Orthodox Church in America, will officiate.

The fundamental fact is that the continued presence of Turkish troops represents a gross violation of human rights and international law. Since they invaded Cyprus in July, 1974, Turkish troops have continued to occupy 37 percent of Cyprus. This is in direct defiance of numerous United Nations resolutions and has been a major source of instability in the eastern Mediterranean.

The new peace initiatives embarked upon by Cyprus, Greece and Turkey continue to say there is hope. I support President Bush, like his predecessor, President Clinton, in saying that true human rights are the goal of the United States Government. A unified Cyprus would promote a stable Mediterranean, economic stability and justice with a comprehensive and fair settlement. Now is the time for a solution.

More than 20 years ago, the leaders of the Greek and Turkish Cypriot communities reached two high-level agreements which provided for the establishment of a bicommunal, bizonal federation. Even though these agreements were endorsed by the U.N. Security Council, there has been no action on the Turkish side to fill in the details or to reach a final agreement.

Instead, for the past 28 years, there has been a Turkish Cypriot leader presiding over a regime recognized only by Turkey and condemned as legally invalid by the U.N. Security Council. Cyprus has been divided by the Green Line, a 113-mile barbed wire fence that runs across the island. Greek-Cypriots are prohibited from visiting the towns and communities where their families have lived for generations.

With 35,000 Turkish troops illegally stationed on the island, it is one of the most militarized areas in the world. This situation has also meant the financial decline of the once-rich northern part of Cyprus to just one-quarter of its former earnings.

Perhaps the single most destructive element of Turkey's fiscal and foreign policy is its nearly 28-year occupation of Cyprus. We now have an atmosphere where there is no valid excuse for not resolving this long-standing problem. Cyprus is set for entrance into the European Union in 2004, and I am hopeful that this reality will act as a catalyst for a lasting solution of the Cyprus challenge. EU membership for Cyprus will clearly provide important economic, political, and social benefits for all Cypriots, both Greek and Turkish alike.

This is why both sides must continue to negotiate. There is also a new climate of cooperation between Turkey and Greece with many positive signs. More has been achieved in the past 2 years than in many years before.

□ 1830

While the U.S., the EU, Greece and Cyprus have all acted to accommodate Turkish concerns, it is time for Turkey to complete the peace process in good faith. Make no mistake about it, if Turkey wants the Cyprus problem resolved, it will happen. Now is the time for a solution to the Cyprus problem. It will take diligent work by both sides, but with U.S. support and leadership, I am hopeful that we will reach a peaceful and fair solution soon. Twenty-eight years is too long to have a country divided, it is too long to be kept from your home, and it is too long to be separated from your family.

We have seen many tremendous changes around the world.

It is time for the Cypriots to live in peace and security, with full enjoyment of their human rights.

I am hopeful that their desire for freedom will one day be fulfilled.

In recognition of the spirit of the people of Cyprus, I ask my colleagues to join me in honoring the Cyprus Federation of America, and in solemnly commemorating the twenty-eighth anniversary of the invasion of Cyprus.

I hope that this anniversary will mark the advent of true freedom and peace for Cyprus.

GENERAL LEAVE

Mrs. MALONEY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Is there objection to the request of the gentlewoman from New York?

There was no objection.

CYPRUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BILIRAKIS) is recognized for 5 minutes.

Mr. BILIRAKIS. Mr. Speaker, as I have done every year and as the gentlewoman from New York just did, we usually do this together, I rise again today to reiterate my fierce objection to the illegal occupation of the island of Cyprus by Turkish troops and declare my grave concern for the future of the area. The island's 28 years of internal division make the status quo absolutely unacceptable.

In July 1974, Turkish troops captured the northern part of Cyprus, seizing over a third of the island. The Turkish troops expelled 200,000 Greek Cypriots from their homes and killed 5,000 citizens of the once peaceful island. Over a quarter of a century later, about 1,500 Greek Cypriots remain missing, including four Americans. The Turkish invasion was a conscious and deliberate attempt at ethnic cleansing. Turkey proceeded to install 35,000 military personnel. Today these troops, in conjunction with the United Nations peacekeeping forces, make the small island of Cyprus one of the most militarized areas in the world. Turkey is the only nation, Mr. Speaker, in the world which recognizes the Turkish Northern Republic of Cyprus.

Twenty-eight years later, the forced separation of these two communities still exists despite efforts by the United Nations and G–8 leadership to mend this rift between north and south. The U.N., with the explicit support of the United States, has sponsored several rounds of proximity talks between the President of the Republic of Cyprus, Mr. Glafcos Clerides, and Mr. Rauf Denktash, the self-proclaimed leader of the occupied northern part of the island.

In January 2002, direct negotiations between President Clerides and Mr. Denktash began. Thus far, these negotiations have not produced any breakthroughs. Regrettably, the progress on an agreement has been thwarted by the intransigent position taken by Mr. Denktash with the full backing of the Turkish government. However, it is encouraging that the two leaders are continuing their direct talks which maintains the possibility that a comprehensive settlement can still be reached.

The recent political events in Turkey and the decision to hold early elections in November of this year will have a direct effect on the outcome of the Cyprus negotiations. While we support the call for elections in Turkey and trust the democratic voice of the Turkish people, we hope that the Cyprus negotiations will not be undermined by election year politics. We hope that all parties running for Parliament will declare their support for a resolution of the Cyprus problem before the end of the year so that a united Cyprus can enter the EU.

Despite the division of the island constantly taking center stage, the Republic of Cyprus has flourished and grown as an economy and society. It is a Europe-oriented nation that is of strategic, economic and political importance to the region and to the rest of the world. Sadly, the people living in the northern part of the island continue to be mired in poverty as a direct result of their leadership's and Turkey's separatist policies. Cyprus is one of the leading candidate nations to join the EU in the next round of enlargement. European Union membership has the potential to act as a catalyst for resolving the problem of Cyprus which has been poisoning the relations among the parties to the conflict and their NATO allies and the United States.

It would also be in the best interest of Turkey to cooperate with the U.N. on Cyprus in order to advance its own membership in the European Union. Northern Cyprus will perhaps be the greatest beneficiary of Cypriot membership and resolution of the entire affair. It is currently in a state of economic distress which is being exacerbated by Turkish intransigence. Turkey spends more than $200 million annually to sustain northern Cyprus. With settlement on the matter of Cyprus, this huge financial obligation would be eliminated. By joining the rest of Cyprus, northern Cyprus would become part of an already progressive economy, eliminating its financial dependence on Turkey.

We are all standing at the threshold of an historic opportunity that will shape the futures of generations of Cypriots, Greeks and Turks. We have a responsibility to these ensuant generations to secure their futures by contributing to the efforts to create a peaceful world. It is precisely, Mr. Speaker, to express the above stated points that I have felt compelled to introduce House Concurrent Resolution 164, a bill which expresses the U.S.'s support for Cyprus' admission to the European Union according to the Helsinki Conclusions of 1999. These specifically state that while a solution to the political crisis in Cyprus is preferable prior to EU accession, it is not a precondition for entry.

Mr. Speaker, we have a moral and ethical obligation to use our influence as Americans, as defenders of democracy and as defenders of human rights to reunify Cyprus. There have been 28 years of illegitimate occupation, violence and strife. Let us not make it 29.

Mr. BAIRD. Mr. Speaker, I would like to thank the Co-Chairs of the Hellenic Caucus, Representatives MICHAEL BILIRAKIS and CAROLYN MALONEY for organizing this special orders on Cyprus and for their leadership on this important issue.

Twenty-eight years ago, on July 20, 1974, Turkish troops advanced into the Republic of Cyprus and forcefully occupied the island. Today, Cyprus remains divided with heavily armed Turkish troops occupying approximately 37 percent of the Island. Over the past twenty-eight years there have been signs of hope only to be shattered by statements or displays of aggression resulting in increased tensions and little progress toward resolving the conflict over Cyprus. In 1999, the U.N. Security Council passed resolution 1251 calling for ". . . all States to respect the sovereignty, independence and territorial integrity of the Republic of Cyprus, and requesting them, along with the parties concerned, to refrain from any actions which might prejudice that sovereignty, independence and territorial integrity, as well as from any attempt at partition of the island or its unification with any other country."

The Republic of Cyprus has on many occasions offered an olive branch to end this conflict. The Republic of Cyprus has offered to demilitarize the entire island, and has canceled an order of a surface-to-air missile system. Turkey has rejected these overtures and in fact continues to upgrade its military presence on Cyprus.

Mr. Speaker, throughout its history the United States has stood firmly against the forces of oppression and aggression across the globe. We should continue to advocate and support a peaceful resolution to the problem in Cyprus. As a cosponsor of both H. Con. Res. 164 and 269, I urge the President to take steps to end the restrictions of freedoms on the enclaved people of Cyprus by the Turkish-Cypriots and to work with our allies to support Cyprus' efforts of accession to the European Union (EU).

It is my sincere hope that we will see significant progress toward a unified Cyprus obtained by peaceful means. This can only improve the economic and political stability of the region, which is undoubtedly in the national security and economic interests of the United States.

Mr. Speaker, let me close by thanking my colleagues in the Hellenic Caucus for their exceptional work. I look forward to working with all of them to ensure that some day soon, the unification, not the division of Cyprus, will be commemorated by this body.

Ms. ROS-LEHTINEN. Mr. Speaker, for too many years this Congress has been making its opinion known about the heinous reality that persists on the divided island of Cyprus. Twenty eight years ago this week, Cypriot citizens became refugees within their own country. Homeowners became homeless. Families were divided. Hundreds were killed or disappeared, as they ran for their lives. The divide that endures in Cyprus is one that becomes more evident with every anniversary of the Turkish occupation of the north.

Last night, in the Rayburn Building, I hosted a briefing and film viewing on Cyprus' reunification. That movie, Beyond Division: Reunifying the Republic of Cyprus, began with a very powerful quote which read, "My father says love your country. My country is divided into two. Which part should I love?" It is taken from a poem entitled Love Your Country by Neshe Yashin, a Turkish Cypriot who fled her birthplace in search of safety.

These words capture perfectly the history that plagued Cyprus. A fraternal, peaceful, and bi-communal society was divided and torn by a violent and foreign invasion. The end result was the alienation and isolation of neighbor from neighbor, family member from family member.

Mr. Speaker, I applaud the persistent efforts of my colleagues, MICHAEL BILIRAKIS and CAROLYN MALONEY, for calling this special order and arduously maintaining the plight of the people of Cyprus, particularly those who endure under Turkish control, in the minds of their fellow Members of Congress.

It is shameful that, as we stand here today marking this 28th anniversary of the Turkish invasion of Cyprus, Turkey has not only threatened to annex the north of the island, but has increased its military presence there. Last month's increase of 5,500 troops in the north bolsters the Turkish presence there to more than 40,000 soldiers—by some accounts the highest degree ever.

Twenty eight years ago, when Turkey invaded, 200,000 Greek Cypriots—victims of a policy of ethnic cleansing—were forced from their homes and became internally displaced people, essentially refugees in their own country. They were pushed out to accommodate over 80,000 settlers from mainland Turkey. The U.S. Committee for Refugees calls the internal displacement of people in Cyprus the "longest standing in the [European] region."

Furthermore, Turkish armed forces responsible for the disappearance of 1,463 Greek Cypriots, including four Cypriot-Americans, have remained protected by the impunity the Turkish government has afforded them, despite its obligations under the UN Declaration on the Protection of All Persons from Enforced Disappearances.

In addition, just over a year ago the European Court of Human Rights rendered a decision, finding Turkey guilty of violating 14 articles of the European Convention on Human Rights, and of being an illegal and illegitimate occupying force in Cyprus.

As Cyprus continues on its ensured path towards EU accession, it boggles the mind that Turkey—a NATO member—continues to occupy one-third of Cyprus. If a settlement to Cyprus is not reached by the end of the year, when the island is expected to join Europe, Turkey will be occupying European territory and hampering its chances of attaining that same status during its volatile economic and political crisis.

Mr. Speaker, the government of Turkey and Denktash are to be held responsible for the continual separation of the country of Cyprus. Despite the progress that has been made in the settlement talks that began in December of last year, they have halted development keeping the whole of the Cypriot community from a life of peace and freedom. However, hold-ups with the talks, increased deployment of Turkish troops to northern occupied Cyprus, and threats of annexation have proven futile in eroding international support of Cyprus' EU accession, settlement, or Clerides' government.

We cannot let this body forget the terror and fear that Turkey struck in every Cypriot's heart when they invaded in 1974. As the fifth round of the latest settlement talks commenced this week, we remain watchful, as well as hopeful, that peace may finally reach Cyprus and join both sides.

Mr. CROWLEY. Mr. Speaker, twenty-eight years ago this week, Turkey invaded Cyprus, violating international law and provoking an international outcry. Since June 1974, Turkey has occupied the northern third of this beautiful Mediterranean island—although no other country recognizes the occupation as legitimate. Cypriot President Glafcos Clarides and Turkish Cypriot Leader Rauf Denktash have re-engaged in peace talks aimed at reconciling the two communities of Cyprus since January. A resolution is not yet in sight, however, despite the incentive of accession to the European Union for both Turkey and Cyprus. We must now hope that a compromise will be reached soon, to ensure that Cyprus achieves its potential as a prosperous, progressive nation.

I was fortunate enough to visit Cyprus last summer. It was an eye-opening experience to be on the Green Line in Nicosia and then to walk a few blocks into the heart of a successful European Capital. This dramatic contrast—where conflict and normalcy can co-exist within a few city blocks—reinforces the need to find a solution to this dispute that removes hatred and division from the heart of Cyprus.

Today, Cyprus faces many challenges. The island is split across the middle by a barbed wire fence over one hundred miles long. Thirty-five thousand Turkish troops illegally occupy a third of the island, in what some consider one of the world's most militarized zones. Two hundred thousand Greek Cypriot refugees want to return to their homes in the north of the island but cannot as a result of the Turkish occupation.

Behind these disturbing statistics, there is a fundamental disagreement on the ultimate objective. Greek Cypriots seek a bi-zonal bi-communal federation—a solution endorsed by the United States, the European Union and the United Nations. The Turkish Cypriot leadership, however, seeks a loose confederation of two independent Cypriot states. Turkey has, to date, rejected the UN Security Council's resolutions, which call for the withdrawal of both Turkish troops and the 115,000 Turkish settlers introduced to the north since 1974. It is clear that consensus will not be easily reached, but the leadership of both sides must work diligently to implement a solution, as ordinary Cypriots on both sides of the barbed wire continue to suffer.

Congress must remain committed to helping the two sides settle this twenty-eight year old dispute.

First and foremost, the island must be reunited as a bi-zonal, bi-communal federal Cyprus on the basis of UN Security Council resolutions.

It is also crucial that the north of the island be de-militarized and that the two hundred thousand Greek Cypriot refugees be allowed to return safely to their homes.

In addition, the Turkish Cypriot leadership must address the plight of Greek Cypriots living in northern enclaves. During my trip last year, I attempted to visit Cypriots trapped in such enclaves, but was prevented from doing so by the Turkish Cypriot Authorities. I have co-sponsored House Concurrent Resolution 269, which calls for an end to restrictions on Greek Cypriots living in the North, because I believe that the human rights of this community must be respected by the Turkish Cypriot leadership.

Furthermore, the Administration should continue its annual allocation of $15 million to promote confidence-building measures aimed at

bringing the Greek and Turkish Cypriot communities together. This small investment in peace will prove to yield enormous dividends.

And finally, I urge the Administration and my colleagues in Congress to continue to support Cyprus' accession to the European Union. EU membership will provide access to new markets and permit the free movement of goods and people. The European Council has made it clear that reunification will not be a precondition for accession; indeed, membership may even prove to be a catalyst toward the resolution of the Cypriot dispute. It is clearly in the interest of the Turkish Cypriot community to move forward in peace talks so the entire island can benefit from EU membership.

On this important anniversary, I urge all Cypriots to consider the merits of reunification, and I urge Congress and the Administration to remain committed to resolving this issue. The United States must continue to work with Greek Cypriots and Turkish Cypriots as they strive for peace, after twenty-eight years of conflict.

Mr. VISCLOSKY. Mr. Speaker, as a member of the Hellenic Caucus since its inception in 1995, I rise today to mark the 28th anniversary of Turkey's invasion, and subsequent occupation of, Cyprus.

In 1960, Cyprus gained its political independence from the British Empire. Fourteen short years later, however, this independence was shattered when 6,000 Turkish troops and 40 tanks invaded the north coast of Cyprus and proceeded to occupy nearly 40 percent of the island. The ensuing fighting killed thousands of Cypriots and forced hundreds of thousands from their homes. Today, there are 1,619 people still missing, five of whom are United States citizens.

Twenty-eight years after the invasion, we are gathering to remember those who died and to ensure that the world never forgets that Cyprus is a land divided. More than 35,000 Turkish troops continue to occupy Cyprus in violation of international law. A barbed wire fence cuts across the island, separating families from their property and splitting this once beautiful country in half.

Over the course of the 107th Congress, I have petitioned the Bush Administration to take positive steps to help end the occupation of Cyprus, requesting that both President Bush and Secretary of State Powell make the reunification of Cyprus a top priority.

Mr. Speaker, I am proud to join with my colleagues in standing up against Turkish oppression in Cyprus. I would especially like to extend my sincere thanks to the dedicated co-chairs of the Hellenic Caucus, Rep. BILIRAKIS and Rep. MALONEY, for their tireless work to ensure that the people of Cyprus are not forgotten. Twenty-eight years is a long time to wait, but it is my sincere hope that our actions will help persuade Turkey to end its unlawful occupation of Cyprus.

Mr. HINCHEY. Mr. Speaker, I rise today to recognize one of the most egregious acts of the 20th century—the Turkish invasion of Cyprus. This Saturday, July 20, will mark the 28th anniversary of the invasion of Cyprus and the 28th year of Turkish occupation of northern Cyprus.

On July 20, 1974, 30,000 Turkish troops invaded northern Cyprus in flagrant violation of international law. More than 200,000 Greek Cypriots were forcibly expelled from their homes and nearly 5000 were killed. The fates of more than 1400 Greek Cypriots missing since the occupation remain uncertain. This tragedy is remembered by Greek Cypriots around he world as one of the blackest days in their people's history. I share the outrage of my Greek Cypriot friends and firmly believe Turkey must withdraw its troops from Cyprus and allow reunification to take place.

Unfortunately, Turkey has continued to pour salt on this deep wound. In 1983, again in flagrant violation of international law, Turkey unilaterally declared independence in the area of Cyprus under its military occupation. The UN Security Council, including the United States, condemned this declaration and called for Turkey's withdrawal. To date, Turkey is the only country in the world to recognize the so-called ''Turkish Republic of Northern Cyprus.'' Turkey has also attempted to change the demographic structure of occupied Cyprus by transferring 115,000 Turkish settlers to northern Cyprus and allowing them to live in the homes of expelled Greek Cypriots.

Despite the occupation, Cyprus has achieved remarkable economic growth. It's people enjoy one of the world's highest standards of living and Cyprus is now a leading candidate for membership in the European Union. It is also a thriving democracy that maintains the highest regard for the rule of law and human rights.

In recent months, Turkey has issued threats in response to Cyprus' prospective EU entry. Most worrisome is Turkey's threat to annex the occupied areas of Cyprus. The world must not sit still for such dangerous saber rattling. Fortunately, it has not. The EU has stated that it will not be held hostage to such threats and Cyprus' movement toward EU membership continues. The U.S. has also stated emphatically that it opposes Turkish annexation and believes such threats are destabilizing. Unfortunately, Turkey has not backed off its threats and continues to take positions that fly in the face of the world community's aspirations for peace.

The U.N. Security Council has proposed a peace agreement that would create a single state with two politically equal communities in a bi-zonal and bi-communal federation. The Turkish Cypriot side, backed by Ankara, has rejected this internationally supported proposal. Cyprus supports this proposal and, notwithstanding Turkish opposition, it continues to make overtures in an attempt to resolve this longstanding conflict. The U.S. has supported Cyprus' peace aims but we must do more to press Turkey to allow peace negotiations to move forward.

Cyprus has been a reliable U.S. ally since its independence from Britain in 1960. Our countries share deep commitments to democracy, human rights, free markets and equal justice under law. Following September 11, Cyprus President Glafcos Clerides immediately condemned the terrorist attacks and offered his country's assistance in our efforts to fight terrorism.

This Saturday, at 5:30 a.m., sirens will be sounded across Cyprus to remember the moment when Turkish troops invaded their homeland. I urge my colleagues to take a moment this weekend to recognize the enormous injustice that has persisted in Cyprus at the hands of our NATO ally Turkey. The U.S. must do all it can to end this conflict and restore the right to live in a unified Cyprus for all Greek Cypriots.

Mr. GILMAN. Mr. Speaker, I wish to thank the gentleman from Florida, (Mr. BILIRAKIS), and the gentlewoman from New York, (Mrs. MALONEY), for organizing this special order on Cyprus, and providing us with the opportunity to reflect on the 28th anniversary of the Turkish invasion of Cyprus.

The Cyprus conflict remains one of longest lasting issues of concern to the international community that remains unresolved to this day. For years, Cyprus has been divided by a 113–mile barbed wire fence, in effect sealing off the residents of Cyprus one side from the other.

The presence of 35,000 Turkish troops on the island is unacceptable, and has contributed to a militarized atmosphere that is far from conducive to a life of peace and cooperation for all of its inhabitants. Overall, this conflict has been very costly for both the Greek and the Turkish Cypriot communities, resulting in untold human and economic losses.

Our goal must be to seek the reunification of Cyprus within the framework of a bi-zonal, bi-communal federation, guaranteeing freedom, human rights, and political equality for all of its citizens regardless of their backgrounds. I am encouraged by the UN-brokered efforts earlier this year that represented the first time that the two sides agreed to hold indirect talks since the 1974 invasion.

I applaud the personal efforts of the UN Secretary General, Kofi Annan, to advance the negotiating process, although I am disappointed that despite his visit to the island in May, the two sides failed to meet the June target date for an agreement.

As Cyprus prepares its candidacy for accession to the European Union in advance of the EU's December summit in Copenhagen, it has become increasingly essential that the two sides once again engage in serious negotiations with the goal of a political settlement of their differences and the ultimate unification of the island.

As we continue to press for peace, the US and the international community must pay heed to the anxieties and legitimate concerns of both Greek and Turkish Cypriots. Indeed, a political settlement of the Cyprus issue in accordance with United Nations resolutions would benefit all parties involved, as well as strengthening relations between Greece and Turkey, two of our key NATO allies.

The US must make it clear to Turkey that they stand to benefit, alongside Turkish Cypriot authorities, in promoting the UN's vision for a negotiated settlement to the Cyprus dispute in the near future. A solution to the conflict in Cyprus would promote regional economic opportunities, and would increase the likelihood for Turkish accession to the European Union where it would join Cyprus and much of the rest of Europe as the new century unfolds.

I am one of the few Members of Congress who was serving in the House 28 years ago and I very much regret that on this, the final opportunity I will have to participate on the House floor in a commemoration of this anniversary, the ugly scar that divides Cyprus has not yet been erased.

And yet, Mr. Speaker, I hope that soon, perhaps before the year is out, a breakthrough may yet occur. That is my hope for peace for the people of Cyprus.

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.)

SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. LAMPSON) is recognized for 5 minutes.

Mr. LAMPSON. Mr. Speaker, I appreciate the opportunity to take just a few minutes and join my colleagues, and I wanted to talk about the issue of Social Security and what we are facing with changes. I know that one of my colleagues soon, the gentlewoman from Ohio (Ms. KAPTUR), will be talking specifically about this and thought it might be appropriate to remind people of what some of the benefits of this program are to certain individuals and when it is done right, the significant opportunities that it presents not only to the individuals but for the gain for our country.

We want to produce productive citizens. That opportunity came for me when I was but a young kid. When my father died at my age of 12 years old, he was 54, leaving six children and a wife who did not have an opportunity for employment because she had very little or no education earlier in her own life. Had it not been for the support that our community gave us, this family, with the six kids, with one of them being in a wheelchair because of an illness that left her paralyzed, this family would not have been able to stay together. But through the support of Social Security, as long as we were students, up until the age of 21 years old at that time, we could get that help. It gave us the opportunity to stay together as a family. It gave us the opportunity to be able to get an education because otherwise we would have split up and more than likely have been spending our time earning a living so that those of us who needed to would be able just to survive.

Today, one of us is a very good physician in a State in the South, in Louisiana, another is retired from a major position in a pharmaceutical company, but my point is that all six of my mother's children became successful because of the assistance that our community gave us. And more importantly than anything, we have to realize that as these benefits come to people throughout our country, the benefits of Social Security, we cannot forget, we cannot pull the ladder up behind us and say it is not good for someone else. It made a difference for me. It helped me become the productive citizen that I believe that I am. And if we protect this, this wonderful institution, make sure that it is there for our kids and our grandkids and their children and on down the line as the security blanket that it can be and has been and hopefully will continue to be, then we can make a difference in the productivity of a lot of people in this country and give a great deal back to our Nation.

I look forward to listening to the remarks of other colleagues.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

(Mr. GEORGE MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

CLOCKING REPUBLICAN RAID ON SOCIAL SECURITY TRUST FUND

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I want to acknowledge the compelling story of this incredible Member of Congress from Texas, NICK LAMPSON, who placed on the RECORD the story of his family and what Social Security has meant not just to seniors but to the disability insurance program and the insurance program for widows caring for children or widowers and millions of people. We never really know if we will be the one out of five families struck in America with tragedy beyond our ability to control and whether we will have the insurance to weather bad times. And is it not a credit to his mother and their family that every one of those six children has matured into a productive and really priceless citizen for our country. We need more citizens like NICK LAMPSON in this Chamber. We would build a different and better country with that kind of sensitivity and understanding.

Mr. Speaker, I rise tonight to continue what has become my weekly tradition of clocking the Republican raid on the Social Security trust fund. Since early June, I have been coming down here showing how much money they are taking out of the Social Security trust fund and using for other purposes, such as huge tax cuts to the richest 1 percent of people in this country. When I started these remarks, they were borrowing, as of early June, $208 billion. Every single week they have dipped into it more. It went up to $212 billion, then $218 billion, then $223 billion. By July 9 they were at $235 billion. Then at $241 billion. The line of increase into the trust fund is every week growing at geometric proportions. That amounts to already $858 being taken out of your pocket as an American citizen from your Social Security payments.

What is the Republican House leadership doing about this? Nothing. This House leadership has simply refused to address the ongoing raid in the Social Security trust fund. In January of 2001, our Nation had finally, after a 12-year struggle, actually managed to balance the budget. And we had surpluses. People were saying that we would be able to pay off our accumulated debt by the year 2011. There was euphoria. Even on Wall Street they took down the debt clock. What I would like to say to all the Bush administration friends on Wall Street, you ought to put the debt clock back, because the party that represents your big business interests, they are just increasing the debt again. So why do you not put the debt clock up? I would actually go and put one of those hooks in the wall at Times Square myself if I could find out who had that old clock.

Not even 1½ years later, the Congressional Budget Office is projecting that under the Republican budget passed in March of this year, there will be a $1.8 trillion on-budget deficit over the next 10 years. I have been asking myself, why does the Republican leadership of this House love this red ink so much? They are taking money out of the Social Security trust fund in order to give these big tax cuts. I thought, well, maybe they love to issue Federal debt securities because who sells those debt securities? Twenty big bond houses on Wall Street make all the fees. They do not sell savings bonds to average Americans. Try to buy a savings bond and have it sent to your house. It will not happen. You have to go fill out a special form, then they send it over to whoever you say should be the recipient a month later. They have actually taken away the right of individual citizens to buy savings bonds conveniently in this country. They prefer to sell debt securities through the 20 bond houses on Wall Street because they make all the fees, which we pay for out of our tax dollars.

So instead of paying off the debt by 2011, under the Republican budget our publicly held debt is scheduled to increase by $2.8 trillion by fiscal year 2011 and they are covering it over right now by borrowing from what is left in the Social Security trust fund to cover the difference. The biggest reason for this radical reversal in our Nation's financial health is the Bush administration tax cut. How do you feel about $858 being taken out of your pocket and then given to a corporation like Enron this year which is going to take over $350 million in the form of a tax rebate because of the Bush administration tax bill?

Or how about this: Your money is going to the top 1 percent of the wealthiest people in this country who no longer have to pay an inheritance tax. They are taking your money. That is what is happening to the Social Security trust fund.

What is the effect on all of this? The Republicans said they voted. They voted seven times not to do this. It is true, they did vote. But they are not keeping their promise.

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They told us they wanted to assure that not a penny of the Social Security surplus would be used for other programs. But, in fact, their promises have not met the true test of time.

So I would say I will be back next week. It is time for the Republicans to stop the raid on Social Security's trust fund, and we are going to stop them come November's election.

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CROWLEY) is recognized for 5 minutes.

(Mr. CROWLEY 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 Rhode Island (Mr. LANGEVIN) is recognized for 5 minutes.

(Mr. LANGEVIN 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 Washington (Mr. BAIRD) is recognized for 5 minutes.

(Mr. BAIRD address 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 Indiana (Ms. CARSON) is recognized for 5 minutes.

(Ms. CARSON of Indiana addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

TURKISH INVASION OF CYPRUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, tonight I want to join my colleagues on the House floor, the gentleman from Florida (Mr. BILIRAKIS) and the gentlewoman from New York (Mrs. MALONEY), to remember a horrific act taken by Turkey against the citizens of Cyprus 28 years ago.

On July 28, 1974, the nation of Turkey violated international law when it brutally invaded the sovereign Republic of Cyprus.

Mr. Speaker, in the aftermath of September 11 and the horrific acts of terror that were inflicted upon thousands of innocent Americans in New York and Washington, it is important that this Congress and the American people recognize the events in Cyprus 28 years ago as an act of terror. Turkey illegally used American-supplied airplanes, bombs, and tanks in an act of terror against the people of Cyprus. This terror did not end with the invasion of the island. Instead, more than 200,000 people were forcibly displaced from their homes and a large number of Cypriot people who were captured during the invasion are still missing today.

Last year, the European Court of Human Rights rebuked the Turkish government when the court overwhelmingly found them guilty of massive human rights violations over the last 28 years in a scathing 146-page decision. In the case of Cyprus v. Turkey, the court concluded Turkey has not done enough to investigate the whereabouts of Greek-Cypriot missing persons who disappeared during life-threatening situations after the occupation. The court also found Turkey guilty of refusing to allow the return of any displaced Greek-Cypriots to their homes in Northern Cyprus. Families continue to be separated by the 113-mile barbed wire fence that runs across the island.

Mr. Speaker, it is expected that by the end of this year, Cyprus will be approved for accession into the European Union. The United States has strongly supported the Cyprus EU bid. EU membership will bring significant benefits to both the Greek-Cypriot and Turkish-Cypriot communities.

Last year, a bipartisan House Resolution was introduced in the House expressing the sense of Congress that security, reconciliation, and prosperity for all Cypriots can be best achieved within the context of membership in the European Union, which will provide significant rights and obligations for all Cypriots, and for other purposes. I am hopeful that this Congress will approve that resolution as a strong sign of support for Cyprus's accession to the European Union.

Officials from the EU continue to reiterate that a peace settlement is not a precondition to Cyprus's accession to the European Union. Regardless of whether or not an agreement is reached, the entire island of Cyprus will be recognized as one country within the European Union. Ideally, a settlement will be reached later on this year.

Now, we know that hopes of a settlement continue, but at the end of discussions last month, the President of the Republic of Cyprus, Clerides, said the peace talks with Turkish Cypriot leader Denktash were at a deadlock and that large differences remain.

Mr. Speaker, the time has come for the Bush administration to apply pressure on the Turkish side and, in particular, on the Turkish government so that they can convince Turkish Cypriot leader Denktash to alter his current uncompromising stance. It is time for Denktash to negotiate in good faith in order to reach a comprehensive settlement within the framework provided for by the relevant United Nations Security Council's resolutions. These resolutions establish a bizonal, bicommunal federation with a single international personality and sovereignty and a single citizenship for all of Cyprus.

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 addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

FOOD CRISIS IN SOUTHERN AFRICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentlewoman from California (Ms. WATERS) is recognized for 60 minutes as the designee of the minority leader.

Ms. WATERS. Mr. Speaker, I come this evening to talk about a very serious problem in this world. Last evening, I watched in horror as ABC, the Ted Koppel Show, depicted the food crisis in southern Africa. I watched as one woman was identified as having lost one of her twin babies to hunger, died from hunger, while the other baby was clinging to her breast, attempting to get milk that was not there. I watched as a man was shown sitting on the ground sifting dirt to eat, and the man said he was eating the dirt because it would fill up his stomach and help to do away with the hunger pains. I watched little children eating bugs and insects and others trying to find a morsel of some kind in the weeds. I watched all of this in horror because I have been working on this issue.

I have met with Mr. Natsios on two different occasions. I went to the Committee on International Relations, even though I am not a member of that committee, but I wanted to sit in on a hearing that was being held about the food crisis in southern Africa. Mr. Natsios was there. I heard him testify, I believe at that time, that he was on top of it. Mr. Natsios is in charge of USAID, and he said that they were on top of it, that they were in front of it, that they had organized the food that was to be shipped there, and that they were not worried about people dying, that we would not have the kind of devastation that we had seen during the starvation crisis in Ethiopia some years ago.

I was concerned about that, because at that time, I was getting information that people were already dying. But he said that he was on top of it. We had some of the agencies testifying there who are responsible for distribution of the food, but they seemed to talk in

more cautious terms. They seemed to speak about this crisis with the hope that we would be able to keep people from starving and dying, but I did not hear the kind of confidence in their tone and in their voices that I was looking for. So I continued to monitor what was going on.

Just last week I went to a meeting that was held where all of the ambassadors from the countries that are in crisis attended. There was the ambassador from Lesotho, from Malawi, from Mozambique, from Swaziland and Zimbabwe and, again, Mr. Natsios from USAID was at that meeting. I challenged him about our actions in these countries, told him of my concern, and I said to him that I was proposing to put $200 million in the supplemental appropriations bill to make sure we would have enough money for the grain and for the corn, for the food that we were going to dispatch to these hungry countries and get ahead of the curve so that when the rains come in October, we would not have to be worried about the trucks not being able to get where they needed to go. I wanted to get ahead of starvation so that we could get the food to the villages, so that we could get the grain in the grain storehouses. I wanted to avoid precisely what I saw last evening. I did not want ever in my life again to see the kind of starvation, the kind of death, the kind of devastation that I have witnessed too many times as I have watched the stories coming back to us from poor countries across this world.

Mr. Speaker, I wanted the United States to be in the forefront of helping people in the world, and I want us to use the bully pulpit of this great Nation to say to other countries that can be of assistance that they must join.

The Super 8 powers of the world, with all of the resources, must join together to help the poor people of this world. This is how people define us. This is how people determine whether or not we are caring people. As a matter of fact, this is the best kind of diplomacy that we could ever employ. When we show that we care about people, that we are willing to stop little babies from starving to death, that we are willing to lend a helping hand, I think it does more for us than silly negotiations where people are not getting anywhere or getting people to believe much of anything.

Mr. Speaker, my grandmother always said, it is not what you say, it is what you do.

So I watched in horror last evening for precisely that which I was trying so hard to avoid.

It is not just I who was concerned about this issue. The gentlewoman from North Carolina (Mrs. CLAYTON), the gentleman from Massachusetts (Mr. MCGOVERN), and many others have begun to work on this in different ways. I know some people were trying to work over on the Committee on Agriculture. Some people have tried to work from within the Committee on International Relations, and we have gone to people sitting on the appropriate subcommittees of the Committee on Appropriations to talk with them about this issue. So I know a number of people have been trying.

So I certainly did not expect to see those images broadcast on ABC last evening. I certainly did not want to be told by a television program that people were already dying, and I did not want to see that the food is not getting up to the villages, and I did not want to see a woman who walked many miles to get a sack of grain that she placed on her head and walked back to her village with, only to have it distributed among all of the villagers, and she ended up with a 2-day supply, knowing that there would be no more food coming for another month or more. She will probably be dead by the time the next supply comes, and her babies will be dead.

We could have avoided this. We could avoid this by, number one, making sure that we do what we can to appropriate the dollars that we can afford to appropriate, that we talk with the other nations that should be contributing, that we give some leadership to this problem. We know that we need some more money and we have a supplemental appropriation that is coming up, and we know that we are placing money in that supplemental appropriations bill for any number of countries. We know and we understand that there will be money in there for Afghanistan, and it should be. We know that there will be money in there for Israel, and it should be. We know that there will be money in there for many countries, because there are emergencies in the world. But why we have not been able to get the support from this administration to make sure that we can meet the needs of the food crisis of these very, very poor countries, I will never understand.

As a matter of fact, when I said to Mr. Natsios at the last meeting that I wanted to know if he would support $200 million in the supplemental appropriation, he said flat out, no. And he followed it up with saying, you are not going to cause me to lose my job. Well, that simply means he does not have the support of this administration.

I did not wish to come to the floor to have to talk about this. I have tried in the best fashion possible to address this at every possible point that one can inject an issue like this in the Congress of the United States.

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But Mr. Speaker, there is a food crisis and people are dying. The children of these countries are already dying. Southern Africa is facing its worst food crisis in nearly 60 years. Almost 13 million people in southern Africa are in danger of starvation. In Zambia, people have turned to some of the desperate measures that I have alluded to, and they are even eating potentially poisonous wild foods.

The crisis, as I have identified, very much affects the people of Lesotho, Malawi, Mozambique, Swaziland, and Zimbabwe. The effects of the food crisis has been exacerbated by the AIDS pandemic in sub-Saharan Africa. The AIDS pandemic has created many orphan children and left large numbers of African families with fewer productive family members to produce food or generate income with which to purchase food.

Furthermore, high rates of HIV infection have caused many Africans to have increased vulnerability to the effects of malnutrition and related diseases, such as cholera and malaria. The World Food Program estimates that 1.2 million metric tons of food assistance will be needed over the next 9 months to meet the minimum food consumption requirements of these six countries. Yet, as of July 12, the United States government has provided a total of 132,710 metric tons, and that is about 11 percent of the need. Clearly, we can do more.

In the midst of this crisis, the administration is proposing to cut the total spending on food assistance programs by 18 percent. This would reduce food assistance from over $2 billion in fiscal year 2002 to less than $1.7 billion in fiscal year 2003.

There it is. This is what we did in 2001, $2,125,100,000; and in 2002, $2,021,500,000. But now, for 2003, we are only getting from the administration $1,652,000,000. This is unacceptable, and it is unexplainable. Furthermore, it is unconscionable.

On June 20, 2002, I sent a letter to the conferees on H.R. 4775, the Supplemental Appropriations Act for fiscal year 2002, asking them to provide an emergency supplemental appropriation of $200 million to respond to the food crisis in southern Africa. An emergency appropriation is essential to enable the United States Government to provide desperately needed assistance to millions of starving people.

Sixty-two Members of Congress signed my letter, but I have not heard anything. Today, I brought this up in a meeting that was being held, I believe it was a whip meeting this morning. Most of the people in that meeting were alarmed, and they said they did not know about it and immediately said they wanted to do something to help. I went to the conference committee immediately following the whip meeting this morning, and I gave the information out once again.

I have been told that, oh, I am a little bit late; that somehow, we cannot get back to that section, that we would have to take this up in the conference committee.

I am not late. I sent this letter in June to this conference committee.

I am not late. I had 62 Members of Congress sign this letter.

I am not late because I went to the Committee on International Relations over 2 months ago.

I am not late because I have been working on this issue long enough for this issue now to be taken up in the supplemental appropriations bill.

Why are we not getting a response? We are not getting a response because I suppose people just do not pay enough attention to countries that are not politically powerful. I suppose Africa is still at the bottom of the list.

I have lived long enough to see starvation on the continent. I have lived long enough to see 1 million people killed in a senseless war in Rwanda. I have lived long enough to watch this pandemic, where Africa is at the top of the world with HIV and AIDS infections.

I am watching as we have worked so hard over the years to get rid of apartheid in South Africa, and still there are Africans who have no place to live, who are living up in huts, and even last night as they showed the people of Malawi living in grass huts, one little space for families with children, with nothing but a few pots and pans and dirt floors.

Well, I said to myself a long time ago, I may be one person in the Congress of the United States, and I may not be able to get the assistance that Africa needs, I may not be able to convince my colleagues, I may not be able to get the appropriations, but I will never stop trying. I will never be quiet. I will never go away. I will never allow this kind of devastation to take place and pretend it is not happening.

The people of Africa, many of them in many of these places that I am talking about may be poor, uneducated, may not have anything, and do not know how to lobby these major countries of the world. They may not have representatives that are doing the best job. But that does not matter. Those of us who are here who claim to care about people, who claim to be about the business of humanitarian assistance to the least of these, must speak out. We must talk about this starvation. We must talk about this devastation.

Oh, yes, there are problems in Africa, and some of them are political. And, yes, they have, in some places in Africa, leaders who do not always do the right thing by their people. When we look at Zimbabwe and the problems they are having, there is a lot that we can criticize Mugabe for.

But the little people who are hungry and dying are also at the mercy of the leadership. They are not making the decisions. They cannot be blamed for the sins of Mugabe and anybody else. The babies do not deserve that. The families do not deserve that. We cannot punish the hungry and the weak and the ignorant and the uneducated and the poor because they happen to have leaders that perhaps we do not like. We cannot ignore these countries because they do not have the sophisticated lobbying power and the communications and the ability to get people to act.

I am challenging this administration to do the right thing. It is not enough to go to the big G–8 conference and stand with one leader from Africa, as was done recently, and talk about what we are going to do for Africa while we have a crisis going on. The proof of the pudding is in the eating: get the food to these six countries. Let us get some grain to the farmers, so they can plant the seeds, so they can get ahead of the famine. Let us give some support so they can dig the wells and have the irrigation.

Part of what is wrong now in these countries is the fact that there is a drought. They have been devastated, first by flood, then by drought.

Then, I want to know about the International Monetary Fund and why they told the leaders of Malawi to sell the grain to pay off their debt. I want to know why they are part of helping to drive this country into starvation.

There are a lot of powerful forces at work in the world. Whether we are talking about the World Bank or the IMF or any of these entities, they can find a way to lend money to major corporations to build pipelines in Africa so American corporations can get richer and richer; but they cannot find a way to irrigate the land and to help bring water in so that people can have crops during times of crisis. We have not found a way to give agricultural assistance so we can fertilize the land and we can have the people plant the seeds so they can produce the food that they will need. So we have a crisis and people are dying.

This administration must step forward and must provide some leadership; must use its prestige in the world to reach out to other countries and get them to do what they should be doing. I am going to talk about this ad nauseum. I am going to talk about it until I cannot talk about it anymore.

I want to say to my colleagues that we cannot sit back and watch these images of dying children continue to come on television and say that we are legislators doing our job on the domestic and the international agenda. I know that we can do better than this. I know that we know it is a crisis.

I know that Mr. Natsios now knows that he is not ahead of this problem. As a matter of fact, it is going to get worse. When the time comes, after the rains, when the trucks cannot get up into the villages, many, many people are going to die.

So I come this evening to share this information and to sound the alarm, and to alert all those within my voice to join me in urging and pressing this administration, to join me in getting my colleagues to move, to join me in making this Congress what it could be and what it should be.

I am very, very concerned, frustrated, and unhappy about what is going on; and I am not going to allow this frustration to cause me to walk away. Even though I will go to bed tonight dissatisfied, frustrated, and even upset, I am going to get up tomorrow morning and start all over again. I am going to get with my leadership again. I am going to talk with the leaders on the other side of the aisle. I am going to call Mr. Natsios and bug him one more time; and he is going to hear my sharp tones, as he did today, every day. I am going back to the supplemental conference committee. I am going to keep on working this at every turn until I can try and get a real response.

HOUSE BILLS AND JOINT RESOLUTIONS APPROVED BY THE PRESIDENT

The President notified the Clerk of the House that on the following dates he had approved and signed bills and joint resolutions of the following titles:

January 23, 2002:

H.R. 2884. An act to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States, and for other purposes.

H.R. 3447. An act to amend title 38, United States Code, to enhance the authority of the Secretary of Veterans Affairs to recruit and retain qualified nurses for the Veterans Health Administration, to provide an additional basis for establishing the inability of veterans to defray expenses of necessary medical care, to enhance certain health care programs of the Department of Veterans Affairs, and for other purposes.

January 24, 2002:

H.R. 3392. An act to name the national cemetery in Saratoga, New York, as the Gerald B.H. Solomon Saratoga National Cemetery, and for other purposes.

February 6, 2002:

H.R. 400. An act to authorize the Secretary of the Interior to establish the Ronald Reagan Boyhood Home National Historic Site, and for other purposes.

H.R. 1913. An act to require the valuation on nontribal interest ownership of subsurface rights within the boundaries of the Acoma Indian Reservation, and for other purposes.

February 12, 2002:

H.R. 700. An act to reauthorize the Asian Elephant Conservation Act of 1997.

H.R. 1937. An act to authorize the Secretary of the Interior to engage in certain feasibility studies of water resource projects in the State of Washington.

February 14, 2002:

H.J. Res. 82. Joint resolution recognizing the 91st birthday of Ronald Reagan.

March 9, 2002:

H.R. 300. An act to provide tax incentives for economic recovery.

March 11, 2002:

H.R. 2998. An act to authorize the establishment of Radio Free Afghanistan.

March 13, 2002:

H.R. 1892. An act to amend the Immigration and Nationality Act to provide for the acceptance of an affidavit of support from another eligible sponsor if the original sponsor has died and the Attorney General has determined for humanitarian reasons that the original sponsor's classification petition should not be revoked.

H.R. 3699. An act to revise certain grants for continuum of care assistance for homeless individual and families.

March 25, 2002:

H.R. 3986. An act to extend the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001.

March 27, 2002:

H.R. 2356. An act to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

April 4, 2002:

H.R. 1499. An act to amend the District of Columbia College Access Act of 1999 to permit individuals who enroll in an institution of higher education more than 3 years after graduating from a secondary school and individuals who attend private historically black colleges and universities nationwide to participate in the tuition assistance programs under such Act, and for other purposes.

H.R. 2739. An act to amend Public Law 107–10 to authorize a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2002 in Geneva, Switzerland, and for other purposes.

H.R. 3985. An act to amend the Act entitled ''An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases'', approved August 9, 1955, to provide for binding arbitration clauses in leases and contracts related to reservation lands of the Gila River Indian Community.

April 18, 2002:

H.R. 1432. An act to designate the facility of the United States Postal Service located at 3698 Inner Perimeter Road in Valdosta, Georgia, as the ''Major Lyn McIntosh Post Office Building''.

H.R. 1748. An act to designate the facility of the United States Postal Service located at 805 Glen Burnie Road in Richmond, Virginia, as the ''Tom Bliley Post Office Building''.

H.R. 1749. An act to designate the facility of the United States Postal Service located at 685 Turnberry Road in Newport News, Virginia, as the ''Herbert H. Bateman Post Office Building''.

H.R. 2577. An act to designate the facility of the United States Postal Service located at 310 South State Street in St. Ignace, Michigan, as the ''Bob Davis Post Office Building''.

H.R. 2876. An act to designate the facility of the United States Postal Service located in Harlem, Montana, as the ''Francis Bardanouve United States Post Office Building''.

H.R. 2910. An act to designate the facility of the United States Postal Service located at 3131 South Crater Road in Petersburg, Virginia, as the ''Norman Sisisky Post Office Building''.

H.R. 3072. An act to designate the facility of the United States Postal Service located at 125 Main Street in Forest City, North Carolina, as the ''Vernon Tarlton Post Office Building''.

H.R. 3379. An act to designate the facility of the United States Postal Service located at 375 Carlls Path in Deer Park, New York, as the ''Raymond M. Downey Post Office Building''.

May 13, 2002:

H.R. 2646. An act to provide for the continuation of agricultural programs through fiscal year 2007, and for other purposes.

May 7, 2002:

H.R. 861. An act to make technical amendments to section 10 of title 9, United States Code.

H.R. 4167. An act to extend for 8 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted.

May 14, 2002:

H.R. 3525. An act to enhance the border security of the United States, and for other purposes.

May 15, 2002:

H.R. 169. An act to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws; to require that each Federal agency post quarterly on its public Web site, certain statistical data relating to Federal sector equal employment opportunity complaints filed with such agency; and for other purposes.

May 17, 2002:

H.R. 495. An act to designate the Federal building located in Charlotte Amalie, St. Thomas, United States Virgin Islands, as the ''Ron de Lugo Federal Building''.

H.R. 819. An act to designate the Federal building located at 143 West Liberty Street, Medina, Ohio, as the ''Donald J. Pease Federal Building''.

H.R. 3093. An act to designate the Federal building and United States courthouse located at 501 Bell Street in Alton, Illinois, as the ''William L. Beatty Federal Building and United States Courthouse''.

H.R. 3282. An act to designate the Federal building and United States courthouse located at 400 North Main Street in Butte, Montana, as the ''Mike Mansfield Federal Building and United States Courthouse''.

May 20, 2002:

H.R. 2048. An act to require a report on the operations of the State Justice Institute.

H.R. 2305. An act to authorize certain Federal officials with responsibility for the administration of the criminal justice system of the District of Columbia to serve on and participate in the activities of the District of Columbia Criminal Justice Coordinating Council, and for other purposes.

H.R. 4156. An act to amend the Internal Revenue Code of 1986 to clarify that the parsonage allowance exclusion is limited to the fair rental value of the property.

May 29, 2002:

H.R. 4592. An act to name the chapel located in the national cemetery in Los Angeles, California, as the ''Bob Hope Veterans Chapel''.

H.R. 4608. An act to name the Department of Veterans Affairs Medical and Regional Office Center in Wichita, Kansas, as the ''Robert J. Dole Department of Veterans Affairs Medical and Regional Office Center''.

May 30, 2002:

H.R. 1840. An act to extend eligibility for refugee status of unmarried sons and daughters of certain Vietnamese refugees.

H.R. 4782. An act to extend the authority of the Export-Import Bank until June 14, 2002.

June 10, 2002:

H.R. 3167. An act to endorse the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996, and for other purposes.

June 12, 2002:

H.R. 3448. An act to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies.

June 18, 2002:

H.R. 1366. An act to designate the United States Post Office building located at 3101 West Sunflower Avenue in Santa Ana, California, as the ''Hector G. Godinez Post Office Building''.

H.R. 1374. An act to designate the facility of the United States Postal Service located at 600 Calumet Street in Lake Linden, Michigan, as the ''Philip E. Ruppe Post Office Building''.

H.R. 3789. An act to designate the facility of the United States Postal Service located at 2829 Commercial Way in Rock Springs, Wyoming, as the ''Teno Roncalio Post Office Building''.

H.R. 3960. An act to designate the facility of the United States Postal Service located at 3719 Highway 4 in Jay, Florida, as the ''Joseph W. Westmoreland Post Office Building''.

H.R. 4486. An act to designate the facility of the United States Postal Service located at 1590 East Joyce Boulevard in Fayetteville, Arkansas, as the ''Clarence B. Craft Post Office Building''.

June 19, 2002:

H.R. 4560. An act to eliminate the deadlines for spectrum auctions of spectrum previously allocated to television broadcasting.

June 25, 2002:

H.R. 3275. An act to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes.

June 28, 2002:

H.R. 327. An act to amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small business concerns with certain Federal paperwork requirements, to establish a task force to examine information collection and dissemination, and for other purposes.

SENATE BILLS AND JOINT RESOLUTIONS APPROVED BY THE PRESIDENT

The President notified the Clerk of the House that on the following dates he had approved and signed bills and joint resolutions of the Senate of the following titles:

February 8, 2002:

S. 1762. An act to amend the Higher Education Act to 1965 to establish fixed interest rates for student and parent borrowers, to extend current law with respect to special allowances for lenders, and for other purposes.

S. 1888. An act to amend title 18 of the United States Code to correct a technical error in the codification of title 36 of the United States Code.

February 14, 2002:

S. 737. An act to designate the facility of the United States Postal Service located at 811 South Main Street in Yerington, Nevada, as the ''Joseph E. Dini, Jr. Post Office''.

S. 970. An act to designate the facility of the United States Postal Service located at 39 Tremont Street, Paris Hill, Maine, as the ''Horatio King Post Office Building''.

S. 1026. An act to designate the United States Post Office located at 60 Third Avenue in Long Branch, New Jersey, as the ''Pat King Office Building''.

March 12, 2002:

S. 1206. An act to reauthorize the Appalachian Regional Development Act of 1965, and for other purposes.

March 14, 2002:

S.J. Res. 32. Joint Resolution Congratulating the United States Military Academy at West Point on its bicentennial anniversary, and commending its outstanding contributions to the Nation.

March 19, 2002:

S. 1857. An act to encourage the negotiated settlement of tribal claims.

March 31, 2002:

S. 2019. An act to extend the authority of the Export-Import Bank until April 30, 2002.

May 1, 2002:

S. 2248. An act to extend the authority of the Export-Import Bank until May 31, 2002.

May 14, 2002:

S. 1094. An act to amend the Public Health Service Act to provide for research, information, and education with respect to blood cancer.

May 21, 2002:

S. 378. An act to redesignate the Federal building located at 3348 South Kedzie Avenue, in Chicago, Illinois, as the ''Paul Simon Chicago Job Corps Center.''

June 14, 2002:

S. 1372. An act to reauthorize the Export-Import Bank of the United States.

June 24, 2002:

S. 2431. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that chaplains killed in the line of duty receive public safety officer death benefits.

June 28, 2002:

S. 2578. An act to amend title 31 of the United States Code to increase the public debt limit.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MASCARA (at the request of Mr. GEPHARDT) for today on account of personal reasons.

Mr. NADLER (at the request of Mr. GEPHARDT) for July 17 on account of family matters.

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. HINCHEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mrs. MALONEY of New York, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. CROWLEY, for 5 minutes, today.

Mr. LANGEVIN, for 5 minutes, today.

Mr. BAIRD, for 5 minutes, today.

Ms. CARSON of Indiana, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

The following Members (at the request of Mr. PENCE) to revise and extend their remarks and include extraneous material:

Mr. PENCE, for 5 minutes, today.

Mr. ROGERS of Michigan, for 5 minutes, July 22.

Mr. FOLEY, for 5 minutes, July 22.

Mr. FERGUSON, for 5 minutes, July 22.

Mr. TIAHRT, for 5 minutes, July 22.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. LAMPSON, for 5 minutes, today.

ADJOURNMENT

Ms. WATERS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 13 minutes p.m.), under its previous order, the House adjourned until Monday, July 22, 2002, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

8077. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Clarified Hydrophobic Extract of Neem Oil; Pesticide Tolerance; Technical Correction [OPP-2002-0073; FRL-6835-1] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8078. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Cyhalofop-butyl; Pesticide Tolerance Technical Correction [OPP-2002-0087; FRL-7185-1] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8079. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting notification of the 2002 compensation program adjustments, including the Agency's current salary range structure and the performance-based merit pay matrix; to the Committee on Agriculture.

8080. A communication from the President of the United States, transmitting notification of the intention to reallocate funds within the Department of Defense previously transferred from the Emergency Response Fund; (H. Doc. No. 107—246); to the Committee on Appropriations and ordered to be printed.

8081. A letter from the Secretary, Department of Education, transmitting a report concerning surplus Federal real property disposed of to educational institutions, pursuant to 40 U.S.C. 484(o); to the Committee on Education and the Workforce.

8082. A letter from the Deputy Assistant Administrator, Office of Diversion Control, Department of Justice, transmitting the Department's final rule — Exemption From Control of Certain Industrial Products and Materials Derived From the Cannabis Plant [DEA-206] (RIN: 1117-AA55) received April 15, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8083. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Interim Final Determination that State has Corrected the Rule Deficiencies and deferral of Sanctions, Ventura County Air Pollution Control District, State of California [CA 266-0358c, FRL-7235-7] received June 18,2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8084. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Idaho: Final Authorization of State Hazardous Waste Management Program Revision [FRL-7239-7] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8085. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — OMB Approvals Under the Paperwork Reduction Act; Technical Amendment [FRL-7237-5] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8086. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan; Bay Area Air Quality Management District; South Coast Air Quality Management District [CA 243-0357a; FRL-7232-6] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8087. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-412, ''Cable Television Reform Amendment Act of 2002'' received July 18, 2002, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

8088. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-411, ''Approval of the Franchise of Comcast Cablevision of the District to Provide Cable Service in the District of Columbia Act of 2002'' received July 18, 2002, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

8089. A letter from the Executive Director, District of Columbia Retirement Board, transmitting the personal financial disclosure statements of Board members, pursuant to D.C. Code section 1—732 and 1—734(a)(1)(A); to the Committee on Government Reform.

8090. A letter from the Executive Director, Federal Labor Relations Authority, transmitting a copy of Fiscal Year 2001 inventory of commercial activities performed by Federal employees pursuant to the provisions of the Federal Activities Inventory Reform Act; to the Committee on Government Reform.

8091. A letter from the Deputy Director, Federal Mediation and Conciliation Service, transmitting the FY 2001 report pursuant to the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

8092. A letter from the Deputy Archivist, National Archives and Records Administration, transmitting the Administration's final rule — NARA Regulations; Technical Amendments (RIN: 3095-AB15) received June 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

8093. A letter from the Deputy Archivist, National Archives and Records Administration, transmitting the Administration's final rule — National Historical Publications and Records Commission Grant Regulations (RIN: 3095-AA93) received June 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

8094. A letter from the Deputy Archivist, National Archives and Records Administration, transmitting the Administration's final rule — NARA Facilities; Addresses and Hours (RIN: 3095-AB08) received June 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

8095. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Prospecting for Minerals Other Than Oil, Gas, and Sulphur on the Outer Continental Shelf (RIN: 1010-AC48) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8096. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Oil and Gas and Sulphur Operations in the Outer Continental Shelf-Document Incorporated by Reference-API RP 14C (RIN: 1010-AC93) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8097. A letter from the Director, Office of Surface Mining, Department of the Interior,

transmitting the Department's final rule — New Mexico Regulatory Program [NM-042-FOR] received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8098. A letter from the Assistant Secretary, Indian Affairs, Department of the Interior, transmitting the Department's final rule — Law and Order on Indian Reservations (RIN: 1076-AE33) received June 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8099. A letter from the Assistant Secretary, Indian Affairs, Department of the Interior, transmitting the Department's final rule — Distribution of Fiscal Year 2002 Indian Reservation Roads Funds (RIN: 1076-AE28) received June 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8100. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zones; Port of Palm Beach, Palm Beach, FL; Port Everglades, Fort Lauderdale, FL; Port of Miami, Miami, FL, and Port of Key West, Key West, Florida; Hutchinson Island Power Plant, St. Lucie, Florida, and Turkey Point Power Plant, Florida City, FL [COTP MIAMI-02-054] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8101. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Special Local Regulations; Deerfield Beach Super Boat Race, Deerfield Beach, FL [CGD07-02-013] (RIN: 2115-AE46) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8102. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, mile 1069.4 Dania Beach, Broward County, FL [CGD07-01-143] (RIN: 2115-AE47) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8103. A letter from the Chairman, Interagency Coordination Committee on Oil Pollution Research, Department of Transportation, transmitting the Department's report on the Interagency Coordinating Committee on Oil Spill Pollution Research, pursuant to 33 U.S.C. 2761(e); to the Committee on Science.

8104. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule — Medicare Program; Criteria for Submitting Supplemental Practice Expense Survey Data Under the Physician Fee Schedule [CMS-1223-IFC] (RIN: 0938-AL99) received June 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 1070. A bill to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to make grants for remediation of sediment contamination in areas of concern and to authorize assistance for research and development of innovative technologies for such purposes; with an amendment (Rept. 107–587, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of New Jersey: Committee on Veterans' Affairs. H.R. 4940. A bill to amend title 38, United States Code, to enact into law eligibility requirements for burial in Arlington National Cemetery, and for other purposes (Rept. 107–588). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of New Jersey: Committee on Veterans' Affairs. H.R. 5055. A bill to authorize the placement in Arlington National Cemetery of a memorial honoring the World War II veterans who fought in the Battle of the Bulge (Rept. 107–589). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Permanent Select Committee on Intelligence. H.R. 4628. A bill to authorize appropriations for fiscal year 2003 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; with an amendment (Rept. 107–592). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Science discharged from further consideration. H.R. 1070 referred to the Committee of the Whole House on the State of the Union.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. OXLEY: Committee on Financial Services. H.R. 1701. A bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes, with an amendment; referred to the Committee on Judiciary for a period ending not later than September 9, 2002, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1 (K), rule X (Rept. 107–590, Pt. 1).

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3215. A bill to amend title 18, United States Code, to expand and modernize the prohibition against interstate gambling, and for other purposes, with an amendment; referred to the Committee on Energy and Commerce for a period ending not later than July 19, 2002, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(f), rule X (Rept. 107–591, Pt. 1).

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 1070. Referral to the Committee on Science extended for a period ending not later than July 18, 2002.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. RAHALL (for himself, Mr. KILDEE, Mr. GEORGE MILLER of California, Mr. FALEOMAVAEGA, Mr. PALLONE, Mr. UDALL of New Mexico, Mr. CARSON of Oklahoma, Ms. MCCOLLUM, Mr. KENNEDY of Rhode Island, and Mr. BALDACCI):

H.R. 5155. A bill to protect sacred Native American Federal lands from significant damage; to the Committee on Resources.

By Mrs. CUBIN:

H.R. 5156. A bill to amend the Outer Continental Shelf Lands Act to protect the economic and land use interests of the Federal Government in the management of outer continental shelf lands for energy-related and certain other purposes, and for other purposes; to the Committee on Resources.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. PETRI, Mr. BORSKI, Mr. ENGLISH, Mr. PITTS, Mr. OTTER, Mr. COBLE, Mr. KINGSTON, Mr. MCGOVERN, Mr. ACEVEDO-VILA, Mr. CRAMER, Mr. FRANK, Mr. THORNBERRY, Mr. DEFAZIO, Mr. FOLEY, Mr. COMBEST, Mr. HOLDEN, Mr. FORBES, Mr. SIMPSON, Mrs. BONO, Mr. LOBIONDO, Mrs. TAUSCHER, Mr. TAYLOR of Mississippi, Mrs. KELLY, Mr. CALVERT, Ms. WOOLSEY, Mr. BOYD, Mr. MALONEY of Connecticut, Mr. HALL of Texas, Mr. THOMPSON of California, Mr. GEKAS, Mr. LYNCH, Ms. HOOLEY of Oregon, Mr. BEREUTER, Mr. MANZULLO, Mr. GILCHREST, Mr. GOSS, and Mr. LEWIS of California):

H.R. 5157. A bill to amend section 5307 of title 49, United States Code, to allow transit systems in urbanized areas that, for the first time, exceeded 200,000 in population according to the 2000 census to retain flexibility in the use of Federal transit formula grants in fiscal year 2003, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. THOMPSON of California (for himself, Mr. BROWN of Ohio, Mr. BLUMENAUER, Mr. HALL of Ohio, Ms. SLAUGHTER, Mr. FILNER, Mrs. THURMAN, Ms. MCKINNEY, and Mr. GEORGE MILLER of California):

H.R. 5158. A bill to establish a grant and fee program through the Environmental Protection Agency to encourage and promote the recycling of used computers and to promote the development of a national infrastructure for the recycling of used computers, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. JO ANN DAVIS of Virginia:

H.R. 5159. A bill to authorize States to regulate the receipt and disposal of out-of-State municipal solid waste; to the Committee on Energy and Commerce.

By Mr. GEPHARDT (for himself, Mr. SHOWS, Mr. HOLDEN, Mr. PHELPS, Ms. CARSON of Indiana, Mr. RANGEL, Mr. LAFALCE, Mr. CONYERS, Mr. GEORGE MILLER of California, Mr. MATSUI, Ms. LEE, Mr. DICKS, Mr. WAXMAN, Ms. SLAUGHTER, Mr. CARDIN, Mr. TIERNEY, Mr. LYNCH, Mr. BONIOR, Mr. BARRETT, and Mr. FRANK):

H.R. 5160. A bill to promote corporate responsibility; to the Committee on Financial Services, and in addition to the Committees on Ways and Means, the Judiciary, and 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. DEUTSCH (for himself and Ms. ROS-LEHTINEN):

H.R. 5161. A bill to provide for the transfer of certain real property by the Secretary of Housing and Urban Development; to the Committee on Government Reform.

By Mr. GUTIERREZ:

H.R. 5162. A bill to treat arbitration clauses which are unilaterally imposed on consumers as an unfair and deceptive trade practice and prohibit their use in consumer transactions, and for other purposes; to the Committee on Financial Services.

By Mr. HAYWORTH (for himself and Mr. PASTOR):

H.R. 5163. A bill to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes; to the Committee on Resources.

By Mrs. MALONEY of New York (for herself, Mr. SERRANO, Mr. WEINER, and Mr. MCNULTY):

H.R. 5164. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to improve Federal response efforts after a terrorist strike or other major disaster affecting homeland security, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PLATTS (for himself, Mr. JENKINS, and Mr. SOUDER):

H.R. 5165. A bill to amend the Internal Revenue Code of 1986 to provide for an enhanced deduction for qualified residence interest on acquisition indebtedness for heritage homes; to the Committee on Ways and Means.

By Mr. PORTMAN (for himself, Mr. ARMEY, Mr. CRANE, Mr. HOUGHTON, Mr. CAMP, Ms. DUNN, Mr. ENGLISH, Mr. WATKINS, Mr. WELLER, Mr. LEWIS of Kentucky, and Mr. FOLEY):

H.R. 5166. A bill to simplify the Internal Revenue Code of 1986; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 5167. A bill to amend title XVIII of the Social Security Act with respect to reform of payment for drugs and biologicals under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TAYLOR of North Carolina:

H.R. 5168. A bill to provide a process for the establishment of the Blue Ridge National Heritage Area in the State of North Carolina, and for other purposes; to the Committee on Resources.

By Mr. FOSSELLA (for himself, Mrs. MCCARTHY of New York, Mr. HINCHEY, Mr. GRUCCI, Mr. GILMAN, Mr. RANGEL, Mrs. MALONEY of New York, Mr. TOWNS, Mr. NADLER, Mr. KING, Mr. QUINN, Mrs. KELLY, Mr. ACKERMAN, Mr. WEINER, Mr. HOUGHTON, Mr. ISRAEL, Mr. ENGEL, and Mr. BOEHLERT):

H. Res. 492. A resolution expressing gratitude for the 10-month-long World Trade Center cleanup and recovery efforts at the Fresh Kills Landfill on Staten Island, New York, following the terrorist attacks of September 11, 2001; to the Committee on Government Reform.

By Mr. JEFFERSON:

H. Res. 493. A resolution providing for consideration of the bill (H.R. 664) to amend title II of the Social Security Act to provide that the reductions in Social Security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200; to the Committee on Rules.

By Mrs. MORELLA (for herself, Mr. EHRLICH, Mr. GILCHREST, Mr. TOM DAVIS of Virginia, Mr. WOLF, Mr. BOEHLERT, Mr. MORAN of Virginia, and Mr. WYNN):

H. Res. 494. A resolution honoring the United States Youth Soccer National Championships at the Maryland SoccerPlex in Germantown, Maryland; to the Committee on Government Reform.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

334. The SPEAKER presented a memorial of the Senate of the State of Louisiana, relative to Senate Resolution No. 58 memorializing the United States Congress to enact legislation to ensure that deserving victims of asbestos exposure receive compensation for their injuries; to the Committee on the Judiciary.

335. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 16 memorializing the United States Congress to impose a quota on certain imported seafood such as shrimp; jointly to the Committees on Agriculture and Ways and Means.

336. Also, a memorial of the Legislature of the State of Hawaii, relative to Senate Concurrent Resolution No. 69 memorializing the United States Congress to request that the United Nations consider the establishment in Hawaii, of a Center for the Health, Welfare, and Education of Children, Youth and Families for Asia and the Pacific; jointly to the Committees on International Relations and Energy and Commerce.

337. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Resolution No. 62 memorializing the United States Congress to convene a summit meeting to discuss a long range, strategic plan for future economic development of the utility, communication, and transportation industry in Louisiana; jointly to the Committees on Transportation and Infrastructure, Financial Services, and Energy and Commerce.

338. Also, a memorial of the Legislature of the State of Colorado, relative to Senate Joint Resolution No. 02-008 memorializing the United States Congress and President Bush for his decision to protect the United States steel industry and continue to express support for the federal Steel Revitalization Act of 2001 and the emergency measures that need to be taken to save the American Steel Industry; jointly to the Committees on Ways and Means, Financial Services, and Education and the Workforce.

339. Also, a memorial of the Legislature of the State of Hawaii, relative to Senate Concurrent Resolution No. 127 memorializing the United States Congress to appropriate adequate financial impact assistance for health, education, and other social services for Hawaii's Freely Associated States citizens; jointly to the Committees on Agriculture, Ways and Means, Financial Services, and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 31: Mr. SULLIVAN.
H.R. 134: Mr. MATHESON.
H.R. 168: Mr. HERGER.
H.R. 257: Mr. HYDE and Mr. GRAHAM.
H.R. 267: Mr. JOHN.
H.R. 439: Mr. UNDERWOOD.
H.R. 488: Mr. KENNEDY of Rhode Island.
H.R. 548: Mr. TIERNEY.
H.R. 632: Mr. GONZALEZ, Mr. STEARNS, and Mr. FOSSELLA.
H.R. 690: Mr. LEVIN.
H.R. 699: Mr. HILLEARY.
H.R. 737: Ms. MCKINNEY.
H.R. 792: Mr. NADLER and Mr. SMITH of New Jersey.
H.R. 951: Ms. SLAUGHTER, Mr. LIPINSKI, and Mr. WALSH.
H.R. 1005: Mr. PHELPS.
H.R. 1021: Mr. SHIMKUS.
H.R. 1155: Mr. LINDER.
H.R. 1213: Mr. BEREUTER.
H.R. 1233: Mr. UNDERWOOD.
H.R. 1360: Mr. BECERRA and Mr. CARSON of Oklahoma.
H.R. 1490: Ms. RIVERS.
H.R. 1556: Mr. SKELTON.
H.R. 1581: Mr. PUTNAM and Mr. BOSWELL
H.R. 1609: Mr. FROST and Mr. SKELTON.
H.R. 1908: Mr. BRYANT.
H.R. 2021: Mr. PETERSON of Minnesota.
H.R. 2219: Mr. BISHOP and Mr. ENGEL.
H.R. 2220: Mr. BAIRD.
H.R. 2316: Mr. HEFLEY.
H.R. 2320: Mr. CARSON of Oklahoma.
H.R. 2462: Mr. STUPAK.
H.R. 2748: Ms. SOLIS.
H.R. 2817: Mr. PHELPS.
H.R. 2905: Mr. LOBIONDO.
H.R. 3154: Mr. SMITH of New Jersey.
H.R. 3183: Mr. BONIOR.
H.R. 3246: Mr. MCDERMOTT.
H.R. 3320: Mr. HERGER.
H.R. 2350: Mr. CRAMER, Mr. COLLINS, Mr. MATHESON, and Mr. HILLEARY.
H.R. 3585: Mr. LEVIN.
H.R. 3645: Mr. SHOWS, Ms. BERKLEY, Mr. PICKERING, and Mr. RODRIGUEZ.
H.R. 3710: Mr. SNYDER, Mr. BRYANT, Mr. JEFFERSON, Mr. LARSON of Connecticut, Mr. RANGEL, and Mr. OWENS.
H.R. 3747: Mr. GEORGE MILLER of California.
H.R. 3770: Mr. BALDACCI and Mr. ENGLISH.
H.R. 3372: Ms. MCKINNEY.
H.R. 3782: Ms. HARMAN and Ms. MILLENDER-MCDONALD.
H.R. 3795: Mr. EVANS and Mr. ABERCROMBIE.
H.R. 3804: Mr. HALL of Ohio, Mr. NADLER, Ms. NORTON, and Mr. LEVIN.
H.R. 3880: Mr. SWEENEY.
H.R. 3884: Ms. VELAZQUEZ, Mr. KUCINICH, Mr. BOSWELL, Mr. FORD, Mr. ROTHMAN, and Mr. THOMPSON of Mississippi.
H.R. 3973: Mr. FOSSELLA.
H.R. 3974: Mr. RUSH.
H.R. 3992: Mr. CARSON of Oklahoma.
H.R. 4010: Mr. COOKSEY.
H.R. 4029: Mr. UNDERWOOD.
H.R. 4030: Mr. WHITFIELD.
H.R. 4058: Mr. CROWLEY AND MRS. MORELLA.
H.R. 4515: Mr. FROST.
H.R. 4555: Mr. FOSSELLA and Ms. BROWN of Florida.
H.R. 4599: Mr. PHELPS and Ms. NORTON.
H.R. 4600: Mrs. KELLY and Mrs. CUBIN.
H.R. 4614: Mr. WEXLER.
H.R. 4646: Mr. DEUTSCH and Mr. SCHIFF.
H.R. 4683: Ms. BALDWIN, Mr. DEFAZIO, and Ms. RIVERS.
H.R. 4691: Mr. BURTON of Indiana, Mr. PETRI, Mr. OBERSTAR, Mr. CANTOR, Mr. KENNEDY of Minnesota, Mr. HOEKSTRA, Mr. SCHROCK, and Mr. TOM DAVIS of Virginia.
H.R. 4697: Mr. FOLEY and Mr. BROWN of Ohio.
H.R. 4720: Mr. GORDON.
H.R. 4738: Mr. EHRLICH, Mrs. BONO, and Mr. WHITFIELD.
H.R. 4740: Mr. UDALL of New Mexico and Mr. THOMPSON of California.

H.R. 4742: Mr. HOYER.
H.R. 4764: Mr. PHELPS and Mr. COSTELLO.
H.R. 4777: Mr. QUINN, Mr. HILL, and Ms. MILLENDER-MCDONALD.
H.R. 4793: Mr. CUMMINGS and Mr. PASCRELL.
H.R. 4814: Mr. ACEVEDO-VILA.
H.R. 4843: Mr. PENCE, Mr. SOUDER, Mr. PLATTS, Mr. LEACH, Mr. BRYANT, Mr. DAVIS of Illinois, Mr. BLAGOJEVICH, Mr. MANZULLO, Mr. HILLEARY, Mr. BURTON of Indiana, and Mr. PRICE of North Carolina.
H.R. 4887: Mr. KLECZKA and Mr. DEUTSCH.
H.R. 4904: Ms. SCHAKOWSKY, Mr. BONIOR, and Mr. ROTHAM.
H.R. 4925: Mr. MALONEY of Connecticut.
H.R. 4940: Mr. UDALL of New Mexico, Mr. GIBBONS, and Mr. CALLAHAN.
H.R. 4950: Mr. GRAHAM, Mr. SCHROCK, and Mr. BROWN of South Carolina.
H.R. 4965: Mr. GANSKE, Mr. GOSS, Mr. PLATTS, and Mr. POMBO.
H.R. 5023: Ms. LEE, Mr. LANGEVIN, Mr. DOGGETT, Mr. FROST, Mr. FILNER, Mr. TIERNEY, Mr. LIPINSKI, Mr. WAXMAN, Ms. SCHAKOWSKY, Mr. BONIOR, and Mr. MCGOVERN.
H.R. 5026: Mr. FOSSELLA.
H.R. 5031: Ms. LOFGREN and Mr. DEUTSCH.
H.R. 5033: Mr. SCHROCK, Mr. KELLER, Mr. GALLEGLY, and Mr. PETERSON of Pennsylvania.
H.R. 5055: Mr. PICKERING.
H.R. 5064: Mr. RILEY.
H.R. 5085: Mr. LEVIN and Mrs. JO ANN DAVIS OF VIRGINIA.
H.R. 5104: Ms. MCKINNEY, Mr. KILDEE, Mr. MCDERMOTT, and Mr. FROST.
H.R. 5107: Ms. MCCARTHY of Missouri, Mr. ACKERMAN, Mr. ANDREWS, Mr. BARRETT, Ms. BERKLEY, Mr. BLAGOJEVICH, Mr. CLEMENT, Ms. DELAURO, Mr. GILMAN, Ms. ESHOO, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FATTAH, Mr. FILNER, Mr. FORD, Mr. GREEN of Texas, Mr. GUTIERREZ, Mr. HINCHEY, Mr. INSLEE, Mr. KENNEDY of Rhode Island, Mr. KUCINICH, Mr. LEWIS of Georgia, Mr. LIPINSKI, Ms. LOFGREN, Mr. LUTHER, Mrs. MCCARTHY of New York, Mr. MCNULTY, Mr. MEEKS of New York, Mr. GEORGE MILLER of California, Mr. NADLER, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. UDALL of Colorado, Ms. VELAZQUEZ, Ms. WATERS, and Mr. WEINER.
H.R. 5112: Mr. UNDERWOOD.
H.R. 5122: Mr. BURTON of Indiana.
H.R. 5147: Mrs. MYRICK, Mr. CANNON, Mr. MANZULLO, Mr. WAXMAN, Ms. MCCARTHY of Missouri, Mr. REHBERG, Mr. WHITFIELD, Mr. ADERHOLT, and Mr. LEWIS of California.
H.J. Res. 105: Mr. BALLENGER.
H.J. Res. 106: Mr. AKIN, Mr. BALLENGER, and Mr. BARCIA.
H. Con. Res. 4: Mr. MALONEY of Connecticut.
H. Con. Res. 20: Mr. LYNCH, Mr. FILNER, and Mrs. BONO.
H. Con. Res. 164: Mr. FRANK.
H. Con. Res. 269: Ms. ESHOO, Mr. GEKAS, Mr. GILCHREST, Mr. GUTIERREZ, Mrs. MORELLA, Ms. RIVERS, and Mr. SNYDER.
H. Con. Res. 297: Mr. LARSON of Connecticut, Mrs. MORELLA, Mr. FROST, Mrs. MINK of Hawaii, Mr. ROHRABACHER, Mr. BARR of Georgia, and Mr. FOSSELLA.
H. Con. Res. 436: Ms. SOLIS.
H. Con. Res. 437: Mr. DICKS, Mr. ROHRABACHER, Mr. DEUTSCH, and Mr. ENGLISH.
H. Con. Res. 438: Mrs. JONES of Ohio, Mr. LEWIS of Georgia, and Mr. FRANK.
H. Con. Res. 439: Mr. WAXMAN, Mr. WALSH, Mrs. MORELLA, Mr. OBERSTAR, Mr. KOLBE, Mr. STARK, Mr. HOYER, Mr. DICKS, Mr. COMBEST, Mr. SKEEN, Mr. MCDERMOTT, Mr. TANNER, Mr. NEAL of Massachusetts, Mr. BERMAN, and Ms. NORTON.
H. Con. Res. 442: Mr. SHUSTER, Mr. OTTER, Mr. ISAKSON, Mr. MORAN of Kansas, Mr. GRAVES, Mr. COBLE, Mr. EHLERS, Mr. REHBERG, and Mr. ROGERS of Michigan.
H. Res. 87: Mr. CUMMINGS.
H. Res. 117: Mr. MCDERMOTT, Mr. DOGGETT, and Mr. INSLEE.
H. Res. 410: Mr. PLATTS.
H. Res. 453: Mr. DOYLE.
H. Res. 484: Mr. BISHOP, Mr. BOYD, Mr. DAVIS of Illinois, Mrs. MINK of Hawaii, Mr. ETHERIDGE, Mr. WEXLER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LYNCH, and Mr. GREEN of Texas.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 5059: Mr. TAYLOR of North Carolina.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:

Petition 8. July 17, 2002, by Mr. MALONEY of Connecticut on House Resolution 456, was signed by the following Members: James H., Maloney, Lois Capps, Nick Lampson, Shelley Berkley, Nancy Pelosi, Martin Frost, John B. Larson, Robert Menendez, Adam B. Schiff, Gergory W. Meeks, Ciro D. Rodriguez, Diane E. Watson, Richard E. Neal, Rosa L. DeLauro, Vic Snyder, Brad Carson, John Lewis, Max Sandlin, Benjamin L. Cardin, Hilda L. Solis, Louise McIntosh Slaughter, Collin C. Peterson, Bart Stupak, Barbara Lee, Stephen F. Lynch, Marcy Kaptur, Lynn C. Woolsey, Julia Carson, Susan A. Davis, Loretta Sanchez, Diana DeGette, Michael M. Honda, Patrick J. Kennedy, Martin T. Meehan, Dale E. Kildee, Bobby L. Rush, Dennis J. Kucinich, Bill Pascrell, Jr., Robert T. Matsui, Ron Kind, Peter A. DeFazio, Nydia M. Velazquez, Gary L. Ackerman, Ike Skelton, David D. Phelps, Thomas M. Barrett, Karen McCarthy, Tom Udall, Tom Sawyer, Janice D. Schakowsky, Lane Evans, Karen L. Thurman, Danny K. Davis, Jim McDermott, James R. Langevin, John F. Tierney, Grace F. Napolitano, Ruben Hinojosa, Juanita Millender-McDonald, Sherrod Brown, Steve Israel, Maurice D. Hinchey, James P. Moran, Thomas H. Allen, John W. Olver, Edward J. Markey, Rush D. Holt, Nita M. Lowey, Marion Berry, Major R. Owens, Jose E. Serrano, Frank Pallone, Jr., Michael R. McNulty, Zoe Lofgren, Eddie Bernice Johnson, Bob Filner, Robert E. Andrews, Edolphus Towns, Rick Larsen, Bill Luther, Xavier Becerra, Jim Turner, Mike Ross, Lynn N. Rivers, Bob Etheridge, Leonard L. Boswell, Joe Baca, Bernard Sanders, Carolyn B. Maloney, Anna G. Eshoo, Eva M. Clayton, Tom Lantos, Wm. Lacy Clay, Tammy Baldwin, Sheila Jackson-Lee, Dennis Moore, Ted Strickland, Robert Wexler, Steven R. Rothman, Joseph M. Hoeffel, Albert Russell Wynn, Carolyn C. Kilpatrick, Chet Edwards, John M. Spratt, Jr., Earl F. Hilliard, Anthony D. Weiner, Donald M. Payne, Cynthia A. McKinney, Carrie P. Meek, Sanford D. Bishop, Jr., Jim Matheson, Jay Inslee, Lucille Roybal-Allard, Mark Udall, Steny H. Hoyer, Nick J. Rahall II, Patsy T. Mink, Gene Taylor, Gary A. Condit, David R. Obey, Jim Davis, Brad Sherman, John J. LaFalce, Carolyn McCarthy, John Conyers, Jr., James P. McGovern, George Miller, Alcee L. Hastings, Corrine Brown, Tim Holden, James A. Barcia, Michael E. Capuano, David Wu, Bennie G. Thompson, James E. Clyburn, Jesse L. Jackson, Jr., Robert A. Brady, Robert E. (Bud) Cramer, Jr., Luis V. Gutierrez, Solomon P. Ortiz, William D. Delahunt, Jerry F. Costello, Bart Gordon, William J. Coyne, Chaka Fattah, William J. Jefferson, Michael F. Doyle, Charles B. Rangel, Melvin L. Watt, Darlene Hooley, Maxine Waters, Baron P. Hill, Mike Thompson, Barney Frank, Gene Green, Sam Farr, Eliot L. Engel, Fortney Pete Stark, John D. Dingell, Henry A. Waxman, Robert C. Scott, Silvestre Reyes, Robert A. Borski, Tony P. Hall, Howard L. Berman, Stephanie Tubbs Jones, Martin Olav Sabo, Harold E. Ford, Jr., Sander M. Levin, Betty McCollum, Ed Pastor, James L. Oberstar, Norman D. Dicks, Richard A. Gephardt, Peter Deutsch, Jerrold Nadler, Neil Abercrombie, Ellen O. Tauscher, Joseph Crowley, Lloyd Doggett, Mike McIntyre, Rod R. Blagojevich, and Elijah E. Cummings.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 7, by Ms. THURMAN on House Resolution 425: Melvin L. Watt, and Martin Olav Sabo.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

AGRICULTURE APPROPRIATIONS BILL

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 2: At the end of the bill, before the short title, insert the following new section:

SEC. ____. Each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by 1 percent.

AGRICULTURE APPROPRIATIONS BILL

OFFERED BY: MS. WATERS

AMENDMENT NO. 3: In title V, in the item relating to ''Public Law 480 Title II Grants'' add at the end the following new paragraph:

''In addition for such purposes, to be used to provide seeds, tools, water control systems, and other agricultural inputs for small farmers in southern African countries affected by the current food crisis, including Lesotho, Malawi, Mozambique, Swaziland, Zambia, and Zimbabwe, $100,000,000: *Provided*, That the entire amount shall be available only to the extent 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: *Provided further*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

AGRICULTURE APPROPRIATIONS BILL

OFFERED BY: MS. WATERS

AMENDMENT NO. 4: In title V, in the item relating to ''Public Law 480 Title II Grants'' add at the end the following new paragraph:

''In addition for such purposes, $200,000,000: *Provided*, That the entire amount shall be available only to the extent 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: *Provided further*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

H.R. 5120

OFFERED BY: MR. FLAKE

AMENDMENT NO. 20: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. ____. None of the funds made available in this Act may be used to enforce any restriction on remittances to nationals of Cuba covered by section 515.570(a)(1)(i), (a)(2), (b)(1)(i), or (b)(2) of title 31, Code of Federal Regulations.

H.R. 5120

OFFERED BY: MR. MORAN OF VIRGINIA

AMENDMENT NO. 21: At the end of title VI (page ____, line ____), insert the following:

SEC. ____. None of the funds made available in this Act may be used by an executive agency to establish, apply, or enforce any numerical goal, target, or quota for subjecting the employees of the agency to public-private competitions or converting such employees or the work performed by such employees to private contractor performance under Office of Management and Budget Circular A–76 or any other administrative regulation, directive, or policy.

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

Vol. 148 WASHINGTON, THURSDAY, JULY 18, 2002 No. 98

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN F. KERRY, a Senator from the State of Massachusetts.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, our prayer is not to overcome Your reluctance to help us to know You and to do Your will, for You have created us to love, and serve, and obey Your guidance. Rather, our prayer is to lay hold of Your willingness to accomplish Your plans through us. You have told us to call on You, to trust You completely, to put You first in our priorities, and to express our devotion to You in our patriotism. Sometimes, pride blocks our response, and we find it difficult to turn the control of our lives over to You. When we are self-sufficient, we do not pray; when we are self-satisfied, we will not pray; and when we are self-righteous, we cannot pray. And yet, Father, when we are honest with ourselves, we know that, by ourselves, we are insufficient. We admit our profound need for Your presence, Your wisdom, and Your solutions to our problems. Continue to guide the discussion of the crucial issue of affordable prescription drugs for America. May this be a great day, lived to the fullest, trusting You each step of the way. Through our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN F. KERRY 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 18, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN F. KERRY, a Senator from the State of Massachusetts, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KERRY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished assistant majority leader is recognized.

SCHEDULE

Mr. REID. I thank the Chair. The Chair will announce very briefly that there will be a period for morning business until 10:30 a.m., at which time we will take up the military construction bill with 15 minutes of debate. All Members are advised this should be a busy day. We have many things we need to accomplish on legislation now before the Senate.

We have a number of other issues we need to have resolved. I have notified staff for the minority that I am going to again propound a unanimous consent request to appoint conferees on the terrorism insurance bill. We have been held up doing this for weeks and weeks. The business community is going deeper and deeper into trouble because of our not coming forward with legislation. We cannot do that until the minority allows us to appoint conferees.

Mr. President, the first half of the time under the order of last evening is under the control of the majority. Senator STABENOW is here, but also Senator SPECTER is here. Senator SPECTER has a conference at 10 o'clock. We are entitled to the time. If Senator STABENOW has a time situation, she should proceed. I do not know if she would have time to give the Senator from Pennsylvania 10 minutes or so. I know he asked for 15 minutes. Maybe that is a little too much.

Mr. President, will Senator STABENOW tell me how she feels?

Ms. STABENOW. Mr. President, I will be pleased to yield some time to my friend from Pennsylvania. I am not sure what he is asking for at this point. I need to preside at 10 a.m., and I know we have other colleagues coming, but I will be happy to yield.

Mr. REID. Mr. President, I ask unanimous consent that the order be changed and that the Republican time begin with Senator SPECTER now taking 15 minutes. Is that what he wants?

Mr. SPECTER. Mr. President, I will try to abbreviate my remarks.

Mr. REID. If the Senator can do it in 10 minutes, that will allow Senator STABENOW time to speak before she takes the chair.

Mr. SPECTER. I thank my distinguished colleague from Nevada, and I will endeavor to limit myself to 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business according to the unanimous consent agreement just entered into, and time shall not extend beyond the hour of 10:30 a.m., with Senators permitted to speak for up to 10 minutes each. The control will be as the distinguished acting majority leader just described.

The Senator from Pennsylvania is recognized.

● 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. SPECTER. I thank the Chair and the Senator from Michigan and the Senator from Nevada.

(The remarks of Mr. SPECTER pertaining to the introduction of S.J. Res. 41 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized for a period of 10 minutes.

PRESCRIPTION DRUGS

Ms. STABENOW. Mr. President, I appreciate very much being recognized and having an opportunity this morning to speak regarding the situation I believe we are in and the challenges right now as they relate to moving forward on addressing prices and cost containment in the pharmaceutical industry.

We heard a lot of discussion yesterday. We had the opportunity to debate whether to open the border to Canada to have more competition between the prices that American companies charge in the United States and those in Canada. I was pleased we were able to move forward and come together on a plan to open the border, and now we place it in the hands of the Secretary of Health and Human Services to certify the difference in prices which we know are there and the fact that there is no safety risk, which we know is the case. So I look forward to moving ahead.

A lot came up during that debate and I did want to, as we set the stage to debate additional efforts today to lower prices, speak as to how I view the situation in our country right now with our most profitable industry. I welcome the fact that we have a very profitable, successful prescription drug industry. There are new lifesaving drugs being created that keep people out of the hospital and living longer. We celebrate that.

Over the last several years, we have seen more and more of a focus on selling and marketing and promotion than creating the next generation of lifesaving drugs. That is of great concern to me. When we talk about reducing prices, we hear that means reducing research and development. Yet there is nothing today that indicates that is factually accurate.

Yesterday, Family USA produced another study showing the companies are spending 2.5 times more on advertising, promotion, marketing and administration than they do on research and development. The blue on my chart is R&D and the gold is advertising and marketing. For each of the top drug companies, the gold line is much higher than the blue line. We know there is more being spent in this effort.

We also know when you look overall at the profits versus R&D, we see stark numbers. Merck is a successful company in the United States. Their profit was three times more than what they spent on R&D last year. I do not begrudge that profit margin, but if we are going to have the next generation of new lifesaving medications, we need to see that R&D is the focus and that prescriptions are affordable. If they are not affordable, they are not available. That is not acceptable. This is about trying to get some balance in the system. Pfizer had 1.5 times more in profit last year than what they spent on R&D. They spent more on advertising than on R&D.

In the context of what we are talking about right now with corporate responsibility, and companies where executives take the dollars and run, leaving the shareholders or employees holding the bag, my concern is that while we are talking about the need to stop prescription drug prices from rising three times the rate of inflation, which is the average right now—the average drug used by seniors last year went up three times the rate of inflation. Our seniors do not have insurance coverage and are paying the highest prices in the world—but these companies are making top profits in the world today, and we find astounding salaries in compensation for the CEOs. I do not begrudge it, but I do when our average senior is deciding this morning: Do I eat breakfast or do I take my medicine? Companies are saying, no, they cannot lower prices; they could not possibly have more competition, they cannot open to Canada, they cannot allow more generics on the market, they cannot possibly handle more competition, or lowering prices without cutting R&D.

I am offended when I look at the numbers, when we are seeing more on promotion and advertising, more on the sales machine than on research and developing new drugs, more in profits, way more in profits than R&D, and more in the compensation for those at the top.

I will not name individuals, but we see the five highest paid executives in the industry, and the top at Bristol-Myers, with a salary of almost $75 million last year in direct compensation, not counting unexercised stock options. Compare that to the average senior who is either not getting their medicine, cutting their pills in half, or taking them every other week; families who are struggling; small businesses whose premiums are skyrocketing and are having trouble affording health care for their employees because of 30 to 40 percent premium increases, mostly because of prescription drugs, and employees are told they cannot get a pay raise next year because the company has to cover more in medical premiums. I believe that company is sincere in having to struggle with those benefits, those prices.

Put that picture together with that of the drug companies, one of the most highly subsidized industries in the world: $23.5 billion we as taxpayers put into the National Institutes of Health this year. So the companies can take that basic research, and I support that—I would support more—they take that basic research, and they then develop their drugs. We give them tax credits and tax writeoffs to develop through research. We also give them tax writeoffs for their administration, their sales, their marketing. We give them a 20-year patent so they are protected from competition for their name brand so they can recover their costs for R&D. What do we get at the end? The highest prices in the world, and an effort to fight everything we are trying to do in the Senate—to increase competition and to lower prices and to provide Medicare benefit.

Then to add insult to injury, we see those at the top of the companies that who are fighting us earning $75 million a year, $40 million a year, $28 million, $23 million, $15 million a year. We see unexercised stock options. At the top is Merck, $93 million in unexercised stock options; $76 million; $60 million; $56 million; $46 million.

I could live on that. I think everybody within the sound of my voice together could live on that. I don't begrudge that. But I do begrudge people in that category heading companies that fight everything we do. They have put more money into their lobbying corporation than anybody else. For every one Senator there are six drug company lobbyists who spend their time more on sales and marketing than anything else.

Let me speak from the standpoint of our future health care discoveries. In Money and Investing, the Wall Street Journal, there was an article about a merger this week, and one of the disturbing parts of that was this:

After falling for 5 years, new drug applications to the Food and Drug Administration are expected this year to slide further. Through the first 5 months of this year, the FDA had received just two new applications for new drugs. Last year, total new drug applications dropped to 24, less than half the 53 received in 1996. Many in the industry say that past mergers may be among these reasons for these drops in new drug discoveries.

What I see is an effort more and more to focus on the fast, easy money, the quarterly report. Eighty percent of the new applications for patents now at FDA are not for new lifesaving discoveries that increase our longevity and deal with health challenges, but they are, instead, what are called ''me too'' drugs; 80 percent of the patents. A purple pill becomes a pink bill, a daily dose becomes a weekly dose, or maybe, to add insult to injury, the packaging changes.

I urge, as I draw to a conclusion, that as we look at the issues before the Senate on increasing competition and lowering prices, we do so understanding there is a lot of room to bring down prices without ever touching R&D. I argue we need to do everything possible to change the incentives to a longer view, to more research and development. This industry is out of

whack, just as the other industries we were talking about, the system of accounting and auditing, the whole process that has now put us in a position where the incentives are to run right up to the line or over the line, to push for the quarterly profit statement, to look for the intermediate gain, the immediate cash rather than the long-term view.

Unfortunately, this is not a pair of shoes. It is not even a new car—and I want everybody to buy a new car. This is not an optional buy. This is lifesaving medicine. The research is heavily subsidized and paid for by taxpayers, and I think we deserve better. I think that is what this debate is about.

We want a healthy industry, we want R&D, but we want the American taxpayers to get their money's worth and be able to afford the medicines they have invested in and helped to create, medicines that will help them and their families be able to be healthy.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

Mr. CORZINE. Madam President, I ask to speak for 10 minutes in morning business.

The PRESIDING OFFICER (Mrs. STABENOW). The Senator has that right and is recognized for a period of 10 minutes.

Mr. CORZINE. Madam President, I rise today to support passage of a Medicare prescription drug benefit and express my strong belief that the time has come when a Medicare prescription drug benefit that provides affordable and meaningful coverage for all our Nation's seniors should be implemented. We have a historic opportunity to reform our Medicare programs and put in place something that I think we all know is necessary and important for our Nation's well-being.

I particularly also thank Senator STABENOW, the Presiding Officer, for her extraordinary leadership in raising the level of awareness, the level of concern and consideration, not only inside the Chamber but across the country. She has done a remarkable job of elevating the quality of debate on the subject.

Furthermore, and equally so, I thank my colleagues, Senator BOB GRAHAM, Senator KENNEDY, and Senator MILLER, for their efforts to bring forward a real and meaningful prescription drug program. It is one that I think all of us should get behind and support. It is measured but certain.

I have yet to speak out on specific programs. As the Chair knows, the industry which you just so eloquently spoke about is an important part of the community which I represent. It has been important, in my view, to find a response to this great need in our Nation that also does not undermine all the elements that I think make the industry so important to our Nation and so entrepreneurial. In fact, I think the Graham-Kennedy-Miller program has found that balance. It is for that reason I also want to make sure I am on record expressing my support.

All of us know it is time to act. We need to ensure that seniors can afford their prescription drugs. We have heard the refrain that we should not be forcing people into these hard choices, and it is a reality. Anyone who is in public life, who interfaces with our senior citizens around our country—just as much in New Jersey as anyplace else—knows that these are real world choices for people: Whether they can afford their lifesaving, quality-of-life-producing prescription drugs or whether they have to choose between that and other aspects of quality of life, including the simple things such as house and home, and their ability to have quality of life in general, which our Nation can afford, absolutely, including putting food on the table.

The fact is, this is a choice far too many of our seniors are having to make, and it is time for us to move to make these costly drugs available so our seniors can lead that independent, productive life that I think all of us hope for, for our families, our parents, and certainly we want for our generation as well.

That is why I support this bill. I will be very aggressive in getting out and trying to promote it, not only here in the Chamber but actually among those in the industry so we can move forward.

This effort truly does guarantee prescription drug coverage for every senior—it is universal—rather than relying on the private insurance industry to provide that coverage. That is what the alternative House bill is all about. I think many of us think that is going to leave a lot of folks out of the system.

The Democratic package also ensures that seniors will have coverage all year. It does not have to deal with so-called doughnut holes, or black holes, two-thirds of the calendar year where people are left out of any kind of coverage. That is certainly the case with the proposal that is coming out of the House, the Republican proposal.

Under that proposal, a senior would pay $400 a month for her or his prescriptions, but they would essentially be out of coverage for nearly two-thirds of the calendar year. I think that is a major flaw that needs to be addressed. I think it is very effectively done in the Graham-Kennedy proposal.

Furthermore, the Republican proposal threatens to undermine the private insurance market. This is really a perverse economic impact. Their proposal would have the effect of encouraging employers to drop prescription drug coverage from employer-provided health plans. In 10 minutes I am not going to go through this, but the fact is, individual workers facing catastrophic drug costs would not have their drugs provided by the Government if their employer paid for some portion of those drug costs. It is a really serious flaw about which I think almost anyone who has analyzed the proposal coming from the House is concerned. It needs to be addressed under any circumstances.

I also ask those who have criticized the cost of the Democratic package that they consider the high cost of not providing comprehensive drug coverage. They call that a cost-benefit analysis. It is well known that prescription drugs reduce the number of hospital admissions, surgical procedures, and doctor visits. They also can reduce costly admissions to nursing homes, helping seniors to stay home longer. Those are real savings that will come. I do not think we have fully appreciated that or explained those or factored those into our thinking.

Needless to say, this is not just about saving money, it is about improving the quality of life for our seniors, allowing them to lead longer, healthier, and more productive lives. This is reform that Medicare needs. It is one we cannot afford not to address, not to deal with, not to move on.

In my own State of New Jersey, we recognized this need about 25 years ago when we created a pharmaceutical benefit for seniors—probably the best in the Nation. By the way, we have to make sure that as we legislate here, we engineer this legislation in a way that it is supportive of the prescription drug program we have in New Jersey, which is designed to serve the low- and middle-income seniors in an extraordinary way.

But I have to say it is almost unconscionable that States such as New Jersey and Pennsylvania—I think it has a similar program—have stepped to the plate to provide this important health care benefit to seniors while the Federal Government has failed to do it. As a matter of fact, it makes New Jersey a magnet for seniors—a positive element in our society. But people have recognized this fundamental need and have voted with their feet with respect to the follow-through on this.

The Democratic plan will help States such as New Jersey expand, if we are careful about how we write this legislation, and improve that prescription drug program for everyone. By contrast, the Republican proposal does nothing. As a matter of fact, it will increase—if we are to meet the constraints that are put down in the bill—co-pays and coverage under our PAAD Program, which is what our benefit program is called. That is simply unacceptable and will require a lot of resistance from those of us who care about our seniors—in New Jersey specifically.

Last year, the Senate passed a Patients' Bill of Rights to ensure that Americans with private health insurance have access to prescription drugs and medical procedures they need to maintain their health. Should we not offer the same protection to our seniors, millions of whom currently lack access to essential medicines? It is a fundamental flaw of Medicare. It is one we need to deal with, particularly because Medicare was designed before the explosive growth of medications, so the

use of medicines is not covered where they are now being applied.

We have an opportunity and a responsibility to correct this flaw by enacting a prescription drug benefit.

I want to work with my colleague in the Chair, my friend from New York, and all of those who truly care about making our society one where access to quality of life that America can offer is made available to all citizens. It is absolutely essential that we move forward.

Lastly, it concerns me that we are willing to spend $4 trillion to make last year's tax cuts permanent, which essentially goes to a lot of those people the Chair was talking about who are making $70 million and $40 million, the well off in our society, and we don't think we have the resources to pass a $100 billion prescription drug benefit for senior citizens in our Nation.

It is time for us to act. Those people have worked hard, paid their taxes, and supported our Nation in all kinds of ways. It is time to get a prescription drug benefit, get it through this Chamber, get it to the House and to the President's desk.

I thank the Chair. I look forward to working with you and all my colleagues to make sure this comes to pass as soon as possible.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Madam President, I commend my colleague from New Jersey for his statement, which I think all of us recognize was arrived at after considerable study and thought since he does represent a State which has a concentration of our finest pharmaceutical companies. His statement today, which shows a balance and a very thoughtful approach to policies that affect us, is a great addition to this debate.

Madam President, I ask unanimous consent to speak for up to 12 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. Thank you, Madam President.

Madam President, I wish to pick up on a comment that you made at the end of your remarks before assuming the Chair.

I, as all of our colleagues, deeply respect the leadership you have provided on this issue. You are down here on the floor day after day making the case on behalf of the need for prescription drug coverage and reform that would provide the lifesaving quality-of-life drugs to our seniors and open the doors to others who are not yet of Medicare eligibility but who have very high prescription drug costs.

At the end of your remarks you said this was connected to the debate that we finished last week concerning the serious issues about accounting and corporate governance to which we have to pay special attention. I agree with that. We may be debating prescription drug coverage, but it is in the larger context of what kind of country we want to be. What kind of values do we espouse? How are we going to ensure that people not only have the perception but the reality that our system works for everybody, not just for the rich and the powerful, not just for the big companies but for the small businesses and for the average citizen? There is a connection. I think that connection deserves to be drawn. I thank you for doing so.

The legislation we are discussing this week addresses not just a top health priority but a fundamental value of who we are as Americans. Will we or will we not provide access to affordable prescription drugs for our seniors? Will we or will we not make equivalent generic drugs available for all Americans? Simple question; complicated answer. That is what we are attempting to work out today.

The prescription drug issue is well known to any of us who have had to fill a prescription in the last several years. Prescription drug costs have been rising at an annual rate of 20 percent, far outpacing inflation and more than doubling in the last 5 years.

We set a goal a couple of years ago to double NIH funding within 5 years, but instead we have seen the doubling of drug industry costs.

Costs have increased for a number of reasons. People have begun to use more of these so-called lifestyle drugs in addition to the lifesaving drugs. Costs are also increasing because of drug company marketing efforts to shift patients away from older, less expensive drugs to newer, costlier, so-called ''me too'' drugs which have had an impact. ''Me too'' drugs are copycat drugs that actually do little or nothing more than the existing drugs we already have, but they are more expensive because they are new. It is like when you go to the supermarket and they say new and improved, new and different. These are new but not necessarily improved drugs. They are copycat drugs.

We have recently heard examples of Vioxx and Celebrex, expensive, new, heavily advertised drugs that doctors now tell us may be no better than the kinds of drugs you get across the counter for which you don't need a prescription.

Drug companies are also spending up to $13,000 per doctor annually trying to influence research results and prescribing patterns. Think about it. Every doctor in America has a $13,000 allocation from drug companies that flood his or her offices with salespeople with all kinds of inducements—with trips and dinners and the like in order to convince the doctor to use this different drug than the doctor has been using or to try the new and improved copycat drug. This is going on despite the ethics and gift guidelines that the American Medical Association has developed and that the pharmaceutical association—known as PhRMA—has agreed to follow.

Many of my physician constituents continue to complain to me that, despite these ethical guidelines, drug company representatives have attempted to circumvent and flout them.

With the multibillion-dollars that drug companies spend annually on drug promotion and on physicians, this shocks me, I have to tell you. I said to my staff: You have to go and triplecheck this. I couldn't believe it. But with the money they spend on drug promotion mostly directly to physicians, their spending exceeds the amount of money that we spend as a nation educating all medical students and medical residents in our Nation.

That just isn't right. We have a voluntary set of guidelines that are supposed to control it, but, unfortunately, as with a lot of human nature, those voluntary guidelines don't have enough teeth in them to make it happen.

I am also concerned about the erosion of privacy. Drug companies are doing everything they can to convince patients—that is you and me—to try the drug. In addition to convincing physicians with all of their money, they are spending a heck of a lot of money trying to convince us to try something.

A friend of mine said she didn't even know she had a problem until she saw an advertisement. And all of a sudden, she now thinks she has a problem. She talked to her doctor. Her doctor said she really didn't need it. She said: I am not sure. She said: Should I listen to the doctor or should I listen to the advertising? I said: For Heaven's sake, you wouldn't do that on anything else. Why would you do it on this?

Advertising really works. It gets into our psyche. It kind of convinces us of things and makes us feel that we are not doing what we should unless we go out and buy a new product. That is the same with new drugs.

The privacy aspect is different than going out and being convinced that you need a different car or that you should try a different detergent.

Under the Bush administration, privacy regulations previously issued by the Secretary of Health and Human Services have been changed. These changes make it easier for drug companies to acquire patient information about us and then to use that patient information they get from doctors, pharmacists, or health provider organizations without our full knowledge, and certainly without our prior consent.

Several weeks ago, we heard about a woman in Florida who received an unsolicited prescription drug, Prozac, in the mail. She believes her privacy was violated. I think she is right. It was violated. Can you imagine, all of a sudden, into your mailbox come drugs that you never asked for, that were never prescribed for you? I do not think any drug company should have access to a patient's records or be able to use that kind of intimate information without a patient's full agreement and consent.

So I worry about the combination of the Bush administration weakening

privacy regulations and the drug companies using that information, which is extremely personal, to try to sell us something.

I do not have any argument with the lifesaving benefits that are provided to all of us because of the work done by pharmaceutical manufacturers. Their role in the American health system is not only vital but should be rewarded through exclusive patents on their discovery for the full patent term of up to 20 years, as set forth by one of our colleagues and a colleague from the House in the Hatch-Waxman bill passed years ago.

However, Hatch-Waxman represented a carefully crafted balance designed to make the American consumer—the American patient—the ultimate beneficiary. On the one hand, Hatch-Waxman established full restoration of the monopoly patent time for a brand name drug as an incentive for real innovation. On the other hand, Hatch-Waxman ensured that after the monopoly term ended, the consumer would get the benefit of competition because there would no longer be an exclusive right to manufacture and market that drug.

We know the consumer will get benefits with lower drug prices and generic versions which are just as good as the brand name patented versions. Generic drugs share the same active ingredients as the brand name drugs but, as this chart shows, the generics are usually considerably less expensive. Generic drugs have also increased in price but at a much slower rate than brand name drugs have.

Generic drugs help keep prices down, particularly for our seniors. If you look at this next chart, it is a chart showing the costs that are involved in manufacturing and advertising drugs. It is very clear that the amount of money that is spent to market these drugs goes right into the cost of them. That $13,000 per doctor, that has to be paid by somebody, and we are the ones who end up paying for it.

It is important to protect innovation. Nobody wants to undermine innovation. But in recent years, drug companies have clearly taken advantage of these loopholes to keep generics off the market. What we have found is that the brand name manufacturers are frivolously listing patents not because the generics will infringe on the patents but simply to force generics to certify that those patents are invalid in order to get the lower priced generic drugs to market. The reason is that forcing this certification gives the brand name drug an automatic 2½-year extension, called a 30-month stay, on their monopoly, regardless of the merits of the patent.

Let me give you a few quick examples.

There is a medication called Pulmicort, which is an asthma medication. In addition to all the patents on the compound—in other words, the active ingredients that are in the drug that makes it work for asthma—in addition to all the patents on the compound, on its use, and on its formulation, they have a patent on the container, which is in what is called the Orange Book. The container may be a really nice container, it may look great inside your medicine chest, but when a generic company is seeking to make a pill for asthma, it is not trying to make the bottle, it is trying to make the pill. So a patent on the bottle should not prevent the generic version of the drug from coming to market.

In addition, we know that some drug companies make sweetheart deals with generic companies, literally paying them—I would say bribing them—to stay off the market, which under one of the loopholes in the current law means that other generics also have to stay out of the market.

So generic X comes and says, we are going to the market with this drug, and the big drug company says, we will pay you not to; and they say, OK, we will not. That means nobody can come with a competitive drug that will do the same thing at a lower price.

I support adequate patent terms for pharmaceutical manufacturers to conduct research and development, which all of us know is high risk and high stakes, but the best way to encourage that research and development is a prospective approach rather than a patent extension after the fact.

Companies, as we know, have been maneuvering at the 11th hour just as their patents are about to expire. This legislation, the underlying Schumer-McCain legislation, is intended to prevent that.

So let's do the right thing. Let's get our generic manufacturers a level playing field. Let's get a prescription drug benefit for our seniors. And let's send a message to America that we want to treat people fairly in this great country of ours.

Thank you, Madam President.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. THOMAS. Madam President, how much time is remaining on the division in morning business?

The PRESIDING OFFICER. Five minutes is remaining in morning business.

Mr. THOMAS. That is the share the Republicans have?

The PRESIDING OFFICER. That is the current share, yes.

Mr. THOMAS. I wish we could have divided the time up if we say we are going to.

The PRESIDING OFFICER. The Senator from Pennsylvania was accorded, I believe, 15 minutes.

Mr. THOMAS. And we were accorded 30 minutes, and we didn't get 30 minutes.

PRESCRIPTION DRUGS

Mr. THOMAS. Madam President, I will take just a short time to talk a little bit about pharmaceuticals. Obviously, there are different ideas about that. Indeed, there should be. We are on the floor again, however, without having a committee suggestion to follow, so it will be difficult for us. But certainly we need to do that.

I suggest that the tripartisan bill that is before us is probably the one that is most likely to get support. Indeed, it is the only bipartisan plan in the Senate.

We truly talk about finding common ground traditionally between the views. I think that is a good idea. This bill reforms Medicare and provides prescription drug benefits which will ensure that seniors do have coverage.

The proposal, if it had been debated, I think would have come out of the committee as the one selected. The tripartisan bill spends about $330 billion over 10 years for drugs, which is more than some of the bills, but is considerably less than the one the Democrats have put forth. So this, perhaps, is a reasonable compromise between those proposals.

I think the Democrat bill is unofficially scored at $500 billion for 5 years, and then it expires. So I think that is one of the difficulties, the idea that it expires.

The tripartisan bill also spends $40 billion to make some long overdue changes in Part B and Part A so seniors will have health coverage. So there seems to be quite more available there than in the alternatives. I hope we do something.

Just to comment, one of the things that, of course, we are dealing with—we have talked about, and I think has merit—is the idea of reimportation. That is kind of what is on the floor at the moment. I think there is some merit in that. I do not believe it is the final solution. Indeed, as it gets into operation, we may find it more difficult than it has been.

I think the Cochran amendment, that was passed yesterday, is very useful in terms of safety as it relates to the bill. I do think we ought to go a bit further; that is, I think there ought to be some labeling so that consumers have the opportunity to choose whether or not they want to take on the reimported drugs that have gone through Canada, that may or may not have come from the United States in the beginning. So I do think perhaps we ought to consider the idea, which can be very simple, to have it labeled that it is imported from Canada so people can, in fact, make those kinds of choices.

Mr. President, since our time has been used, I will yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BINGAMAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. 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. McCAIN. Mr. President, may I ask what the parliamentary situation is at this time?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 5011, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5011) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

The PRESIDING OFFICER. The Senator from Arizona controls 5 minutes of debate on this pending measure.

Mr. McCAIN. Mr. President, I ask to be recognized for my 5 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. McCAIN. Mr. President, I regret that the managers are not in the Chamber, but I will proceed with my statement.

Regretfully, I rise yet again to address the Senate on the subject of military construction projects added to an appropriations bill that were not requested by the Department of Defense and are strongly opposed by the Office of Management and Budget.

This bill contains over $1 billion in unrequested military construction projects and includes hundreds of millions of dollars for Army and Air Force infrastructure projects relating to Interim Brigade Combat Teams, IBCTs, and C–17 Globemaster aircraft bed-down military construction projects that the Senate Armed Services Committee has neither approved nor authorized for this purpose.

There are 29 members of the Appropriations Committee. Only one committee member has not added projects to this appropriations bill. Those numbers, needless to say, go well beyond the realm of mere coincidence. Of 116 projects added to this bill, 91 projects, representing 80 percent of all projects, are in the States represented by the Senators on the Appropriation Committees, totaling over $728.1 million.

Every year, I come to the Senate floor to highlight programs and projects added to spending bills for primarily parochial reasons. While I recognize that many of the projects added to this bill may be worthwhile, the process by which they were selected is not.

By adding over $1 billion above the President's request, the Appropriations Committee is further draining away funds desperately needed for transformation. But such short-sightedness is pretty much the norm for Congress. Common-sense reforms—closing military bases, consolidating and privatizing depot maintenance, ending ''Buy American'' restrictions, and ending pork-barrel spending—that I have long supported would free up nearly $20 billion per year which could be used to begin our long-needed military transformation.

But all too often Congress fights these reforms because of home-State politics. As a result, the Defense Department looks elsewhere to find the resources. For example, according to a Baltimore Sun article, ''Pentagon To Consider Large-Scale Troop Cuts,'' the Department is considering cutting nearly 100,000 troops ''to free up money'' for transformation. I would oppose this and we will debate this another day, but I certainly understand the pressure that Secretary Rumsfeld and the Joint Chiefs are under because of Congress' continuing parochialism as evidenced once again by the military construction bill before us.

Included in the Senate Appropriations Committee's report are the words: ''The Committee strongly supports the authorization-appropriation process.'' That is news to many of my colleagues. If that statement is true why would over $550 million in military construction projects be added without prior Senate Armed Services Committee authorization. It could be that many of these projects would be acceptable after going through the normal, merit-based prioritization process. But the Appropriations Committee decided to do otherwise.

Two rather large additions—totaling $200 million—for large military construction projects for Interim Brigade Combat Teams, IBCTs, facilities and the C–17 Air Mobility Modernization Program are examples of the committee's disregard for the authorization process. The committee report justifies these add-ons on the grounds that ''the war on terror has placed new demands on all elements of the military'' and ''military construction timetables developed prior to September 11 are no longer sufficient.'' War profiting is what it is all about. Because of this, the report continues, ''the committee believes that it is imperative to accelerate the Army and Air Force transformation programs.'' There is no mention of Navy and Marine Corps transformation programs. The committee report leads one to ask how the Navy and Marine Corps got it right and the Army and Air Force missed the boat.

The committee's justification for adding $200 million for the IBCTs facilities and new hangars for C–17s, C–5s and C–130s under the Air Force Air Mobility Modernization program is at odds with the facts. The President's budget was sent to the House and the Senate in February—a full 5 months after September 11. Since September 11, the President and his Secretary of Defense have officially forwarded to Congress the Fiscal Year 2002 Supplemental Appropriations bill—which we have not passed—and recently a formal description of how the Defense Department will spend the $10 billion war reserve fund set-aside in the Defense Emergency Response Fund that the President requested for the war on terrorism. Let me ask: did anyone on the Appropriations Committee inform the President that his budget proposal was not ''sufficient''? I know the answer is no.

Let me share some critical facts that were left out of the committee report related to the $200 million in additional funding added for these key programs. It is common knowledge that nearly all the IBCTs will initially be stationed in Alaska and Hawaii and will require a significant increase of infrastructure. General Shinseki has supported testing the IBCT concept in Alaska and Hawaii and then expanding the concept elsewhere. However, in putting together the Army budget, the Chief of Staff of the Army, the Secretary of the Army, and the Secretary of Defense weighed all the other Army priorities and decided that their were more critical funding issues than to accelerate an already robust IBCT program and adding $100 million more for facilities construction.

Likewise, other facts left out of the Appropriations report related to the $100 million in accelerated funding for the Air Force Air Mobility program should be known:

The Air Force did not request this funding;

The requirement for accelerating funding is not on the Air Force Chief of Staff's ''Unfunded Requirements List'';

Nor does it appear in the Secretary of Defense's Wartime Fiscal Year 2002 Emergency Supplemental Appropriations request;

Nor does the requirement to accelerate funding for C–17 hangars show up on the war reserve fund set-aside in the Defense Emergency Response Fund (DERF) that the President recently submitted to Congress as an Fiscal Year 2003 budget amendment for the Department of Defense for expenses relating to the war against terrorism; and

Moreover, over 80 percent of the total $1.6 billion military construction projects under the Air Force C–17 Air Mobility Modernization program will be built in just 4 states: surprise, surprise California, West Virginia, Alaska, and Hawaii—how surprising.

Funding $200 million for IBCTs and C–17, C–5 and C–130 hangars—as part of a larger 4-5 billion dollar program—was simply not authorized by the Armed Services Committee in its recently passed bill. I attended more than 10 hearings on Armed Services this year, and I cannot remember a single instance in which an argument was made in support of accelerating this funding.

Separately, I am at a loss as to the rationale for including in this bill certain site-specific earmarks and directive language. For example, in time-

honored fashion, the Appropriations Committee continues to earmark projects under the heading ''Unspecified Minor Construction.'' According to Title 10, Section 2805 of the United States Code, these ''military construction projects are intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening.'' However, I believe that certain earmarks in this Appropriations bill are in violation of this statute, including provisions that would provide:

Up to $1.5 million in funding for a storage facility for military police emergency vehicles in Fort Wainwright, AK;

Up to $1.5 million in funding for a similar storage facility in Fort Richardson, AK;

$1.5 million in funding for a Kinetic Energy Missile Complex at the White Sands Missile Range in New Mexico;

$1.5 million in funding for a force protection facility at the Naval Air Station in Corpus Christi, TX;

$1 million in funding for a training facility at the Corpus Christi Army Deport in Texas;

$1.5 million in funding for a UAV facility at the Fallon Naval Air Station in Nevada;

$1 million in funding to replace and bury electrical infrastructure at Lackland Air Force Base in Texas;

$1.5 million in funding for a barracks for the Army National Guard in Chillicothe, OH;

$1.5 million in funding for Federal Scout Readiness Centers/Armories for the Army National Guard in Alakanuk, Quinhagak, and Kwigillingok, AK;

$1.5 million in funding for a maintenance facility for the Army National Guard at Fort Harrison in Montana;

Up to $2.5 million in funding for various facilities for the Army National Guard Weapons of Mass Destruction/Civil Support Teams;

Up to $1 million in funding for a warehouse for the Air Force Reserve at the Lackland Air Force Base in Texas;

$1 million in funding for a Multiple Threat Emitter System, MUTES, Facility for the Army National Guard at the Smoky Hill Range in Kansas;

$1.5 million in funding for a Bachelor Officer/Enlisted Quarters for the Army National Guard at Fort Meade in South Dakota; and

$1.5 million in funding for an ammunition supply plant for the Army National Guard at Camp Grafton in North Dakota.

I could go on and on. Without a doubt, each of these provisions unabashedly expands the definition of unspecified minor construction. Sadly, yet significantly, the American taxpayer is once again at the losing end of such reckless congressional action.

I also find objectionable language in this bill requiring that only American firms, or American firms in joint venture with host nation firms, be eligible for architecture and engineering contracts for all overseas projects exceeding $500,000. Similarly restrictive language bans the awarding of any contract over $1 million to any foreign contractor in U.S. territories and possessions in the Pacific, on Kwajalein Atoll, and in countries bordering the Arabian Sea. American firms are among the best in the world; advocating a level playing field for them to compete overseas is appropriate. However, it is both inappropriate and harmful to the best interests of our Armed Forces to mandate that construction projects overseas not be subject to the kind of competitive process that best serves the taxpayer and the service member by providing the best product at the lowest cost.

We are waging war against a new enemy and at the same time undertaking a long-term process to transform our military from its Cold War structure to a force ready for the challenges of tomorrow. A lack of political will had previously hamstrung the transformation process, but the President and his team have pledged to transform our military structure and operations to meet future threats.

The reorganization of our armed services was, of course, an extremely important subject before September 11, and it is all the more so now. The threats to the security of the United States, to the very lives and property of Americans, have changed in the last decade.

In the months ahead, no task before the administration and the Congress will be more important to require greater care and deliberation than making the changes necessary to strengthen our national defense in this new, uncertain era. Needless to say, this transformation process will require enlightened, thoughtful leadership, and not the pork-barreling of military funds if we are to best serve America in this time of rapid change in the global security environment.

I thank the President for this opportunity to address the Senate. I ask unanimous consent that the list of unrequested military construction projects that were added by the Appropriations Committee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

In an effort to contain the wasteful spending inherent in member requested construction projects, I sponsored, and the Senate adopted, merit based criteria for evaluating member adds as a part of the fiscal year 1995 Defense Authorization Act. The criteria are: (1) The project is in the service's future years defense plan; (2) the project is mission essential; (3) the project can be put under contract in the current fiscal year; (4) the project does not conflict with base re-alignment proposals; and (5) the service can offset the proposed expenditure within that year's budget request.

FY2003 MILITARY CONSTRUCTION ADD-ONS

Alabama:	
Army: Fort Rucker Physical Fitness Center	$3.5
UH–60 Parking Apron	3.1
Alaska:	
Army: Fort Richardson: Community Center	15.0
Air Force: Eielson AFB Blair Lakes Range Maintenance Complex	19.5
Arkansas:	
Defense-Wide: Pine Bluff Arsenal Non-Stockpile Ammunition Demolition Shop	18.0
Air National Guard, Little Rock AFB: Operations And Training Facility	5.1
California, Navy:	
Camp Pendelton Marine Corps Base: Child Development Center	8.2
Port Hueneme: Seabee Training Facility	10.2
Colorado:	
Defense-Wide, Pueblo Depot: Ammunition Demilitarization Facility (Phase IV)	36.1
Air National Guard: Buckley AFB Control Tower	5.9
Florida, Navy: Panama City Naval Surface Warfare Center: Special Operations Facility	10.7
Georgia, Air Force, Robins AFB: Corrosion Paint/De-paint Facility	24.0
Hawaii:	
Army: Pohakuloa Training Area Access Road (Saddle Road) Phase I	13.0
Navy:	
Ford Island Site Improvements (Utility System)	19.4
Marine Corps Base/OAHU Religious Ministry Facility (Chapel)	9.5
Idaho:	
Army National Guard, Gowen Field/Boise: Readiness Center	1.5
Air National Guard: Gowen Field/Boise Air Support Squadron	6.7
Iowa, Air National Guard, Des Moines: Airfield Facilities Upgrade	9.2
Kansas, Army: Fort Riley Combined Arms Collective Training Facility, PH 1	13.8
Kentucky:	
Army, Fort Knox: Child Development Center	6.8
Defense-Wide, Bluegrass Army Depot:	
Ammunition Demilitarization Facility (Phase II)	9.8
Ammunition Demilitarization Support (Phase III)	7.9
Louisiana:	
Air Force: Barksdale AFB Parking Apron	12.0
Air National Guard: New Orleans Joint Reserve Base Belle Chasse Vehicle Maintenance Support Equipment Shop	5.5
Maine, Navy: Brunswick Naval Air Station Control Tower Upgrade	9.8
Maryland:	
Navy: Carderock (NSWC): National Maritime Technical Information Center	12.9
Defense-Wide, Aberdeen Proving Ground: Ammunition Demilitarization Facility (Phase V)	29.1
Massachusetts, Air Force: Fourth Cliff Recreation Area: Erosion Control/Retaining Wall	9.5
Michigan:	
Army National Guard: Joint/Multi-Unit Readiness Center, Phase 1	17.0
Air National Guard, Selfridge ANGB: Joint Dining Facility	8.5
Mississippi:	
Navy:	
Meridian Naval Air Station: Control Tower and Beacon Tower	2.9
Pascagoula Naval Air Station Bachelor Enlisted Quarters	10.5
Defense-Wide, Special Operations Command: Stennis Space Center, Land/Water Ranges	5.0

Missouri:	
Army National Guard, Fort Leonard Wood: Aviation Support Facility	14.8
Air National Guard, St. Louis/Lambert Field: Base Relocation/Facilities upgrade	4.0
Montana, Air National Guard: Gore Hill/Great Falls: Load Crew Training Facility	3.5
Nebraska, Air Force: Offutt AFB: Fire Crash/Rescue Station	11.0
Nevada, Air Force: Nellis AFB Land Acquisition	19.5
New Hampshire, Air National Guard: Pease Air Base Fire Station	4.5
New Jersey, Navy: Lakehurst Naval Air Warfare Center Structural and Aircraft Fire Rescue Station	5.2
New Mexico, Air Force:	
Holloman AFB: Survival Equipment Shop	4.7
Kirtland AFB: Visiting Airmen Quarters	8.4
New York, Air Force Reserve: Niagra Falls Air Reserve Station Visiting Airmen Quarters, Phase I	9.0
North Carolina, Air Force: Seymour Johnson: Fire/Crash Rescue Station	10.6
North Dakota, Air Force: Minot AFB Cruise Missile Storage Facility	18.0
Ohio, Air Force, Wright-Patterson AFB:	
After Graduate Education Facility	13.0
Consolidate Materials Computational Research Facility	15.2
Oklahoma:	
Army: Fort Sill Logistics Maintenance Facility, Phase I	10.0
Air Force:	
Altus AFB: Consolidate Base Engineer Complex, Phase I	7.7
Vance AFB: Road Repair (Elam Road)	4.8
Pennsylvania, Air National Guard, Pittsburgh: Squadron Operations and Support Facility	7.7
Rhode Island, Navy: Newport Naval Station: Consolidated Police/Fire/Security Facility	9.0
South Carolina:	
Air Force, Shaw AFB: Fighter Squadron Maintenance Facilities	6.8
Air National Guard, McEntire Air National Guard Base: Replace Operations and Training Facility	10.2
South Dakota:	
Air Force: Ellsworth AFB Operations Facility	13.2
Army National Guard, Camp Rapid: Barracks/Dining/Administration and Parking, Phase I	10.6
Texas:	
Navy: Ingleside Mine Warfare Training Center	5.5
Air Force: Goodfellow AFB: Wing Support Complex	10.6
Utah, Air Force: Hill AFB: Consolidated Software Support Facility	16.5
Vermont, Army National Guard: South Burlington Readiness Center, Phase I	11.2
Virginia, Navy: Norfolk Naval Shipyard: Ship Component Service Facility	16.8
Washington, Army National Guard: Spokane Readiness Center (Phase I)	11.6
West Virginia, Air National Guard: Martinsburg Airbase Site Improvement and Utilities	12.2
Wyoming, Air Force: Warren AFB Stormwater Drainage System	10.0
Worldwide Unspecified:	
Army: IBCT Transformation, various facilities	100.0
Air Force: C–17 Transformation, various facilities	100.0
Defense-Wide:	
Planning and Design:	
Tricare Management Activity	3.0
Special Operations Command	0.1
Undistributed	8.6
Base Realignment and Closure Account	100.0
MINOR CONSTRUCTION	
Alaska:	
Army:	
Fort Wainwright: Military Police Emergency Storage Facility	1.5
Fort Richardson: Military Police Emergency Vehicle Storage Facility	1.5
Army National Guard: Federal Scout Readiness Centers	1.5
Kansas, Air National Guard: Smoky Hill Range Threat Emitter System	1.0
Montana, Army National Guard: Fort Harrison Engineer Maintenance Facility Construction	1.5
Nevada, Navy: Fallon Naval Air Station: UAV Facility	1.5
New Mexico, Army: White Sands Missile Range: Kinetic Energy Missile Complex	1.5
North Dakota, Army National Guard: Camp Grafton Ammunition Supply Point Construction	1.5
Ohio, Army National Guard: Chillicothe Barracks Construction	1.5
South Dakota, Army National Guard: Fort Meade Bachelor Quarters	1.5
Texas:	
Army: Corpus Christi Army Depot: Training Facility	0.9
Navy: Corpus Christi: Force Protection Facility	1.5
Air Force:	
Laughlin AFB: Railroad Crossing Gates	0.2
Lackland AFB: Replace and Bury Electrical Infrastructure	0.9
Air Force Reserve: Lackland AFB Warehouse Renovations	0.8
Army National Guard Wide: Weapons of Mass Destruction Civil Support Teams Facilities	2.5
PLANNING AND DESIGN	
Alabama, Army National Guard: Haleyville Joint Readiness Center Design	1.1
Alaska:	
Army, Donnelly Training Area: Training & UAV Maintenance Support Facility	1.5
Air Force, Elmendorf AFB: Wide-Body Aircraft Hangar	2.7
Army National Guard: Bethel Readiness Center Design	0.5
Air National Guard: Kulis ANG Base Pararescue Training Complex Design	0.7
California:	
Navy: North Island Naval Air Station	0.4
Air Force, Travis AFB: Replace C–5 Squadron Operations Facility/Aircraft Maintenance Facility	0.9
Connecticut, Army National Guard: New Haven Readiness Center Design	1.4
Delaware, Air Force, Dover AFB: Control Tower	0.7
Hawaii, Army National Guard: Barbers Point Naval Air Station Relocation Design	2.0
Massachusetts:	
Air Force, Otis ANG: Fire/Crash Rescue Station/Control Tower	1.7
Army Reserve: Hanscom AFB Armed Forces Reserve Center Design	2.6
Mississippi, Army National Guard:	
Clarksdale Readiness Center Design	0.3
Gulfport Munitions Complex Design	0.7
Missouri:	
Army, Forest Leonard Wood: WMD First Responder Training Facility	0.5
Army National Guard:	
St. Peters Readiness Center Design	0.3
Springfield Aviation Classification Repair Depot Design	1.2
Nevada:	
Army National Guard: Henderson Readiness Center Design	0.9
Air National Guard: Reno Security Complex Design	0.9
New York, Army National Guard: Fort Drum Equipment Maintenance Site Design	1.5
Pennsylvania, Army: Letterkenny Depot: Storage Igloo Upgrade	0.4
South Dakota, Army National Guard: Rapid City Readiness Center STARC Design	1.2
Pierre Organizational Maintenance Shop Consolidation Design	0.3
Texas:	
Army, Camp Bullis: Vehicle Maintenance Facility	0.9
Navy, NAS Kingsville: Replace Fuel Farm	1.0
Air Force, Brooks AFB: Tri-Service Research Facility	1.0
West Virginia, Air National Guard: Martinsburg Air National Guard Base, C–5 Support Facilities Design	3.0
Wisconsin, Army Reserve: Eau Claire Armed Forces Reserve Center Design	0.9
Total MILCON Members Add-Ons= $1.1 Billion	

Mr. McCAIN. Mr. President, I regret that at a time when our defense dollars need to be spent efficiently, we now continue the pork-barreling of the military construction appropriations bill.

I yield the floor.

Mr. WELLSTONE. Mr. President, the 2003 Military Construction Appropriations bill provides over $10 billion in funding for planning, design, construction, and improvements for military bases around the world. A long neglected priority, the bill would provide $4.2 billion for family housing, much of which is substandard right now. Many armed forces personnel have suffered a declining quality of life in recent years despite rising Pentagon budgets. The pressing needs of dedicated men and women in uniform and their families must be addressed, especially as they continue to be mobilized for duty in response to the attacks of September 11.

I want to highlight two provisions in this bill that are of particular importance to my home State of Minnesota. For a very long time, I have said that there would be an increased reliance by the Defense Department on the National Guard as budget pressures and force structure realignments continued. Since the attacks on America on September 11, the men and women of the National Guard have flown air missions to secure our skies, and they have protected airports and other vulnerable public facilities. I am pleased that we were able to include in this bill $15 million for the Duluth Air National Guard Base for an airport maintenance facility at the 148th Fighter Wing, which will provide maintenance and repair of 15 F–16 fighter aircraft. Further, the bill contains $1.45 million for the Harden Naval Reserve Center in Duluth. I am pleased that these projects

are receiving the funds they deserve, and I appreciate the opportunity to work in this area with my colleague from Minnesota, Senator DAYTON, who, as a member of the Armed Services Committee, is especially attentive to such needs. The bill goes far in addressing many vital national needs, and I am voting for it today.

The PRESIDING OFFICER. Who seeks time?

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise as the ranking Republican on the committee that has the bill before us for military construction, and I am pleased to have worked with Senator FEINSTEIN, chairman of the subcommittee, to bring out a bill that does address the priorities of the Defense Department.

I noticed that the Senator from Arizona targeted the Appropriations Committee, saying that a large percentage of the Appropriations Committee were taken care of, as if this were some pork-barrel spending.

The fact is, the Senate Armed Services Committee has authorized every project in this bill. We don't have projects in the appropriations bill that have not been authorized by a completely different committee that focuses totally on defense and has determined that these projects should be authorized.

I am very pleased to support this bill. It provides new mission facilities for the Department of Defense consistent with the Department's request. The priorities are articulated by the military departments. It also enhances quality of life for servicemembers and their families—a commitment we made to these people who are representing our country and fighting for our freedom on the plains of Afghanistan and in Kuwait today, based there for us. We are going to take care of them. Finally, it makes a significant downpayment on renewing the Department of Defense aging infrastructure.

Every project in the military construction appropriations bill is authorized in the Defense authorization bill, a completely separate bill. Two committees have looked at these priorities. Every project in the bill is on the Pentagon's future year defense plan, and every project the committee added was the base commander's highest priority.

The committee added funds to the military construction bill because we were concerned with the sharp drop in funding, particularly for the Guard and Reserve forces. That is where much of the funding we have added is focused. Our Guard and Reserve forces are fighting side by side with our active-duty forces in Afghanistan and providing the bulk of our homeland security forces here at home.

Adequate training and readiness facilities are essential for the Guard and Reserve, particularly during this time of increased demand on their skills and services. The bill provides greatly needed facilities for the Guard and Reserve and will help them prepare for and execute their missions.

The bill also provides funding for two key transformation initiatives in support of President Bush's strategic vision for transforming the Department of Defense: $100 million for Army transformation, and $100 million for Air Force mobility transformation.

Earlier this year, both the Army and the Air Force identified unfunded transformation military construction requirements to the Congress. Many of these requirements were refined after development and presentation of the 2003 President's budget, so we added them because they are critical to the Army and the Air Force to make them more mobile and capable to face the 21st century battle conditions.

The committee funded another initiative, the BRAC environmental cleanup initiative, which provides $100 million to accelerate the cleanup of dangerous environmental contaminants at closed and realigned bases throughout the Nation. Until the cleanup of these bases is completed, the properties cannot be returned to productive use in these communities.

In my own State of Texas, we have terrible environmental bills, both at the former Kelly Air Force Base in San Antonio and the former Navy Air Station in Dallas. There are reports like this across the country, and we are trying to address those concerns wherever they may be, so that these closed bases can be returned to productive use, as we have promised these communities they would be.

Mr. President, this is a good bill. It is a bill that stresses the priorities of the Department of Defense and the President. It also has added areas that were not able to be added earlier because the Department of Defense wasn't ready, and we certainly added more than the President's budget allowed for Guard and Reserve units.

I think the priorities are right, and I urge my colleagues to support this bill so we can get on with the business of revamping our aging military infrastructure and increasing the quality of life for those who are fighting for us as we speak on this floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, as chairman of the subcommittee, I thank the ranking member, the distinguished Senator from Texas, for her help on this bill. She has been a wonderful colleague with whom to work, and I am very grateful for that.

Mr. President, essentially, this bill, as Senator HUTCHISON said, provides $10.6 billion in new budget authority. That is a tenth of 1 percent over last year's appropriation. It is 10 percent over the President's appropriation. The reason for this is that the President cut the Guard and the Reserve 52 percent from last year's budget request. We do not believe they can sustain their infrastructure requirements with that kind of a funding shortfall.

As Senator HUTCHISON mentioned, every project is in the 5-year defense plan. Every project has been authorized. Every project is the base commander's priority. With respect to the transformation initiative, we didn't decide the locations, the services decided the locations. Both the Army and the Air Force have identified the locations for their transformation initiatives. The Army involved 13 active and Guard installations in six States, plus Germany. The Air Force's transformation involves 53 active, Guard, and Reserve bases in 32 States, plus Germany, Japan, and Puerto Rico.

The Appropriations Committee is not—and I stress that—attempting to divert funding from any of these planned locations or to influence where the money will go. These decisions have been and will be made by the services. The purpose of the transformation initiative is to accelerate the process. Infrastructure is a long lead time item, and we need to start investing more in this transformation infrastructure now to meet the service requirements.

Essentially, 53 percent of this bill is for military construction for the active and Reserve components. It is $610 million for the Guard and Reserve, $1.1 billion for barracks, $26 million for child development, $137 million for medical facility, and $159 million for chemical demilitarization. The remaining 40 percent—$4.23 billion—is for family housing, including new housing, housing improvements, and operation and maintenance of units.

At the BRAC cleanup, as Senator HUTCHISON stated, I can tell you that we have one closing base—McClellan Air Force Base—in northern California, where plutonium has badly contaminated the ground. Senator HUTCHISON, in her State, has toxic materials that are seeping into residential areas from Kelly Air Force Base. There is no question in either of our minds that the BRAC rounds we have completed were not sufficiently funded with environmental remediation dollars. The proof is in the pudding, and that pudding is that many bases still cannot be transitioned into productive civilian use because of the absence of the ability to clean them up.

Mr. President, the MilCon bill is important to the men and women in uniform who serve our Nation at home and overseas. We believe it is a good bill, it is a bipartisan bill, and I strongly urge my colleagues to approve it.

How much time do I have left?

The PRESIDING OFFICER. The Senator has 40 seconds.

Mrs. FEINSTEIN. I yield back the remainder of my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas, 96, nays 3, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—96

Akaka	Domenici	Lugar
Allard	Dorgan	McConnell
Allen	Durbin	Mikulski
Baucus	Edwards	Miller
Bayh	Ensign	Murkowski
Bennett	Enzi	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Fitzgerald	Nelson (NE)
Bond	Frist	Nickles
Boxer	Graham	Reed
Breaux	Gramm	Reid
Brownback	Grassley	Roberts
Bunning	Gregg	Rockefeller
Burns	Hagel	Santorum
Byrd	Harkin	Sarbanes
Campbell	Hatch	Schumer
Cantwell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Carper	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Snowe
Clinton	Jeffords	Specter
Cochran	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kerry	Thomas
Corzine	Kohl	Thompson
Craig	Landrieu	Thurmond
Crapo	Leahy	Torricelli
Daschle	Levin	Voinovich
Dayton	Lieberman	Warner
DeWine	Lincoln	Wellstone
Dodd	Lott	Wyden

NAYS—3

Feingold	Kyl	McCain

NOT VOTING—1

Helms

The bill (H.R. 5011) was passed, as follows:

Mrs. FEINSTEIN. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The Presiding Officer (Mr. BINGAMAN) appointed Mrs. FEINSTEIN, Mr. INOUYE, Mr. JOHNSON, Ms. LANDRIEU, Mr. REID, Mr. BYRD, Mrs. HUTCHISON, Mr. BURNS, Mr. CRAIG, Mr. DEWINE, and Mr. STEVENS conferees on the part of the Senate.

PRESCRIPTION DRUGS

The PRESIDING OFFICER (Ms. LANDRIEU). The Senator from Missouri is recognized.

Mr. BOND. Madam President, I rise today to comment on the overall policies we are working on today. While this bill we are debating, the underlying bill, is a generic drug bill that came out of the Committee on Health, Education, Labor, and Pensions, we all know that ultimately we are going to be talking about Medicare and prescription drug coverage.

We all recognize the lack of prescription drug coverage demonstrates clearly Medicare has not kept up with the rapid advances in medical care, placing ultimately the health care security of too many seniors at risk.

When Medicare was created in 1965 to provide health care for our Nation's elderly and disabled, prescription drugs were not included as part of the program's benefits. At that time, that made sense because pharmaceuticals played an extremely minor role in the world of medicine. In the last 35 years, medical practice has changed dramatically and prescription drugs have become a vital part of health care. In the last decade or two, we have seen a pharmaceutical revolution. Hundreds of amazing new drugs have been developed to treat and manage all different kinds of diseases and medical conditions. Those of our population who suffer from these diseases have benefited greatly.

More and more these days prescription drug are keeping Americans of all ages out of hospitals, enhancing the overall quality of life and, yes, keeping people alive. Hundreds of drugs that were unknown decades ago play a critical role keeping our seniors healthy, active, and alive. Yet many of our most vulnerable citizens are seniors who have trouble affording prescription drugs because their Government-provided Medicare coverage has failed to keep pace with medical progress.

In addition to being exposed financially to the cost of needed drugs, seniors without prescription drug insurance do not benefit from the lower prices that most third-party buyers—such as insurers, hospitals, and pharmacy benefit managers—are able to negotiate with pharmaceutical manufacturers. As a result, seniors without drug coverage must pay the highest retail price for needed medication.

That is a situation we must change. It is time to modernize our Medicare system and to add a prescription drug benefit to protect the health care security of our seniors. The Medicare Program needs to be updated to reflect the past 35 years of medical progress. The millions of Americans who rely on Medicare for their health care deserve no less.

Fortunately, over the past few years the debate in Washington has shifted from whether or not to provide a prescription drug benefit to how to best craft a program to provide seniors with the best prescription drug coverage possible. Now is the time to act to include prescription drugs as part of an overall health security package for our seniors.

An issue this important deserves debate and serious consideration. How can we consider a serious import issue such as this without the benefit and expertise of the Finance Committee? I have heard the structure and process of this debate described aptly as one of mutually assured destruction, or ''mad.'' This issue is too important to too many seniors for this debate to be treated in this manner. Because of the terms of this debate, any drug proposal that passes ultimately must have strong bipartisan support, because 60 votes will be needed to pass it. Is that truly ''mad''? I hope not. But I sense that, without the benefit of the Finance Committee working on this, we may be in a very difficult situation.

Some watching may ask how did we get into the situation where a prescription drug bill will require 60 votes to pass rather than a simple majority. The answer is simple. The first reason is because the majority leader has decided to bring a bill straight to the floor and bypass the committee process entirely. This is a troubling pattern. The farm bill, the energy bill, the trade bill all bypassed the committee structure—a mad process.

This action is troubling to me because I understand there was one proposal with the votes to pass in the Finance Committee, the so-called tripartisan bill. But the committee was not allowed to act on this important issue. That is a shame.

How in good conscience can we consider the largest addition to Medicare since its inception without the thoughtful input of the committee with jurisdiction over the Medicare Program? That does not make any sense. That is mad.

The second reason 60 votes are necessary is because we have no budget. For the first time since 1974 we have no budget in the Senate. This is one of the consequences of not having passed, or even, for that matter, considered a budget on the floor. Because there is no budget, we are operating under the budget guidelines passed last year that would spend about $300 billion over 10 years to add a prescription drug benefit to Medicare. Therefore, any prescription drug plan brought to the floor must be within the $300 billion or it is subject to a budget point of order.

This is another problem with the scheme under which we are operating. We will be considering shortly the largest expansion of an entitlement program in the history of our Nation. We bypassed a committee, we have not had a hearing on it, we have not had a markup, the Congressional Budget Office has not scored it, and we will be bringing the bill straight to the floor. Mutually assured destruction. This is mad. It is a recipe for disaster and inaction.

What is most troubling to me is the real losers. If the Senate is unable to pass a prescription drug benefit, it will be our seniors. The seniors are the ones who will be forced to endure another year without the safety net that a Medicare prescription drug benefit could and should provide.

Enough about my concerns about the process. As we look forward to this debate, there are a number of fundamental principles that need to be outlined as we consider various prescription drug options. These are fundamental elements to any serious, responsible, bipartisan prescription drug benefit.

First and foremost, a prescription drug benefit must be permanent, it must be affordable, and it must be immediate. Seniors need help now. With the high cost of prescription drugs, they cannot continue without that assistance. They are hurting today. Seniors often make painful choices between buying food and buying prescription drugs. Seniors need action and results on this issue—not an election year issue in November. Seniors want, need, and, quite frankly, deserve the stability of a permanent drug benefit.

One of my most serious concerns with the majority leader's bill is the fact it will sunset after only a few years. A prescription drug benefit that sunsets after 2010, just a few years after it finally begins, is simply not good enough. Medicare is an entitlement program and seniors deserve permanent benefits they can count on today, tomorrow, 10, 12, 15 years from now. A hollow benefit, with temporary relief that sunsets after 5 or 6 years, does not provide adequate health care security for seniors.

Think about the lunacy of the situation we are in. We seem to be unintentionally on a track of telling seniors they had better die in 2010. We passed elimination of the death tax, but we did not make it permanent, so we tell seniors, you had better die in 2010 or the tax rates are going to jump back up and the death tax is going to spring from the grave. Now we are saying, you can be protected on prescription drugs through 2010, but you had better move on because in 2011 this program sunsets.

Somebody is not thinking. Somebody is not realizing what they are doing. Let's get serious. We need to make the death tax repeal permanent, and we need to make prescription drug benefits for seniors permanent.

Seniors should have the right, also, to choose the prescription drug plan that best meets their needs. They should not be told what they need by a politician or a Washington bureaucrat. I fear the majority leader's bill dictates a one-size-fits-all, Government-run benefit for all seniors and puts the Government in the position of determining what drugs would be covered under the plan. We must protect our seniors from a Government-run drug program that delays, restricts, or denies access to the newest and most effective drugs available on the market.

Seniors should have the right to choose a benefit that best meets their needs and does not restrict access to the newest and most effective drugs. I fear that the majority leader's bill leaves no room for innovation and flexibility in terms of plan design, no choice for seniors, and could limit access to breakthrough drugs. A prescription drug benefit must address the high cost of prescription drugs and attempt to restrain the skyrocketing cost of prescription drugs which cannot be sustained long term.

All existing drug benefits make manufacturers compete to reduce prices and pass along the savings from price competition as larger discounts and lower premiums for beneficiaries. That is the only proven way to keep a drug benefit affordable. The majority leader's bill locks in copayments and premiums for beneficiaries and prevents competition that could lower drug prices.

According to the Congressional Budget Office, bills that rely on public-private-sector partnerships and an element of competition, such as the tripartisan bill, will help manage the cost of drugs. Sadly, the CBO found that bills similar to the bill of the majority leader, because of the lack of competition and inflexibility of the benefit, would in fact increase drug costs. Given the current climate, I simply cannot support a plan that increases drug costs or one that sunsets at the end of 2010.

Finally, a prescription drug benefit should be fiscally responsible and sustainable long term. The best guess we have, without the CBO's scoring, is that the proposal by the majority leader and some of his colleagues would cost at least $600 billion over the next 8 years. In a time of deficit spending and a tight economy, such a benefit would ultimately require cuts in other fields, such as education, Social Security, or national defense, and place a heavy burden on the current generation receiving benefits, the generation paying for those benefits, and the next generation.

Seniors have a right to demand a drug benefit now, but I believe most of them will tell you they do not want to mortgage their grandchildren's future in the process. Seniors must be protected from catastrophic drug costs. No senior should face financial ruin because of an illness that triggers catastrophic drug costs. Our Nation's health care system has changed significantly since Medicare was first created. To make it effective, we must change Medicare as well.

We must work to bring affordable prescription drug coverage to every Medicare recipient. The Senate has the opportunity to pass a bipartisan—tripartisan permanent Medicare prescription drug plan this year. The House has already passed a bill. The President has indicated repeatedly that he wants a prescription drug benefit for America's seniors. With this kind of momentum, the time should be now. I hope we will move forward with an honest and open debate that will produce a responsible, bipartisan bill consistent with the principles I have outlined that fulfill Medicare's promise of health care security for all seniors.

I yield the floor.

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 the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

Pending:

Reid (for Dorgan) amendment No. 4299, to permit commercial importation of prescription drugs from Canada.

Reid (for Stabenow) amendment No. 4305 (to amendment No. 4299), to clarify that section 1927 of the Social Security Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the Medicaid program.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I am going to send a modification to the desk very shortly, but I want to comment briefly on the statements of my friend from Missouri that were just made. He talked about lunacy of what is going on here. I will use his exact term—lunacy. Talk about the death tax, that is, the estate tax, at the same time you are talking about Medicare prescription drugs, the vast majority of people, the vast, vast majority—over 98 percent—of the people on Medicare have no relevance to the estate tax. Why he would bring up the estate tax at the same time we are talking about Medicare prescription drugs is beyond my ability to comprehend.

I would also say he talks about why we bring up some of these bills without going through the committee. We do not do that very often, but we have done it. When we were in the minority, it was done all the time. We have seen a number of these measures being brought up because of what has gone on after September 11.

Take terrorism insurance. We passed that. It was really good legislation. The President told us how much it was needed. It took us a long time to get the bill up because they objected to it. Now they will not let us go to conference on this bill. It is interesting to note, the majority leader said we should have a 3-to-2 ratio and we had a 3-to-2 ratio. They said no, we want 4-to-3 or we will not go to conference. We gave them 4-to-3, and they still won't go to conference. This is terrorism insurance. That is stopping construction

projects in Nevada, in New York, I am sure in Louisiana, all over the country.

There are other examples, of course—the trade bill. The trade bill is something the President said he wanted. He wanted us to get it to the floor as quickly as we could. We did, and it passed. Only the last couple of days were we able to get conferees appointed.

The farm bill, that is pretty important legislation—the President signed that into law. The energy bill, we finally got conferees there. The President said that was an important bill.

I only mentioned a few of them—the trade bill, the farm bill, the energy bill, the terrorism bill. They couldn't be too bad. They passed the Senate by large margins in every case.

I hope people will understand that we are doing the best we can to work our way through a difficult situation in this country. We are making progress. We passed legislation in spite of the obstinacy we have had—not the least of which is the legislation on which the Senate is now working. We spent all day yesterday on importation. I think we should have been able to do more. I agree about the fact that we finally passed our first appropriations bill.

As I see down the hall, we are completing the very difficult conference on the supplemental. I should be there. I am a member of that committee. I hope to go there in a matter of a few minutes. Senators BYRD and STEVENS, chairman and ranking member of that committee, indicated to me that they expect to complete that conference in the next hour and a half. That will be by 12:30.

AMENDMENT NO. 4305, AS MODIFIED

Mr. REID. Madam President, I have a modification at the desk. I call it up.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 4305), as modified, is as follows:

At the end, add the following:

SEC. ___. CLARIFICATION OF STATE AUTHORITY RELATING TO MEDICAID DRUG REBATE AGREEMENTS.

Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended by adding at the end the following:

''(1) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from—

''(1) directly entering into rebate agreements (on the State's own initiative or under a section 1115 waiver approved by the Secretary before, on, or after the date of enactment of this subsection), that are similar to a rebate agreement described in subsection (b) with a manufacturer for purposes of ensuring the affordability of outpatient prescription drugs in order to provide access to such drugs by residents of a State who are not otherwise eligible for medical assistance under this title; or

''(2) making prior authorization: (that satisfies the requirements of subsection (d) and that does not violate any requirements of this title that are designed to ensure access to medically necessary prescribed drugs for individuals enrolled in the State program under this title) a condition of not participating in such a similar rebate agreement.''.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Madam President, I would like to speak to my amendment which is now before us.

I ask unanimous consent that the following Senators be added as cosponsors to the amendment: Senators DORGAN, SCHUMER, FEINGOLD, TORRICELLI, CARNAHAN, LEVIN, JOHNSON, SNOWE, JEFFORDS and DURBIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Thank you very much, Madam President.

Madam President, I am very pleased to offer this amendment which is a bipartisan amendment, and hopefully one that we will be able to pass, working together and moving forward on the issue of lowering prices of prescription drugs and also providing Medicare coverage for our seniors and the disabled.

This amendment addresses an issue that our States are facing, the question of allowing States to have the right to have flexibility to lower prices.

This is a simple amendment. It would give States the flexibility to set up programs to pass along negotiated Medicaid rebates and discounts to their citizens who do not have prescription drug coverage and are not covered by Medicaid. So the States will have the ability to negotiate and pass on those similar discounts to their citizens who are without coverage and who are not on Medicaid.

This is critical. States should have the ability to provide similar discounts to all of their uninsured citizens. Since Medicaid only covers low-income people, and lower and middle-income citizens, they do not have the ability to get the same negotiated discount. Some States are setting up programs to do that.

One of the biggest challenges, as you know, and as we all know—we will be debating it this week and next—is the challenge facing not only our citizens, our families, and our seniors but also the business community, which I have talked about frequently. Also, State governments are addressing this issue of the rising cost of prescription drugs and the implications to Medicaid.

In fact, the National Governors Association is meeting right now. Earlier in the week, I shared a newspaper article where all of the Governors of the United States were speaking about their biggest challenge. Their biggest challenge, according to the article, is the rising price of prescription drugs and the rising cost of Medicaid to the State budgets. This is a critical issue for them.

We know that from 2000 to 2001 prescription drug prices rose about 17 percent. This is not unusual. It has been that way every year. This is causing health care expenditures and health insurance premiums to go up for business, for States, for individuals, and most certainly for those who do not have any insurance and don't have the clout to negotiate a discount. Those citizens are paying retail, which, in fact, is the highest price in the world right now.

In an attempt to respond to the skyrocketing prices, 30 of our States have enacted laws with some type of prescription drug coverage for those without insurance. They are looking for ways to be innovative—to use what we often have heard on the floor from our colleagues—the innovations of the States, the laboratories of democracy, and the ideas that come from our States. About 30 of them are looking for ways to enact something that relates to prescription drug coverage—looking for ways to lower prices and expand coverage. That is according to the National Governors Association.

However, unfortunately, the drug companies' trade association—PhRMA—has mounted legal challenges against several of those States, including my own State of Michigan. They have been opposing State efforts to lower prescription drug prices and increase coverage for those without insurance.

Specifically, they filed lawsuits against Maine and Vermont for their programs because the drug lobby does not want them to extend the Medicaid discounts to those without insurance who are hard-working citizens. In fact, we know that a majority of the people without insurance in this country work in small businesses. They are working. Their small business is trying to get health care coverage for themselves and their workers. Those individuals have no access now to any kind of group purchasing power or to any kind of discount. States are trying to use their group purchasing power for Medicaid and extend that same discount—usually 15 to 20 percent—to their employees. Many work in small businesses and don't have any insurance.

While Maine's two programs have been upheld in court, Vermont's program has not. It was actually struck down by the courts. Both States are embroiled in a very lengthy appeals process.

Specifically, the Maine Rx program is now pending before the Supreme Court. The current administration is supporting Maine's right to implement their program.

I commend President Bush and the administration for siding with the State of Maine and their right to make decisions about their citizens and how to operate their businesses for their State.

In fact, the Solicitor General, Ted Olsen, filed a brief on behalf of the Federal Government urging the Supreme Court to allow Maine's Rx program to go forward without further delay.

I argue that this amendment, in fact, is supported by both parties, people on both sides, and that administration certainly has indicated—I have not heard directly regarding the amendment, but they certainly have indicated support for the program on which this amendment is based. I appreciate their leadership on this issue.

These legal challenges are very costly to taxpayers. They just deter other States from establishing other similar demonstration projects, such as the underlying generics bill. Unfortunately, the drug companies are trying to stop these kinds of innovations.

This amendment would, in fact, try to stop the drug companies from using the legal system to keep their prices high. We all know that they will dispatch their high-priced attorneys whenever they can to, unfortunately, keep their profits as high as possible.

Since the price of prescription drugs is soaring, States have the unfettered ability to pass on Medicaid rebates to their residents. They should have that ability to pass those rebates on to their residents.

I hope we will agree to this amendment because even if Congress passes a Medicare prescription drug program this year, it will be several years before it is fully phased in.

I hope and pray that we will come together and pass a Medicare prescription drug benefit. It is long overdue. But we know it will take several years to phase it in.

In the meantime, our States are struggling to help their citizens. I believe they need our support.

The Rx flexibility-for-States amendment would seek to remove the legal hurdles that are preventing States from providing lower priced prescription drugs to their citizens.

Specifically, States would be able to extend their Medicaid rebates and discounts for prescription drugs to non-Medicaid-eligible persons.

State governments are close to the people. I know our Presiding Officer was in the State government, as was I. We understand that States and local governments are on the front line hearing from people, and wanting to respond. We have States that are responding, and are being stopped through the legal system right now by the drug company lobby. The solution to higher prices, higher prescription drug prices, is not just in Washington. It is not just in the Senate, or in the House of Representatives. But it is in capitals all across the country where our Governors and our State legislators are working to respond to what is critically one of the most fundamental issues that families and seniors and businesses face to today, which is the explosion in health care costs, predominantly coming from the rising cost of prescription drugs.

Today we have a chance to send a very important message to our colleagues and to States across the country.

I ask my colleagues to join with us, on a bipartisan basis, as we have in this amendment, to adopt this amendment and to tell the States that we are standing with them as they fight to lower prices for their citizens and make lifesaving medicines available.

If we fail to pass this amendment, many States could be faced with legal challenges from PhRMA as they try to come up with programs to lower prescription drug prices. Right now, we have the ability to stop the dollars going into the lawsuits and redirect those to lowering prices and making prescription drugs available.

I invite and urge my colleagues to join with us. This is an opportunity for us to stand together in support of our State governments. Let the Governors know, this week, as they are meeting, that we understand what they are going through and we want to back them in their efforts to make sure that lifesaving medicines are available to their citizens.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I commend my friend and colleague from Michigan for this absolutely excellent amendment. I am hopeful we can get strong support for this amendment because it is so compelling in its logic and reason, and the result will be so important to our fellow citizens across the country.

Just to catch up to where we are, Madam President, the underlying bill, the Schumer-McCain legislation, tries to halt the gimmicking that the drug companies use to get around the Hatch-Waxman bill that was passed a number of years ago. They have gimmicked the rules, and they do it in ways that completely circumvent the spirit and the understanding of the law, in order to keep prices artificially high. And every family and every user of prescription drugs knows the challenges families are facing with high drug prices.

Under the McCain-Schumer legislation, we have tried to deal with that issue. I think we have dealt with it effectively. That is the matter that is before the Senate.

We had a good debate yesterday on different measures that continue to put downward pressure on the escalation of drug prices. I think we had a very good debate on that, both in support of the underlying legislation and in support of the Dorgan amendment, yesterday. Now we have the Stabenow amendment before us, which will, in a very important way, continue this effort to exert downward pressure on the prices of drugs in this country.

I am amazed at the opposition to this amendment. For a good part of the afternoon yesterday, we listened to talk about the free market system that urged us to get away from price controls and use the free market system. But when the States use the free market system, in order to bargain for the lowering of the prices, what happens? What is the reaction of the drug companies? The drug companies go ahead and sue the States to try to restrain them from using the free market system.

This isn't Government intervention, it is the States themselves, States that have Republican Governors and Democratic Governors. The States themselves are trying to use the States' power in order to get the best price for the neediest citizens in their States: the poorest individuals, the ones without insurance. And here comes PhRMA with their legal actions to make sure the States are not going to be able to do that.

When does that greed stop? When does that greed stop? When do they stop wringing the final few cents out of the poorest individuals in this country? That is what this is all about.

The States are trying to negotiate lower prices for the poorest individuals in these States, and PhRMA says no. They gimmick and circumvent the clear spirit and language of the Hatch-Waxman law in order to perpetrate billions and billions of dollars of additional profits.

Then we hear a great deal of debate in this Chamber and much admonition from many of those who are opposed to the underlying legislation saying: Let's let the free market work.

We had hours and hours of discussion about price controls in Canada. We are not for price controls, as in Canada. We want the free market to work. But what is happening when the free market works in the State of Maine, the State of Florida, the State of Michigan, and other States? In comes PhRMA, and they say: No, we are not going to let it work. We want to stop them from doing it.

This is the same kind of action that is underlying the basic measure.

So I want to review, very briefly, the situation. I understand the problem we are looking at.

Under the terrible burden of skyrocketing drug prices, the State governments are trying to use their authority and bargaining power to help residents—and our constituents—obtain lower prices.

Already, 30 States have passed laws to extend drug coverage or lower prices. But PhRMA has done it again, suing the States to stop our ''laboratories of democracy'' from fighting the drug industry on behalf of American consumers.

The drug industry has sued the State of Maine. They have sued Vermont, Michigan, Illinois, and Florida. The drug industry is waging war against our Governors and our State legislatures in the courts.

The Stabenow amendment puts the question to the Senate: Will you stand with the States or will you stand with the drug industry for higher drug prices?

Many of my colleagues are former Governors themselves. I hope they take particular note that just yesterday the Nation's Governors issued a statement of solidarity with the administration in its legal fight with PhRMA over the Michigan Medicaid waiver that reduces the State's drug costs.

Let me read from the NGA statement of July 15, which quotes Michigan Governor Engler:

The nation's governors are extremely disappointed with the course of action chosen by PhRMA. It is unfortunate that their organization feels compelled to use the court system to manipulate public policy.

That is a Republican Governor.

The Governors, the administration, and consumers all support State efforts to reduce drug prices. Now, with the Stabenow amendment, it is the Senate's turn.

The amendment is based on a simple but powerful idea: Extend the scope of an existing Federal law to help the States supplement the rebates we require under Medicaid.

Medicaid already collects ''best price'' rebates from the drug industry, thanks to a 1990 law we passed under the leadership of Senator David Pryor from Arkansas, a champion of lower drug prices.

I was always impressed by the work and the commitment of Dave Pryor and his strong desire for protecting the consumer. And this tradition follows with Mark Pryor in Arkansas today: they are strong protectors of consumers and lower drug prices.

The Stabenow amendment simply permits States to negotiate similar State rebates to help lower-income residents afford their drugs. All this amendment does is let the States use the same negotiating tools used today by the private sector to lower their drug bills. I do not see why those who otherwise support the free market would oppose this amendment.

We find out that large companies use their negotiating ability. HMOs use their ability. Why not permit the States to use their ability? But PhRMA says: No, we are not going to let them do that, particularly when they are using it for the lowest income citizens.

The amendment empowers the States to use the same tools and negotiations used by the private sector to lower its drug costs. If a drug company refuses to negotiate with a State, its drugs would still be available but would be subject to ''prior authorization.'' This is precisely what the State of Michigan is doing. This is precisely why PhRMA is suing the administration. And this is precisely why the Stabenow amendment is needed.

Here is what the drug industry did when the State of Maine and the State of Vermont enacted State laws to lower drug prices.

Naturally, the industry sued the States. No surprise so far, given their abuses of the Hatch-Waxman Act. But then the drug industry instructed its front group, the so-called Citizens for Better Medicare, to run TV, radio, and print ads in Maine and Vermont attacking the laws. That is what the drug industry does to keep the prices sky high.

They sue our State governments and waste taxpayer dollars defending against their frivolous lawsuits. And they run attack ads.

Lest anyone question whether the so-called ''Citizens for Better Medicare'' is anything but a front group for the drug industry, let me quote the June 18 Wall Street Journal—

[T]im Ryan, PhRMA's past marketing director, founded the grass-roots-sounding ''Citizens for Better Medicare'' at the behest and expense of major drug companies.

There it is. Enough is enough. The American public is sick and tired of the drug industry's abuses. Let's support the Stabenow amendment, and help our States lower drug prices for all Americans.

I see others who want to speak on this issue. I want to mention to our colleagues an excellent report being released today. It is a review of the impact of the three principal proposals that have been advanced on coverage. What this study does is take your State, the key features of each of the programs that have been advanced, the Republican House program, the Graham-Miller program, which I am proud to cosponsor, as well as the tripartite program. Then it takes the numbers of citizens who would be impacted, the number of elderly, senior citizens, and disabled on Medicare, and it runs through how each of these programs would impact the seniors in your State.

It reviews for each of the programs who would be affected, what the impact would be on each of the seniors in the State, who would benefit the most, and who would benefit the least.

We will be releasing this report this afternoon at 2 o'clock. We can say without question that in the review of all 50 States, their powerful, compelling, and overwhelming conclusion is that if you want to make drugs available, accessible, affordable, and dependable, there is one plan that stands out head and shoulders above all the others, and that is the one introduced by our friend from Florida, Senator GRAHAM.

There are others who wish to speak on this. I will come back and address it later.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Madam President, I ask unanimous consent that following my remarks, the following Members be recognized to speak: Senator HATCH and Senator FRIST, in that order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Madam President, I rise in strong support and as a proud cosponsor of the Stabenow bill. It is worthy legislation. What I will do for a few minutes is talk about the underlying bill and the Stabenow bill and what they have in common.

The Senator from Massachusetts outlined it. These are free market approaches to lowering drug prices. The one, the Schumer-McCain bill, allows more competition. What could be more all-American than more competition.

The second, the Stabenow bill, allows people within the market to gather together in the form of their government and negotiate a lower price. We do this every day in America. That is what a corporation is in certain ways. That is what a union is in certain ways. Here we have the State doing the same thing.

As the Senator from Massachusetts said, there were some yesterday who talked about the Canadian bill and price controls. These are not price controls, but we just saw yesterday or 2 days ago Pfizer and Pharmacia merge. What were they trying to do? Well, in a free market way, they were trying to aggregate to increase their bargaining power. Doesn't it make sense to say that the citizens of Maine or Vermont or Massachusetts or Utah or New York can aggregate to equal that—well, they will never equal it, but at least to gain a little leg up on that bargaining power and get some help?

Both of these proposals are free market. There are some people whose view of the free market is to let big companies do whatever they want. I am a little worried that over at the FCC, the whole idea is, let us have one big communications empire. Actually, the free market needs some competition. But the free market has also said, as it has evolved since the Adam Smith days, that combinations to try and increase our bargaining power are legitimate, recognized ways that the free market works.

I see that my colleague from Utah is in the Chamber. I first want to pay him some tribute. I said this in committee a year or 2 years ago. I think Hatch-Waxman has been one of the greatest consumer advances we have done in the last quarter of the last century. When I said it, it was still the previous century. But he has done a great job there.

Our goal, in terms of the Schumer-McCain bill, is to restore the balance of Hatch-Waxman. The bottom line is a simple one: That in 1984, we had a very simple template. We said: God bless companies that come up with innovative drugs. They research them; they make a lot of mistakes. For every drug they bring to market, there are a lot of drugs that don't come to market. They need the help. They need a return. God bless them. Give them a return. They are creating a product that makes us all live better and longer.

But we also said that rate of return, that patent, which is what the patent really is, can't be unlimited. And so we said, after a period of time, 20 years after the patent was filed, others could come and produce the drug. It worked. Innovation, from the date Hatch-Waxman passed to the present, in the field of pharmaceuticals has been unparalleled. Lives have been saved. The people are living longer and better and healthier. We see that in our parents and our grandparents. It is amazing.

In the last 5 years, I believe Hatch-Waxman has steered off course. In fact, the whole pharmaceutical industry has steered off course. For people who make a wonderful product, they are evolving into an industry that is despised and hated.

They could say to themselves: It is only because these drugs cost a lot, and we can't help it because it costs a lot to research them.

I would say it is not that simple. I wish it were. They have evolved because, in a headlong rush to keep their profitability as high as it has been in the past, they are desperately clinging to extend patents longer than Hatch-Waxman ever intended. They end up hiring not just the best researchers anymore but the best lawyers.

A drug company should go to Harvard Medical School, not Harvard Law School, as it continues its work. But they have been spending much of their time and effort in coming up with schemes—that is what they are—to extend the patent beyond the time it should be extended.

What does that mean to the average citizen? It means a drug, instead of costing $25 a month, is going to cost $100 a month—vital drugs. If anything, they have pushed it further and further because so many of these blockbuster drugs, these wonderful drugs, are coming off patent shortly.

I know my colleague from Utah has a lot invested in Hatch-Waxman. I very much appreciate it. The little changes that we make, Senator MCCAIN and I, in our bill, just build on it and readjust it. But I think the view that Hatch-Waxman is just fine as it was in 1984 is off base. The statistics will show it. That is why this bill has such great support. I am certainly open and willing and eager to hear whatever suggestions my colleagues from Utah and Tennessee will make. But I will tell them this: The view that we should just go back to the old way in 1984 doesn't work.

Mr. KENNEDY. Will the Senator yield?

Mr. SCHUMER. I am happy to yield.

Mr. KENNEDY. We have before us the author of the amendment. Since the Senator has the floor, I would like to ask him a question or two.

Isn't it true that HMOs use their bargaining power to lower costs of prescription drugs today? HMOs all over the country have been doing that.

Mr. SCHUMER. Yes, all over.

Mr. KENNEDY. Isn't it true that insurance companies use their leverage and powers to get the lowest cost possible?

Mr. SCHUMER. Yes, and they are proud of it. They brag about it.

Mr. KENNEDY. What could be the possible logic in denying the people of the States, particularly the smaller States—or large States, for that matter—what is the logic of denying them their bargaining power? If we are going to let the HMOs and insurance companies do it, why not the States?

I am sure we will hear that it is because the States are a governmental power and therefore this is price control. As I understand it, if the drug company doesn't want to sell to them, they don't have to, do they?

Mr. SCHUMER. My colleague is exactly right. By the way, our Federal Government does the same thing in Medicare. They bargain with the drug companies for a lower cost for Medicare. Why can't the States do it for their citizens who are not under Medicare and Medicaid? My colleague from Massachusetts is right on the money.

Mr. KENNEDY. It seems we will hear that somehow the States can't bargain because they are a governmental institution. But the concept is very much the same. For the insurance industry, it is fine—it is a free market system; and for an HMO, it is fine—it is the free market system. But somehow for the State, it is government. Even though the pharmaceutical company is free to say: We don't like these negotiations; therefore, we won't sell to you. If all the pharmaceutical companies did that, obviously, the State would have to bargain in good faith. There is no indication that they are not bargaining in good faith.

As the Senator pointed out, there is no indication that these industries have been suffering adversely. They are one of the most profitable industries—and Lord only knows they are paying the highest salaries to their executives as well. But I am not as interested in that as in the concept of what we are talking about here.

Finally, if the Senator would agree, I am perplexed: We are not talking about bargaining for high income people in the State; we are talking about bargaining for the lowest income, the poorest of the poor, many of whom would not be able to have access to the prescription drugs unless this were offered. Why is that PhRMA says: No no, you can't do it; we are going to squeeze the very last dollar out of them?

Mr. SCHUMER. The Senator is literally on the money. The bottom line is that the Senator is exactly right. There is no difference, from an economic point of view, in a State getting together and bargaining for its people and an insurance company or HMO doing it. In fact, you can argue that the State has more legitimacy, being an elected body and representing the will of the whole people of Michigan, Maine, Massachusetts, or New York, No. 1.

No. 2, what about over in Europe or in Canada? They put on a price control. The pharmaceutical company still ends up selling the drug. Do you know what ends up happening? It is the American citizen who ends up paying for all the research, which does good around the whole world, for, say, Celebrex or Vioxx. Who pays the whole thing? Us.

Why shouldn't the American taxpayer and citizen, through his and her State government, be allowed to say we should not bear that whole cost ourselves?

That is the thrust of the amendment of the Senator from Michigan. It is free market. There is no lock-in. Just as Germany said, you can sell Vioxx for 3 pfennigs, and that is not worth it. The company doesn't have to sell it. It is the same exact thing here.

Mr. KENNEDY. Well, the point is that the State is not even doing it for all the citizens; it is not even doing it for all of them. They are doing it for the poorest of the poor. That is whom they are trying to bargain for in these circumstances. The drug industry is contesting that.

Let me, finally, ask my friend, Senator STABENOW, if she has a viewpoint on this matter. As I understand, this is not a partisan issue in any respect. I read Governor Engler's very strong comments about this where he was actually talking about manipulating public policy. He was using the word manipulate, suggesting that we have to manipulate public policy. The drug companies are manipulating public policy in their patent policy and in the collusion with the generics, which is being addressed by the Schumer proposal.

So we have a Republican Governor talking about manipulating public policy. I was interested in the fact that this should not be a partisan issue. The silence in support from the other side of the aisle is deafening with regard to the Stabenow amendment. I am hopeful there will be voices on the other side that will rise in support of this. To their credit, they supported the Schumer proposal in the committee. Five Republicans did. I hope we will hear those voices again.

I just say to the Senator, this isn't really a Democratic or Republican, or liberal or conservative issue. I find there are liberals and conservatives, Republicans and Democrats, as well as Republican and Democratic Governors who share the view of the Senator from Michigan and the Senator from New York. If the Senators would comment on that, I would appreciate it because it is an important issue.

Mr. HATCH. Madam President, I have one simple question.

Mr. SCHUMER. I am happy to yield to the gracious Senator from Utah for that.

Mr. KENNEDY. If they can answer my question, then I will be seated.

Mr. HATCH. If I may ask, how much longer does the Senator need?

Mr. SCHUMER. No more than 5 minutes longer. I thank the Senator. I will yield to the Senator from Michigan to answer these very worthy questions.

Ms. STABENOW. I thank both of my friends and colleagues, who are such champions on this underlying issue—the entire issue of Medicare and prescription drug coverage and lowering prices. In fact, as our leader, the Senator from Massachusetts, indicated, this is a measure that is a bipartisan amendment. We have Governors—frankly, the majority of Governors—Republicans and Democrats, who are struggling with this question of lowering prices and making prescription drugs and lower prices available to their citizens. So as the National Governors Association is meeting right now, they have said their biggest challenge is the price of prescription drugs

and the explosion, in their budget, of Medicaid. They need to address these issues.

This amendment will support the Governors across the country. It is a bipartisan amendment. It is something supported across the country on a bipartisan basis. I am very hopeful that we will have colleagues' overwhelming vote on both sides of the aisle supporting the effort to say yes to this innovation of the States. This is not mandatory, it is purely based on States taking action on their own to decide if they would like to do this. If they do that through their State legislatures and the Governors on behalf of their people, this simply says that this is legal and that, hopefully, it will stop the suits PhRMA has been bringing against our State governments.

Mr. SCHUMER. I thank the Senator. She is on the money. It is voluntary. No State is forced to do this. But if the citizens of the States, through their elected representatives, both Republican and Democratic Governors, want to do this, they should be allowed. We should not be tied up in litigation for years while the prices go up and up and up.

I am fully supportive, again. To underline this, this is a free market policy. It is no different than what the insurance companies do, the HMOs, and God bless them. It is saying that people may aggregate. Are we going to have people opposing mergers of the big drug companies? No, we are not. They say they can do it better in a larger size. Why can't the average citizen do something in a larger size? That is what we are trying to do.

I am going to conclude with one little pitch today. I know my colleague from Utah has been patient, and I very much appreciate that. Whether it be the Schumer-McCain bill, generics, or this bill, these are reasonable and modest proposals. I say to my friends in the drug industry—again, I admire them; I think they have done a good job—please, you have become ''Dr. No.'' Whenever that comes up, you say no. No change. You are willing to change it with your lawyers to extend the patents, with all these new ways you find around what we think the original intent of the Hatch-Waxman law was. Do not be Dr. No. Get with it. Go back and innovate. Go back and form new wonderful drugs and get your patent on those, but when people want to get together to lower those prices in a fair negotiation, when this Congress says we ought to prevent the lawyers from changing the original intent of Hatch-Waxman and drawing it off course, do not stand in the way.

In fact, I challenge PhRMA to come up with one constructive proposal to help people with the cost of drugs, not just to keep doing it the same way when we know there is an outcry. They know best what helps with innovation. Come up with a proposal. Do not go the way of the cigarette companies and spend all your life being sued. Do not go the way of the cigarette companies and become the object of scorn and hatred.

You make a wonderful product. You do something good. Support the bill of the Senator from Michigan. Support our bill or come up with some constructive proposals.

I will make one other point, Madam President, and then yield the floor. I went to PhRMA a year and a half ago. The Senator from Utah knows this because I informed him of the negotiations. I said: Let's sit down and figure out something. Let's get the generic industry and brand industry together to come up with a compromise to deal with some of the problems.

They listened politely, but, frankly, I do not think they thought our legislation had much of a chance for passage, and they said no.

Now we are knocking at the door. We are almost there, and it is not too late. It is not too late to come up with some answers that will solve our problems—the problems that the Senator from Michigan deals with in her legislation, and the problems that Senator MCCAIN and I deal with in our legislation—and get something done. I think I speak for all of us that much rather than make speeches, much rather than win political victories, we want to get something done, and that is what we are here to do today.

In conclusion, I urge support for the Stabenow amendment to restore some bargaining power which is voluntary. Let a State's Governor, if they want, do this. Do not wait 5, 10 years until the litigation is finished—it will probably come out the same way—and give people a break. Let them be able to afford these wonderful medicines that we have and at the same time allow the drug companies to continue on their path of real innovation as opposed to false innovation of patents, pill sizes, colors of bottles, and different applications.

Madam President, I yield the floor and once again thank my colleague from Utah for his courtesy.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Utah.

Mr. HATCH. Madam President, I rise to speak on the pending legislation, S. 812, the Greater Access to Pharmaceuticals Act. I did not realize the pioneer companies that have been referred to as PhRMA are as satanic as they have been represented to be on the floor today. One would think they are everything that is bad in this world and that they are the cause of all the high costs of drugs in our society; that they are not being fair to the generic companies that help bring drug prices down; that HMOs are the reason drug prices come down and that the States do not have the same type of market power. I heard all these things. I heard how terrible the research-based companies are. My goodness, I have never known that before. I am so happy to get this information.

I would like to cite a book called ''The System.'' This book was written by Haynes Johnson and David S. Broder, hardly a conservative set of authors, but very intelligent, and highly respected journalists and authors. The book is an excellent account of the infamous and failed Clinton health care plan. History has a way of repeating itself. You can hear a theme on the floor over the last several days that comes right out of the Clinton play book.

On page 90 of that book, it says, in speaking about the political tactics to garner public support, a group of the President's political advisers have the following discussion, which sounds familiar to the way the debate is going on the floor of the Senate and elsewhere:

> In the campaign period, Fried recalled, Clinton's political advisers focused mainly on the message that for ''the plain folks, it's greed—greedy hospitals, greedy doctors, greedy insurance companies. It was an us-versus-them issue, which Clinton was extremely good at exploiting.

That was Fried. Then they go on further, and I quote from the Broder and Johnson book:

> Clinton's political consultants—Carville, Begala, Grunwald, Greenberg—all thought ''there had to be villains.'' Anne Wexler——

Who, of course, is not known for her Republican politics——

> remembered, It was a very alarming prospect for those of us looking long term at how to deal with this issue. But at that point, the insurance companies and the pharmaceutical companies became the enemy.

All this sounds familiar.

That is what has been going on here on the floor. Frankly, I do not think it is right. My experience has been there is no one single group who should be blamed for the high costs of pharmaceuticals. I do not want to blame the FDA because it takes up to 15 years and 5,000 different compound experimentations to get an approval of a drug and at a cost, according to some of the top authorities, of up to $800 million. That is 15 years out of the patent life. Frankly, one wonders why, with the few remaining years they have on patent life, drugs cost so much. I am not going to blame the FDA because their job is to protect Americans, but on the other hand, that is a long time, and I may talk a little bit about that today.

I am not going to blame the generic companies. They provide a tremendous amount of support for American people who need help. I believe in the generic industry. By and large, those companies are doing a great service, as we intended in the Hatch-Waxman bill.

By the way, without the pharmaceutical companies, the pioneer companies, there would not be any drugs for the generic companies to copy and reduce prices. So there has to be a delicate balance between the two, and that is what Hatch-Waxman is all about.

This underlying bill, of course, which for some reason is being debated before the Federal Trade Commission comes out with its comprehensive study and

recommendations on the very issues addressed in the pending bill, which should occur before the end of next month—will change one of the most important consumer bills in history. I am not concerned just because it is my bill and Congressman WAXMAN's bill, but because without waiting for the FTC to give its recommendations, this underlying bill will change the Hatch-Waxman law before we have had a chance to hear from the FTC, FDA, other experts and interested parties. I do not think it is right to change the law until we have all the facts and understand better what this bill will do.

Hatch-Waxman, according to almost all authorities, has saved consumers $8 billion to $10 billion every year since 1984. It created the modern generic drug industry, but it also strengthened the PhRMA companies, the pioneer companies. Back then, they were spending about $3 billion a year on research and development. Today, it is over $30 billion a year. I think almost as satanic as they are portrayed on the floor by our friends on the other side, it seems to me they ought to be given a little bit of credit for some of the major therapeutical pharmaceuticals we have today.

Without them, we would not be where we are. We would not be the leaders in the world with pharmaceuticals, nor would we have the balance of trade surplus we get from the sale of American pharmaceuticals.

Let me comment on three aspects of the underlying legislation: Politics surrounding floor consideration; the process by which the bill moved to the floor; and finally, the substance of this bill.

At the outset of this debate, I congratulate and commend the original cosponsors of this legislation, our colleague from New York, my friend, Senator SCHUMER, and my colleague from Arizona, my friend, Senator MCCAIN. Even though I disagree with them on the way they resolved the key issues addressed in S. 812, and although the bill that emerged from the HELP Committee does not adhere to the original Schumer-McCain language in virtually every key policy area, they deserve recognition for their effort in highlighting issues, issues that are of concern to each of us to in this body: Access to prescription drug coverage and affordable prescription drug coverage.

As most of my colleagues know, I have a special interest in today's pending legislation. Throughout my career in the Senate, I have helped fashion a portfolio of legislation that facilitates our Nation's pharmaceutical research and development capacity. I am proud to have played a leadership role in crafting the law that the bill we are considering seeks to amend, the Drug Price Competition and Patent Term Restoration Act of 1984, known as the Hatch-Waxman bill. A key partner in this effort was my good friend from the House, HENRY WAXMAN. That a liberal member like Mr. WAXMAN and a conservative like ORRIN HATCH got together to write this law is but one sign of the bipartisan consensus that developed with respect to the 1984 law and that should be developed today.

Incidentally, on the House side of the Capitol, this law is often referred to as Waxman-Hatch and in the Senate the names are often reversed. This shorthand is only used because it is so time consuming to keep repeating the Drug Price Competition and Patent Term Restoration Act of 1984.

I have a lot of complaints about the process we followed to bring S. 812 to the floor, and despite my grave dissatisfaction over the process, I do want to recognize the efforts of Senators EDWARDS, COLLINS, KENNEDY, GREGG, and FRIST to make improvements to the substance of the bill. To be fair, there have been improvements in some critical areas of the legislation. As a general matter, in moving away from some key provisions of McCain-Schumer, the HELP Committee substitute is headed in the right direction.

Now, I hasten to add, though, that some new provisions were added to the bill during the markup process to make it impossible for me to support a bill that is so important to me—a bill that amends the law carrying my name, a law that has been shown to benefit millions of Americans every day.

Let me talk about the politics and process. Before I discuss the merits of the committee substitute for S. 812, I want to make a few comments concerning the politics and process whereby we find ourselves discussing these issues at this time.

One of the things about which I am most apprehensive in the current debate is the way the Drug Price Competition and Patent Term Restoration Act of 1984, a painstakingly crafted bill that passed with overwhelming bipartisan support in both the Senate and the House, now finds itself at ground zero in one of the most controversial and potentially divisive issues of this year, that is the debate over the Medicare drug benefit.

The Medicare drug benefit is certainly an issue that deserves the Senate's attention, and I am in one of the original tripartisan groups that I believe has come up with a nonpartisan bill that would solve the drug benefit problems for the American people, especially the poor.

I commend our colleagues in the House for successfully passing a prescription drug bill that promises to make a major expansion of Medicare benefits by providing an outpatient drug benefit. I think it is now time for the Senate to debate this issue, pass a bill, conference with the House, and present a bill for the President to sign into law. I am also, like I say, proud to be the cosponsor of the so-called tripartisan Medicare prescription drug benefit bill. I think Senators BREAUX, JEFFORDS, GRASSLEY, SNOWE, and I have put together a strong bill that our colleagues should, and I think will in the end, support.

I had hoped the tripartisan bill could have been the subject of a Finance Committee markup, as it deserved. I think it would be approved by the Finance Committee, which more than likely explains why we are on the floor today with S. 812. So as we enter this debate, let us be clear that the way the Senate Democratic leadership has chosen to structure the floor vehicle, it is very possible the partisan fervor that often accompanies Medicare legislation will spill over into the heretofore bipartisan consensus surrounding the 1984 Waxman-Hatch law. I hope not.

One of the things we did back in the 98th Congress in 1983 and 1984 was to take the time and effort to build a broad, bipartisan coalition for the Hatch-Waxman law. I hate to see us lose support as this body becomes caught up in the unavoidable election year politics of Medicare. Frankly, it is almost amusing how the Democratic leadership has structured the debate on the Medicare drug benefit. A bill that involves hundreds of billions of dollars and over a trillion dollars in some of the proposals will be debated as an amendment to the more modestly sized S. 812. Talk about the tail wagging the dog.

I hope if, as is well possible, we cannot achieve consensus on the Medicare drug debate, the inevitable ill feelings and political posturing do not create a poisonous atmosphere in which the broken tail of Medicare crushes the dog of Hatch-Waxman. Conventional wisdom has it that a large part of what is at stake in the legislation we will debate over the next number of days has to do with jockeying for political positioning over who is left holding the bag with the voters in the fall if we fail to enact a Medicare drug benefit before the November elections. That is why I hasten to add that I hope my colleagues will look at the tripartisan bill, which is nonpartisan, which basically can solve these problems for especially the poor in our society with regard to drug benefits and the cost of drugs.

I firmly believe the best thing the Senate can do for the American public is to lay aside, as best we can, the political infighting and genuinely try to strike an acceptable compromise on the Medicare drug bill.

Make no mistake about the fact that although S. 812 may be nominally the pending business before the Senate, the real matter we will be debating is the Medicare drug benefit. I would have greatly preferred to debate Hatch-Waxman amendments as a stand-alone bill in a less charged atmosphere. If we had to debate amending Hatch-Waxman with other legislation, probably my last choice would have been to lump it together with the politically volatile Medicare drug bill.

Then we have the ill-advised drug reimportation bill, which has been added as an amendment to S. 812. This would have been my second to last choice to add to Hatch-Waxman. I laid out yesterday my concerns with that proposal.

Suffice it to say, the reimportation language was a bad idea in the year 2000, and it is an even worse idea today, given the threats of our post-September 11 world.

While the regrettable encore appearance of this feel-good but ultimately downright dangerous drug reimportation legislation is deeply troubling to me, it is doubly troubling to me that it will now be linked to the 1984 Hatch-Waxman law because of the way the majority has chosen to proceed.

I recognize part of the reality of being on the minority side of the aisle is that we have to go with the flow as the majority leader calls up legislation that he desires or his side desires, and I understand that. As a coauthor of the legislation that S. 812 seeks to amend, I take exception to calling up a bill that opens up Hatch-Waxman in order to create a legislative vehicle that promises to throw into play every conceivable way to punish one of the great American success stories in innovation and in the pharmaceutical industry.

This, ''everything but the kitchen sink,'' mentality, may be satisfying to some politically. But mark my words, it starts this body down a path that ultimately can only punish the American health care system. In my experience, delicate provisions and nuances of patent law, antitrust law, and FDA regulatory law are generally not best crafted in the elbows-flying, raw meat atmosphere of high-stakes election year politics such as we will have during the course of this debate, in addition to what I consider to be an unfavorable environment that will be created by the likely flood of major amendments not relevant to S. 812 or the underlying Waxman-Hatch law.

I must also raise objection to the manner in which the bill so hastily was reported from the HELP Committee. Frankly, I am deeply disappointed in the way the HELP Committee has acted, although I guess we should not be altogether surprised given the perceived political advantages my friends across the aisle believe they have and that they have gained by calling up S. 812 as the backdrop—or should I say backstop—to debate pharmaceutical issues.

It is true that S. 812 was referred to the HELP Committee. It is true that the committee held a hearing on this bill on May 8. I testified at that hearing. I stated my reservations about the way the McCain-Schumer legislation acts to distort the original premise of the Drug Price Competition and Patent Term Restoration Act of 1984.

While I am heartened by the fact that the HELP Committee version of S. 812 that is pending before the Senate today resembles more closely the perspective of my testimony than the original Schumer-McCain language, I am troubled by the fact that we basically have a bill emanating from the HELP Committee that centers on patent law, civil justice reform, and antitrust policy. I object to this outcome, and I want to take a few moments to comment that the way the Judiciary Committee was effectively cut out of the process is a matter of great concern to me.

Even if three members of the Judiciary Committee serve on the HELP Committee and are highly involved in this effort, I am concerned that the recent actions of the HELP Committee with respect to this bill will come at the expense of the jurisdiction of the Judiciary Committee both today and into the future. This is wrong. The Judiciary Committee has a role to play in overseeing and legislating with respect to pharmaceutical patents and competition in the pharmaceutical marketplace. The process and timing that are being pursued can only undermine the appropriate role of the Judiciary Committee, a balanced committee.

The fact is, last year we held a hearing on competition in the pharmaceutical marketplace and reported Chairman LEAHY's bill, S. 754, the Drug Competition Act, which I support. I cooperated with Senator LEAHY in the development and refinement of his bill, S. 754, the Drug Competition Act. I voted to report the bill out of committee even though I had some reservations about some of the language, and I remain prepared to work on those concerns.

The fact is, the HELP Committee bill contains patent forfeiture provisions, similar in many respects to the concept once under discussion as Chairman LEAHY and I worked to refine S. 754. I ask why the HELP Committee adopts a policy of patent forfeiture not on the outside of its jurisdiction but already rejected by members of the Judiciary Committee. I emphasize that this is not a matter of public health policy but a patent law and civil justice reform, and so is within the province of the Judiciary Committee, not the HELP Committee.

I am mindful of the fact it was referred to the HELP Committee, but this body has a history of committees working in tandem on issues of mutual interest. In 1998, although the tobacco bill was referred to the Commerce Committee, the Judiciary Committee held 10 hearings on aspects of the legislation that touched upon our jurisdiction. We all know the long-awaited FTC study of the pharmaceutical industry that focuses precisely on the provisions of the law that the HELP Committee seeks to change today will be completed in a few short weeks. Why not wait for that? Why not get the best advice of the Federal Trade Commission? They have done an extensive review.

Whether we agree or disagree with the final outcome of that, we at least ought to get it before we try to wholesale change the law that has been called the best consumer piece of legislation in the last 50 years.

It is clear, to me, that consideration of this legislation would be more informed if we had the information that is about to be presented by the FTC to Congress and the public. We should ask the experts at FTC, DOJ, the Patent and Trademark Office, and Health and Human Services if their perspectives on the changes in the law are advisable. It would have been preferable to hear what the experts think of the HELP Committee language before it was brought to the floor. Whatever happened to holding a hearing on the actual language of an important bill?

The reality is, in the course of the markup, the HELP Committee virtually rewrote the major components of S. 812. Unfortunately, this sprint to the floor cannot foster the careful type of review and analysis that the Senate conducted in 1983 and 1984 when we passed the Drug Price Competition and Patent Term Restoration Act.

Despite my disappointment about the committee process on consideration of the Medicare drug benefit in the Finance Committee and the way the Judiciary Committee was bypassed from playing a role in shaping S. 812 before it reached the floor, I want to take some time to make a few remarks about the spending bill, the underlying bill, and how it might affect the law it would amend; that is, the Drug Price Competition and Patent Term Restoration Act of 1984.

It is useful to think about the words in the title of the law because they remind us that we had two distinct goals in writing the law—goals, by the way, which have been met. Attempts to change the law must also reach the critical test of these two goals: First, to provide incentives for the development of innovative pharmaceuticals—if we don't have that, we don't have anything; second, to promote widespread distribution of generic drugs by permitting a shortcut to regulatory approval, which Hatch-Waxman did.

There is evidence to conclude that the 1984 law has met with success in accomplishing both of these ends, much to the benefit of the American public. The 1984 law contains the incentives with respect to the intellectual market that have brought hundreds of therapeutic new drugs to the American public.

To mention a few of the drugs, these include products such as Vioxx to treat arthritis; the cholesterol drug, Lipitor; new medications that help millions of diabetics; and as recorded from Barcelona last week, a family of drugs to treat HIV infection and the complications of AIDS, two areas in which both the distinguished Senator from Massachusetts and I have spent a lot of time working together.

Private sector investment by research-based pharmaceutical firms increased from $3.6 billion in 1984 to over $30 billion this year. This substantial level of private sector applied research funding, coupled with the $27 billion invested by the taxpayers in the National Institutes of Health budget next year, helps explain why the unique public-private partnership that forms the U.S.

Biomedical Research Enterprise has American scientists positioned to usher in a revolutionary new age of discovery in the biological sciences. We all should take pride in the fact that the United States leads the world in developing innovative medicines. Part of the reason for this leadership is the intellectual property protections contained in the 1984 statute.

The debate on the pending legislation centers on the price competition that occurs between generic and name brand drugs. But as we consider legislation that alters protection of the innovator firms' intellectual property, it is important not to lose sight of the importance of the fierce competition between the generic companies and the brand name companies. It is the competition for new drugs that creates advances in medicine and improves public health and ultimately provides blockbuster drugs for generics to copy and to put out at, hopefully, less cost.

As we debate how to see that the American public, particularly senior citizens, gains access to today's pharmaceutical products, during the golden eggs of our biomedical research establishment we must be mindful of the long-term health of the goose that produces these innovative drug products. Not only does the American public enjoy the benefits of the latest breakthrough medicines, but consumers also reap the savings associated with the use of generic drugs.

Since the 1984 Drug Price Competition and Patent Restoration Act, the share of the prescriptions written for generic drugs has more than doubled and has increased from somewhere less than 20 percent to almost 50 percent of all prescriptions written. And as we will hear in the debate that will take place over the next several days, everyone in Congress knows that senior citizens, particularly senior citizens, have a great interest in programs, such as the 1984 law that resulted in cutting the costs of drugs.

One undeniable bottom line measure of success of the Drug Price Competition and Patent Restoration Act of 1984 is the fact that according to the Congressional Budget Office, this law has contributed to annual consumer savings of $8 billion to $10 billion every year since 1984. I wish all our legislation would be as effective and as successful as this one.

It might prove useful to summarize briefly how the Drug Price Competition and Patent Term Restoration Act works. When you hear how the statute operates, you will understand that a central principle of this legislation is balance among the incentives of both the research-based firms, the pioneer firms, and the generic firms.

This balance is not on only a simple matter of fairness to both of these sectors of the pharmaceutical industry. Achieving a balance was critical to help ensure that both of these sectors would succeed because the bottom line of Hatch-Waxman is to help the American public receive both the latest in medical breakthroughs, and the more affordable generic drugs.

As we consider changes to Hatch-Waxman, we must be careful not to upset the balance because if we do, it is the American people who will suffer. Here is how the law works. In order for a drug to be marketed in the United States, a manufacturer must prove to the Food and Drug Administration that the drug is both safe and efficacious, effective. Drug discovery and development is an extremely time-consuming, expensive, and risky process.

As I have mentioned before, experts at the Tufts University Center for the Study of Drug Development have placed the costs of developing a major new drug at $800 million, when the opportunity costs of capital and the cost of failed drugs are factored into the rare, successful product.

During this debate, some will no doubt be tempted to characterize the drug industry as nothing more than a bunch of greedy, money-grubbing companies. In fact, for much of the last decade, it has been the most profitable sector of the U.S. Economy.

Nevertheless, as many analysts have noted, and was discussed by Senator WYDEN at the Commerce Committee hearing this past March, drug discovery is a highly speculative venture and there is currently an industry-wide slow down in the pipeline of products close to final FDA approval.

For every drug that succeeds in gaining FDA approval, more than 5000 compounds are screened and fall by the wayside during testing. Some of these compounds fall out in the lab; only about 250 of the original 5000 compounds will proceed to full-scale animal testing; and, of those 250 that enter animal testing, only 5 will make it to human clinical trials; and, finally, the great majority—4 out of the remaining 5 of drug product candidates—will fall out during the required 3 phases of human clinical testing.

The first phase of clinical testing usually entails about 30 patients. The goal of this phase is to assure that the compound under study is safe for human use. This is a very difficult hurdle as, for example, it can be expected that a compound that can eradicate cancerous cells will also likely be toxic to the surrounding healthy cells. It is no wonder that the pharmaceutical industry invests a higher percentage of its revenues into research than other industrial sectors. Are they given any credit for that on the floor over the last number of days? Give me a break. They certainly have not. In fact, they have been condemned in talk after talk as though they are the sole cause of the high cost of drugs.

In the second phase of clinical trials, efficacy is examined. This may involve several hundred patients and it may take several years to design, conduct, and analyze the trial.

If success is sustained through Phase II—and remember that experience teaches us that most of these costly trials will result in failure—an investigator may proceed to the third and final phase of human clinical testing in which the drug is administered to several hundred and sometimes several thousands of patients.

Phase III trials attempt to further evaluate safety and efficacy, fine tune dosing regimens, and uncover any propensity for adverse reactions among subgroups of the broad patient population taking the medicine.

Because they involve more patients and seek more precise information, Phase III trials are generally even more expensive and time consuming than the earlier phases of drug development. In order to gain FDA approval, the agency prefers to see two successful Phase III studies.

In addition to costing hundreds of millions of dollars to screen and test drug candidates, it also takes a great deal of time. It has been estimated by experts that it takes, on average, about 14 years to bring a drug from the lab through clinical testing and FDA review.

And all during this time the clock is ticking on the patents held on these drug candidates. For example, in the case of the anti-inflammatory drug, Daypro, the patent lapsed during the 21-year FDA review of the product.

While this case was clearly an outlier and FDA review time has improved somewhat over the last decade due to the user fee legislation, it remains true that the U.S. pharmaceutical industry is one of the most highly regulated sectors of the economy.

It is an expensive process, mainly an expensive regulatory process. If we could somehow find a way of cutting that down, then the cost of drugs would come down, too.

We passed a bill—it was another Hatch bill—called the FDA Revitalization Savings Act, in the early 1990s, that said we should create a central campus with state-of-the-art buildings and equipment and scientific facilities instead of the almost 40 different locations, some of them converted chicken coops, where they are conducting research today. The FDA has hardly hired a research scientist in the last 30 years. The reason is there is not the prestige in their eyes to work for the FDA for less money than they would get in the private sector.

NIH doesn't seem to have that problem because it is so prestigious to work there, even at the lesser salaries, that scientists flock to NIH. It is exciting, plus they have state-of-the-art buildings and equipment with which to work.

We need to do that. We need to stop blaming the pharmaceutical companies, the pioneer companies for all the problems here.

In recognition of the exacting and time-consuming nature of FDA review of safety and efficacy testing, the Drug Price Competition and Patent Term Restoration Act provided a number of

incentives designed to help research based pharmaceutical companies.

The statute provides for partial restoration of pharmaceutical patents, but only under limited rules:

First, the law allows one day of patent term restoration for each two days spent in the human clinical trial phase.

This is known as the IND Phase. IND stands for the investigational new drug and refers to the exemption that FDA grants to allow the human clinical trials to proceed.

The law also allows day-for-day patent term restoration when the drug is in the final stage of FDA review. This is called the NDA phase. The NDA, or new drug application, is the formal application that contains the data demonstrating safety and efficacy. I should point out that given that each NDA contains data and records on thousands of patients, the NDA literally contains hundreds of thousands of pages of information. In some cases those millions of pages of information would fill this whole Chamber—that's how complicated it is. Yet, we hear badmouthing of the pioneer companies every day here on the floor. There are fair criticisms, but I don't think all the criticism has been fair.

There are two further limitations on the partial patent term restoration. First, when the one-for-two rule in the IND Phase is applied with the day-for-day rule during the final review of the new drug application, no patent may be restored more than 5 years. You should keep in mind that, as I said earlier, it takes about 14-years to bring a drug through pre-clinical studies through FDA approval.

Finally, even after this 5-year limitation kicks in there is another rule that prevents any patent from being restored such that it will have an effective patent life beyond 14 years.

The 5-year and 14-year limitation rules are sometimes referred to as the Hatch-Waxman caps.

So I just want to point out that you will hear a lot of talk during this debate about patent extensions, but what we are talking about is partial patent term restoration to offset part, and a relatively small part at that, of the time lost during the rigorous FDA review of safety and efficacy. You don't hear many comments about that from the critics the fact of the matter is, this is a long, arduous expensive time consuming, costly process. To blame the pharmaceutical companies for everything that is wrong is just not fair.

It is worth noting that the 14-year cap on effective patent life contained in the Waxman-Hatch Act stands in contrast to how other types of patents are treated with respect to administrative delays at the Patent and Trademark Office.

This is a somewhat complicated story but I think it bears discussion in order to place the Hatch-Waxman policies into context with subsequently enacted changes to the patent code.

Basically the GATT trade treaty required implementing legislation that mandated the United States to change its patent system from 17-years, measured from the date of approval to a new system of 20-years, measured from the of date of application with the Patent and Trademark Office.

There was concern by many intellectual property owners that this change in the law could actually decrease effective patent life due to administrative delays at PTO. As a result, a provision was included in the 1999 American Inventors Protection Act—a bill that passed with broad bipartisan support—that allowed patent term to be restored up to 17 years in cases where there was undue delay at the PTO.

The 17-year patent term floor in the American Inventors Protection Act extends to all types of patents and should be contrasted with the 14-year patent term ceiling contained in the Waxman-Hatch for pharmaceutical patents. Moreover, most patent applications are reviewed by PTO in one and one-half to two years, so that the effective patent life for most products is actually 18 to 18.5 years. When all is said and done, most patents run appreciably longer than patents related to drugs due to the 14-year Waxman-Hatch cap.

In addition to the partial patent term restoration provisions of the 1984 law, the statute provides that each FDA-approved new drug that consists of a new chemical entity receives 5 years of marketing exclusivity—not 18 years, which other manufacturers get, but 5 years of marketing exclusivity. In other words, we want to treat them at least somewhat fairly.

This 5-year marketing exclusivity provision means that FDA may not approve any generic drug for that time 5-year period regardless of whether the drug is protected by any patent.

The last major incentive on the R&D side of the ledger that I will discuss is the provision that entitles a pioneer drug firm that successfully undertakes a clinical trial yielding data that significantly improves, or modifies the use of an existing drug compound, to 3 years of marketing exclusivity.

As you can see, this is complex. But it works, and it has worked amazingly well. Our country has benefited from it. And it was bipartisan. Actually, you would have to say it was nonpartisan. That is what I would like to see in a full Medicare prescription drug bill. This 3-year incentive helps encourage incremental, but often vitally important improvements, to existing drugs and does not bar generic competition from the original approved uses of the drug once any patent or marketing exclusivity has expired.

I hope my colleagues can see that the 1984 law contains a powerful set of intellectual property incentives that help foster the necessary private sector investment in pharmaceutical R&D.

That is one reason our pharmaceutical companies have done so well. That is why we have such a good balance of trade. They have been among the most successful companies in our society up until now, and they are about to be stratified where they won't have the money to go through this $800 million and 5,000 misses to get one single drug, if they are lucky and then have just a few years of patent life. You wonder why drugs cost so much through that market exclusivity.

In parallel with the incentives I have just described for innovator firms, the Drug Price Competition and Patent Term Restoration Act provided the necessary regulatory regime that created the modern generic drug industry. Rather than unnecessarily squander societal resources by requiring the duplication of the expensive and time consuming process by which safety and efficacy is established for pioneer products, the law provided a shortcut through the FDA regulatory process.

That was one of the generic aspects of the law. The 1984 law, in essence, allows generic competitors to rely upon the proprietary safety and efficacy data generated by the pioneer firm and requires that the generic drug merely be shown to contain the same active ingredient and be absorbed by the human body in a bioequivalent fashion. This simple provision of law allowed generic firm to bring on high quality copies of the pioneer drugs for a fraction of the cost and, most importantly, to pass these savings onto consumers.

Their cost is less than 1 percent to put the drugs in the marketplace. I want it that way. We wanted it that way when we did the Hatch-Waxman bill.

Another key feature of the law is a unique change in the patent code designed to allow generic product to enter the market literally the day after the patents on a pioneer drug expire.

Upon first consideration this may not sound like a dramatic development in the law but it is. Here's why.

Let us start with the Constitutional basis for patent protection. Article I, Section 8 of the United States Constitution provides: ''Congress shall have the power . . . to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.''

It is said that Thomas Jefferson had his hand in the drafting of the first patent statute enacted by Congress back in 1790 and that in his capacity of Secretary of State actually issued and signed some of the first patents issued by the United States federal government.

In areas such as pharmaceuticals, where it is relatively easy to copy pioneer products that require enormous R&D expenditures—I mentioned $800 million to find one drug—it is critical to have strong laws prohibiting the infringement of patents.

I should also like to add that a patent right is a negative right and does not automatically confer monopoly power; a patent only allows the patent

owner the right to exclude others from utilizing the patented invention or process.

Section 271(a) of title 35 of the United States code contains the general rule against patent infringement. It says: '' . . . whoever without authority makes, uses, offers to sell, or sells any patented invention . . . during the term of the patent . . . infringes the patent.''

This is a tough provision and a good provision because it protects the rights of inventors, inventors of all products used, manufactured or sold in each of our states, who have made substantial investment in research and development.

In order to allow generic drug firms to enter the market the day the patent expired, the general rule of section 271(a) had to be modified. This is so because in order to get the drug through the truncated FDA review process and gear up production the generic firm has to make and use the patented drug, and this is important, while the pioneer drug is under patent protection.

I should also add that under the common law there is a research exception to the general rule against patent infringement so that academic researchers could be free to explore new areas of scientific inquiry.

During the course of the negotiations over the Waxman-Hatch law, a question arose in the courts with respect to whether this research exemption might carry over to the type of research activities necessary to develop a generic drug.

And right in the middle of these negotiations we got the answer when the precursor court to the Federal Circuit Court of Appeals issued its opinion in the case of Roche v. Bolar. The court held that the research exception did not extend to commercialization activities such as those necessary to prove bioequivalence.

The result was that the Drug Price Competition and Patent Term Restoration Act contains a legislative override of the court case. This provision, the so-called Bolar Amendment, creates a unique provision in patent law. Section 271(e) of title 35 contains the Bolar Amendment. Section 271(e)(1) says: ''It shall not be an act of infringement to make [or] use . . . a patented invention . . . solely for uses reasonably related to the development and submission of information under a federal law which regulates the manufacture, use, or sale of drugs or veterinary biological products.''

When considering the pending legislation, it is important to understand that in preparing an abbreviated new drug application, or an ANDA as they are called, the generic firm gets a head start over virtually all other types of generic manufacturers in that they are permitted to make and use—and thus violate—pioneer firms drug patents while these patents are still in effect.

That is a major change in patent law that we put into Hatch-Waxman to get the generic industry really going. And it helped to create the modern generic drug industry.

(Mr. EDWARDS assumed the Chair.)

Mr. HATCH. In the interest of accuracy, I must add a footnote. In the 1990 Supreme Court decision of Lilly v. Medtronic, the Court held in an opinion written by Justice Scalia that the Bolar amendment also applies to some other FDA-regulated industries such as medical devices. While you need to read the opinion for yourself to see how this not-so-obvious result was accomplished, as coauthor of the bill, I did take note of Justice Scalia's observation that:

> No interpretation we have been able to imagine can transform section 271(e)(1) into an elegant piece of statutory craftsmanship.

Mr. President, ouch!

But the Medtronic decision has only limited significance and it is still fair to say that the generic drug industry enjoys a head start that virtually no other type of generic manufacturers could even imagine—the ability to make and use on-patent products for commercial purposes. The head start granted to generic drug firms by the Bolar amendment was an integral part of the balance of the 1984 law and must be kept in mind when I next discuss the closely related patent challenge provisions of the bill.

But before I discuss these provisions, I want to first emphasize that the central feature of the Hatch-Waxman law thankfully remains unscathed by the pending legislation.

This is the policy tradeoff whereby part of the patent term lost by innovator drug firms during the extensive FDA review is restored while, at the same time, generic drug firms were permitted to rely upon the proprietary safety and efficacy data of innovator drug firms and enter the marketplace upon a showing that the generic copy of the drug is delivered to the patient in a bioequivalent manner.

And from the summary I have just provided, I think you get the idea that the Drug Price Competition and Patent Term Restoration Act of 1984 law is a complex piece of legislation. It took us 2 solid weeks, 18 hours a day, in my office. I was there every minute of those negotiations to get this negotiated between the PhRMA companies and the generic companies. I will also concede, as Justice Scalia has noted, that the statute does not read like a novel.

The 1984 law has been instrumental in delivering both new drugs and more affordable drugs, but this is not to say that such a complex piece of legislation cannot be improved to address unanticipated or unintended consequences as well as changes in the marketplace and science.

Before I discuss my views on the pending legislation, the HELP Committee substitute to S. 812, I would like to complete my summary of the Drug Price Competition and Patent Term Restoration Act by describing the patent challenge features of the statute. Perhaps no feature of Waxman-Hatch has generated as much controversy as the provisions relating to patent challenges. These are the least understood and, indeed, least appreciated provisions of the law. The guts of the HELP Committee substitute focus on these provisions.

I hope that everyone agrees that patents are critical to the drug development process because absent patent protection it would be relatively easy to copy virtually any drug. The challenge of drug development is not in the chemistry of manufacturing, but in conducting the extensive and expensive preclinical and clinical research that demonstrates safety and efficacy.

While patents are integral to drug development, consumers can benefit greatly from earlier price competition if it were determined that, for whatever reason, the underlying patents on a drug were invalid or not infringed.

At any rate, during the negotiations over the bill in 1984, a policy question arose regarding how best to guarantee that drug patents would be challenged and what to do in cases in which a challenge was successful.

We ultimately decided that a generic firm which successfully attacked the patents on a new drug would receive a period of 180-days of marketing exclusivity during which no other generic competitor could be approved by FDA.

The 1984 law contains an elaborate set of rules surrounding patent challenges. Here is how the system works.

From my earlier discussion, you will recall that all new chemical entities—even and especially drugs without any patent protection—receive a 5-year period of marketing exclusivity during which the generic drug firm may not rely upon the safety and efficacy data generated by pioneer drug firms.

And keep in mind that there may be no other industry in which generic competitors can rely upon pioneer manufacturers' proprietary information submitted for Federal approval purposes.

In any event, the law allows the generic drug firm to submit an abbreviated new drug application after 4 of the 5 year marketing exclusivity period has lapsed. When the generic drug application is submitted, the generic firm has to make one of four certifications with respect to each patent related to the drug listed in the official FDA records called the Orange Book.

This chart sets out these choices.

First, that such patent information has not been filed.

Second, that such patent has expired.

Third, the date on which such patent will expire.

And fourth, and finally, that such patent is invalid or will not be infringed by the manufacturer's use or sale of the new drug for which the application is submitted.

It is the last certification, the so-called paragraph IV certification, that is the chief cause of the major problems the bill pending on the floor seeks to address.

As I have said many times over a number of years, by the way, and will say again here today, I acknowledge there are some problems with paragraph IV patent challenges.

These need to be corrected. I would like to shape legislation to correct them.

But it is also no secret that my preference was to address these problems in the course of a comprehensive review of the Drug Price Competition and Patent Term Restoration Act.

In fact, in the good old days when I was still chairman of the Senate Judiciary Committee and my friend from Vermont, Senator JEFFORDS, was the chairman of the HELP Committee, we were working together to conduct such a review.

But times have changed. What should not change is that this body should resist the pile-on mentality which villianizes an industry which is doing more to help millions and millions of Americans daily than any other industry we could imagine.

Before I close my remarks today, I will outline the types of issues that ought to be considered a more thorough review of the 1984 law than the pending bill contemplates.

In any event, to return to the paragraph IV litigation procedures, the filing of a generic drug application triggers a 45-day period during which the pioneer drug company or firm could initiate a lawsuit to determine whether its patents were valid or infringed. In order to give a court adequate time to familiarize itself with, and hopefully dispose of on the merits, the almost always complex issues attendant to patent litigation, the Waxman-Hatch law provides a statutory 30-month stay.

During this 30-month period FDA may not approve the generic drug application in dispute unless a court resolves the matter.

It is also true that this is a unique provision not available to other types of patent holders. However, this unique 30-month stay provision that benefits patent holders must be understood in context of the overall system of balances contained in the 1984 law, and, in particular, in connection with the operation of the Bolar amendment.

The Bolar provision, you will recall, has the laudable public purpose of trying to get the generic drug product onto the market the very day the patent expires.

As I explained earlier, in order to achieve this pro-consumer end, the patent code was amended to allow the generic firms to infringe patents.

But we must recognize that the reality of the Bolar amendment is that it takes away the customary rights of a patent holder to bring a patent infringement action the moment a generic drug manufacturer makes or uses a patented product. In this case, the commercial purpose consists of seeking FDA approval and gearing up production. It cannot be disputed that section 271(e) of the patent code—the Bolar amendment—places pharmaceutical patent holders in a disadvantageous position from which to defend themselves against challenges to its patents by generic drug challengers.

This is so because a second prong of the Bolar amendment, codified at section 271(e)(2) of the patent code, treats the somewhat artificial act of filing a generic drug application as an act of patent infringement, and it is at that point, and not before that point, that the patent holders can assert their normal patent rights through the courts.

It seems only fair to recognize the unique head start that the Bolar amendment allows to generic firms on the front end of the generic drug development by making available to pioneer firm patent holders the 30-month stay that allows the courts adequate time to delve into the merits of the challenged patents. Absent the Bolar amendment—and don't forget that this provision reversed the Federal Circuit Court of Appeals decision that decided against generic drug firms on the matter of patent infringement—the case for the 30-month stay would not be as strong.

In any event, during the course of the 30-month stay, it is hoped that an adjudication on the merits of the patent challenge will be completed. If at the end of the litigation the pioneer firm prevails, the generic drug applicant must wait until the patents expire before the FDA can approve its application and the generic product can be marketed. On the other hand, if the courts determine that the patents are invalid or the generic drug firm has successfully invented a way around the patents, the 1984 law grants an award of 180-days of marketing exclusivity. As I said earlier, this is to encourage vigorous patent challenges so that consumers can benefit from earlier access to cost-saving generic drugs.

I thought then, and think now, that it is sound public policy to contain an incentive to assure legal attacks on pioneer drug patents, and we all must recognize that such litigation is risky, complex, time-consuming, and costly.

Now that I have laid a foundation by discussing the basic provisions and policies of the Drug Price Competition and Patent Term Restoration Act, I want to add to the debate that was initiated yesterday by briefly describing the key problems that have been observed in recent years with respect to the 1984 law.

I first remind the Senate that in the next few weeks the Federal Trade Commission is expected to issue a comprehensive report that centers on what many believe are the two most important abuses of the current system: First, the manipulation of the patent system for the purpose of triggering multiple overlapping or late-in-the-process 30-month stays; and, second, collusive arrangements between pioneer and generic firms to game the Paragraph IV litigation in order to preclude the triggering of the 180-day marketing exclusivity clock so that no generic can reach the market in a timely fashion.

I am frustrated by the fact that the tactical choices of my colleagues across the aisle preclude us from debating this important legislation without the benefit of the FTC report.

I await with great interest the final version of the forthcoming comprehensive FTC report on the drug industry so we may get a more accurate picture of the number of instances in which drug firms have tried to game the system by listing a late-issued patents into the FDA Orange Book.

While my staff and the staffs of a few other Members have been briefed on the general findings of the FTC study, it was under the condition of confidentiality and with the understanding that the commissioners had not evaluated the data and given us their interpretations, conclusions, and recommendations.

Along the same lines, I would like to add that the FDA Chief Counsel, Dan Troy, convened a meeting in February of representatives of both the generic and pioneer drug firms.

Mr. Troy elicited information and debate on several maters, including a full and frank discussion of both the 30-month stay and the 180-day marketing exclusivity provisions of the 1984 law.

One of the many down sides of rushing this bill to the floor in this fashion was that it precluded members of several committees, including the Judiciary Committee, Commerce Committee, as well as HELP Committee, from first reviewing the comprehensive FTC study on the very issues that the pending legislation seeks to address.

We may have also missed out on a meaningful opportunity to have the usual give and take of a public hearing with the FTC and the FDA on these issues. We could have—and should have—taken the more routine and orderly path to legislation by holding a hearing to solicit the administration's detailed advice in crafting language, including soliciting their views on the language that arose just last Tuesday in the HELP Committee.

Yesterday, Senator GREGG read from the first, but no doubt not the last, missive from the administration commenting on this new language.

In any event, let me turn to the 30-month stay provision. It is my understanding that the FTC report will reveal that there have been several—perhaps about 10—cases of either multiple, consecutive 30-month stays or later-issued patents that resulted in surprise 30-month stays.

The facts matter.

We need to learn about these cases. We also have to keep matters in perspective. Although some in this debate suggest that there has been, and will continue to be, an epidemic of unjustified triggering of the 30-month stay, I am not sure that the evidence will support this charge.

We must take care not to overcorrect any problems based on anecdotal information.

But I will say this: the now famous case of the drug Buspar convinces me and many others that Congress should take action to address the problems associated with late-issued patents triggering new 30-month stays.

This was the case in which a patent on the metabolite of a drug was listed in the Orange Book just as the original patents on the drug were set to expire and generic were literally on the loading dock ready to be shipped.

I do, however, want to note for the record that in the case of Buspar the courts stepped in and the stay lasted only 4 months, not 30-months.

The HELP Committee bill would freeze those patents eligible for the 30-month stay to those patents filed with FDA within 30-days of approval of the New Drug Application. All other subsequently issued patents would be eligible for injunctive relief but would not be entitled to the longstanding protection afforded by the 30-month stay.

First, I commend Senators EDWARDS and COLLINS for overturning the McCain-Schumer language that completely—and unjustifiably—eliminated the 30-month stay. The Edwards-Collins amendment also is a great improvement over the language that Chairman KENNEDY circulated in the days before the markup.

The Kennedy language would have arbitrarily limited the types of patents eligible for the 30-month stay to drug substance patents and method of use patents.

By treating some patents as inferior to others, the Kennedy draft would have reversed a longstanding principle of Hatch-Waxman not to discriminate among types of patents.

The very purpose of the 30-month stay is to give the courts an adequate period of time to make an informed analysis of the complete patent portfolio surrounding a drug product.

The 30-month stay allows the time necessary to make fact-based determinations of the validity of the challenged patents as well as to determine if the generic challenger has successfully navigated the field of valid patents and produced a non-infringing version of the drug.

I know that Senator GREGG was working on a language that would have retained the 30-month stay for each patent recorded in the Orange Book prior to a generic drug challenger filed a marketing application with the FDA. I think that there is great merit in this approach.

The Hatch-Waxman law does not even allow generic drug applicants to file a generic drug application until four full years have elapsed after the NDA has been approved for a new chemical entity.

That is because, as I stated earlier, under the 1984 law, drugs consisting of new chemical entities—and these are likely to be the breakthrough products—automatically receive five years of marketing exclusivity before FDA can approve a generic copy of the drug. It seems reasonable to conclude that, at a minimum, all patents filed before a generic can first challenge a pioneer drug, that is, after four years have elapsed, should be accorded the protection of the 30-month rule.

For example, consider the hypothetical but not unrealistic case of an approved intravenous drug covered by pre-NDA issued patents on the compound and the method of use. In addition, assume the drug sponsor has applied for, but does not receive, a patent on the intravenous formulation until two years after the NDA is approved. While the Edwards-Collins language is barely one week old and I am still studying its implications, upon first consideration, I find it difficult to justify treating the post-NDA-issued formulation patent differently than the earlier two patents. After all, a generic challenger—although free to infringe the patent under the Bolar amendment for the purpose of providing bioequivalence data and to prepare for full-scale production—cannot even contest any of the three patents for 2 years after the third patent issues.

That is because the filing of the generic drug application creates the artificial act of patent infringement required by the Bolar amendment that allows the Paragraph IV litigation to commence.

I emphasize the fact that the lawsuit may not begin at least until the four year statutory bar on submitting a generic drug application expires.

And if it makes sense to include all patents issued within the first four years during which no ANDA application and Paragraph IV challenge can be made, one can argue, as Senator GREGG has, and I suggested in my testimony before the HELP Committee in May, that it makes sense to freeze the patents listed in the Orange Book for the purpose of the 30-month stay on the day that any particular ANDA is submitted, whether or not it is filed on the first day of ANDA filing eligibility, or years later.

The McCain-Schumer proposal to do away with the 30-month stay altogether is dead.

The Kennedy proposal to allow only some types of patents to qualify for the 30-month stay is dead. Perhaps the governing principle should be one bite, and one bite only, of the 30-month apple and all we are debating is when, not whether, to cut off the availability of the stay. As I said last night, in some respects the Edwards-Collins language is a step in the right direction and this is one of those improvements.

We know that it currently takes, on average, about 18 months for FDA to complete its review of generic drug applications. I understand that it takes, on average, about two years to reach a district court decision in Paragraph IV patent challenge case. We also know that the generic have argued—and the Edwards-Collins amendment embraces—that it would be unfair to start the 180-marketing exclusivity clock—a matter that I will discuss latter in my remarks—until a final decision has been reached by an appellate court. This appellate review takes about another year, so the total litigation period of Paragraph IV cases is about 36 months.

I can understand why generic Paragraph IV challengers want to wait—the prospects of treble damages seems to me like a good reason for them to exercise caution—until an appellate court decides the merits of the patent challenge. Given the risk adverse behavior engendered by the threat of treble damages, I don't see why it is so absolutely critical in the first place to bifurcate the application of the 30-month rule at the time a new drug application is approved.

Perhaps the FTC study will unveil a pattern of cases in which courts have ultimately determined that frivolous, or at least invalid, patents were filed between the approval of the NDA and the first ANDA submissions. Perhaps not, only time will tell.

But frankly, this is an area where the actual data that presumably will be forthcoming in the FTC study will be extremely helpful. I will be greatly interested to know how the patent challenge cases would have broken down if the Edwards-Collins NDA-plus 30 day rule were applied retroactively. Stated another way, are there any significant differences in the outcome Paragraph IV challenge litigation between Orange Book patents listed before, and those patents listed after, 30-days after the NDA has been issued? It will be beneficial to get a sense on whether there is a pattern with respect to when invalid patents and patents that have been circumnavigated tend to be listed.

And as I said earlier, I think we would have all been better served if the Committees of jurisdiction had been afforded the opportunity to conduct hearings with the purpose of analyzing the actual language of the Edwards-Collins Substitute and with the hindsight provided by the FTC report, together with the expert advice and analysis of the FTC, other federal agencies, and other experts and interested parties.

We should all recognize that patent litigation is often, as in the case of pharmaceutical patents, inherently technical and complex.

For example, The Legal Times recently reported that the Federal Circuit has a reversal rate of 40 percent in certain patent cases. I am concerned that to the extent we adopt a policy that relies too heavily on simply throwing the matter of injunctive relief to federal district courts absent a period to allow the court to sufficiently familiarize itself with the issues at hand not only disrupts a justified internal check and balance of Waxman-Hatch, but also may have the effect of creating uncertainty as the district courts wrestle with arcane matters of patent law.

While I can see how some enterprising generic firms and their attorneys might be able to turn this new and potentially unpredictable environment into leverage for settling patent challenges, I am not sure that this instability is either fair to pioneer drug firms or in the long run interests of the American public.

For now, I will listen carefully to the debate on this matter but, from what I now know, I am inclined to conclude that the Gregg proposal is preferable to the NDA-plus 30-day standard contained in the HELP-reported version of S. 812.

Moreover, as I stated earlier, I think a case can be made for making the 30-month stay available to all patents listed within four years after the NDA has been approved since no patent litigation can commence under the 1984 law until that time.

In short, while I am open to further debate and discussion on the matter, at this point I question whether the Edwards-Collins language unnecessarily cuts off the 30-month stay too early in the process?

I welcome the understandable and justified attempt to address the problem of late or even multiple 30-month stays that can occur when later-issued patents are entered into the Orange Book. As I said in my testimony in May, if there is a compelling case to keep the current policy of universal availability of the 30-month stay for all patent whenever listed, let's hear the arguments.

Once again, let me commend Senators EDWARDS and COLLINS for moving the Committee away from the these negative aspects of the McCain-Schumer and Kennedy proposals.

I am pleased that there appears to be something of a consensus on the importance of retaining the 30-month stay even though, for the reasons I have just described, I think we need further discussion of when the stay should be available and when it should not be operative.

Having addressed the general issue of the wisdom of retaining the 30-month stay, I would be remiss if I did not comment upon some aspects of the Edwards-Collins substitute that would also drastically affect patent litigation under the 1984 Waxman-Hatch law.

Mr. President, I speak now of the what I will call the file-it-or-lose-it and sue-on-it-or-lose-it provisions of the HELP Committee Substitute.

Mr. President this is a case of the HELP Committee trying to rewrite patent law and doing an absolutely horrible job at it to boot.

There are three very similar and very disturbing provisions that essentially say a pharmaceutical patent holder can effectively forfeit their rights by not filing patent information or a patent infringement action at a certain time.

The first of these provisions is found in Section 3 (a)(1) ''(2)(F)'' of the bill. This provision requires manufacturers of innovative new drugs to file certain patent-related information in the FDA Orange Book upon penalty of—and here's the rub—forfeiture of their patent enforcement rights.

A second provision of the bill, contained in Section 3(a)(2)(B) of the bill makes this filing requirement applicable to drugs approved prior to enactment of S. 812.

This provision says, in effect, that upon enactment of S. 812, every holder of a pre-enactment approved new drug application has 30 days to file all specified patent-related information in the FDA Orange Book or lose forever their rights to sue for patent infringement.

Talk about Draconian remedies for failing to file information with the government. This takes the cake! I should also point out that section (a)(1) ''(2)(C)'' of the bill significantly expands the type of patent information that must be filed, including requiring very precise claim by claim certifications of what each particular patent covers. I am concerned about the policy and potential effects of this language.

Given that forfeiture of patent rights is the penalty for the two file-it-or-lose-it provisions I just described, you should not be surprised to learn that the patent right forfeiture trifecta is completed in section 4(a)(2)(C) which contains a sue-on-it-or lose-it provision that appears to say that failure to defend against any Paragraph IV challenge waives your patent rights against all challengers for all time.

I was relieved to hear Senator KENNEDY state on the floor yesterday that this last provision was not intended to require forfeiture of patent rights as against all potential infringers. I take him at his word that this language will be clarified. But, once again, I must ask why we find ourselves on the floor with a poorly drafted patent provision that has not been vetted by the Judiciary Committee, the PTO, the White House or the patent bar or any number of other experts?

Nevertheless, I find these three provisions so troubling I hardly know where to start my criticism. Under the current law, failure to defend against a Paragraph IV challenge does not result in automatic forfeiture of patent rights.

Mr. President, my colleagues should know that under current law the penalty for not promptly defending against a Paragraph IV litigation challenge is waiver of the 30-month stay, not forfeiture of any patent rights.

It seems to me that the current law waiver of the 30-month stay against the particular litigant bringing a particular paragraph IV challenge is a proportionate response to the failure to defend against a particular lawsuit.

I think that both of the two file-it-or-lose-it provisions and the sue-on-it-or-lose provision simply go too far. I am not aware of any analogous provision in title 35, or in case law, but I am the first to admit that because this language is only a week old my study is not complete. I must question embracing the principle that if a patent holder, for whatever reason, fails to file information with the FDA that those rights should be automatically surrendered against any would-be patent infringers.

It seems to me that these provisions should be subjected to careful scrutiny under the takings clause before they are adopted. As well, the disadvantageous treatment accorded pharmaceutical patents under these three positions should be examined from the perspective of the TRIPS provisions of the GATT Treaty. That involves the Finance Committee as well.

We must not lose sight of the fact that patents are presumptively valid. We must not lose sight of the fact that the reason we have laws to protect intellectual property is because society benefits from advances in the arts and sciences, as the Constitution asserts.

If we expect to have breakthrough medicines, we better protect patents.

Why would we ever support a system in which the failure of a mail room clerk, even if underpaid and overworked, or the U.S. Postal Service could result in the forfeiture of rights stemming from literally hundreds of millions of dollars and precious human capital invested in cutting edge biomedical research?

Just this week, because of the anthrax problem, I received some Christmas presents. One can imagine what can happen on some of these patent cases.

Why shouldn't pharmaceutical product patent owners retain the same time-honored rights exercised by all other patent owners to decide how and when to respond to patent challenge litigation?

Mr. President, I must tell my friends on the HELP Committee that this member of the Judiciary Committee—the committee charged with overseeing the patent law, antitrust law, and the administration of civil justice—that I do not support the manner in which they have resolved significant matters of patent law, civil justice and antitrust policy.

In fact, when Judiciary Committee Chairman LEAHY and I were negotiating over the provisions of his bill, S. 754, the Drug Competition Act, at one point a Leahy staff draft contained a provision in some ways similar to the pending bill's file-it-or-lose-it and sue-on-it-or-lose-it provisions. Ultimately, that approach was rejected. And for good reason.

As many of my colleagues know, S. 754 requires the prompt reporting of any potentially anticompetitive agreements between brand name and generic drug firms to DOJ and FTC.

Basically, the Leahy staff proposal—I cannot say whether Chairman LEAHY was aware of all of the details of this particular provision—was that a drug company would surrender its patent rights if it did not promptly report to

FTC and DOJ any potentially anticompetitive agreement with a generic drug firm.

Let me read the Leahy staff draft that was circulated to my staff last July.

It was contained in the enforcement section of the bill, and it said:

> Contract and Patent Enforceability—if any person, or any officer, director, partner, agent, or employee thereof, fails to comply with the notification requirement under section 5 of this Act, such failure shall render permanently unenforceable any agree which was not filed with the Commission—[referring to the FTC] and the Attorney General, and [here comes the relevant language] shall also render permanently unenforceable any patent of the generic drug manufacturer or the brand name drug manufacturer that is the subject of the agreement.

I must give Senator LEAHY's staff a great deal of credit. One of them is Ed Barron, the deputy chief counsel of the Judiciary Committee Democratic staff. Ed is a level-headed, gifted lawyer and has been an asset to the Senate and the Judiciary Committee for many years.

As well, Susan Davies, a former Supreme Court clerk, is an extremely talented lawyer.

When they consulted with experts in the field and further studied the matter, they properly concluded that patent forfeiture was an improper response for a mere reporting failure—even if that unreported agreement was ultimately found to be violative of the Federal antitrust laws.

How does a patent law provision with civil justice reform implications aimed at an antitrust problem find its way in three places in a HELP Committee-reported bill, one year after the chairman and ranking Republican member of the Judiciary Committee considered and rejected the same basic policy in a bill that covers the same concerns as the pending legislation?

Mr. President, I am afraid that yet another casualty of the truncated process observed by the HELP Committee in its consideration of S. 812 can be seen in the last minute inclusion of the ''file-it-or-lose-it'' and ''sue-on-it-or-lose-it'' provisions of the pending bill. But this is exactly the kind of negative outcome that can occur when there is a markup on a Wednesday and untested language appears the day before.

The truth of the matter is that is exactly what took place last week in the HELP Committee.

While I have commended Senators EDWARDS and COLLINS for rejecting the key provisions of the McCain-Schumer bill, in the case of the ''file-it-or-lose-it'' and the ''sue-on-it-or lose-it'' provisions, I must commend Senator MCCAIN and Senator SCHUMER for not including such troublesome language in the first place.

I urge all of my colleagues to think carefully about the precedent this body would be setting for patent and copyright owners if we follow the lead of the HELP Committee and retain this language.

At a minimum, I hope the Judiciary Committee will have a chance to hold a hearing on this novel language.

If the press of election year politics precludes the Senate Judiciary Committee from holding such a hearing, I would hope that the House Judiciary Committee will step up to the plate and fully vet this issue.

We need to hear from PTO and the patent bar on this issue.

We need to hear from the American Intellectual Property Law Association and the intellectual property groups on this issue.

This matter is far too important to be brushed aside in the rush of the HELP Committee to report a virtually complete substitute to S. 812—a substitute that suddenly springs forward last Tuesday, a day before the markup—a substitute that is then hastily plucked off the Senate calendar before, I believe, a committee report is even filed, and then rockets its way onto the floor as a straw man for the Medicare prescription drug debate.

I am dubious of the language in the bill that creates, I am told, perhaps for the first time in the Federal Food, Drug, and Cosmetic Act, a private right of action.

I am speaking of the provision in the Section 3(a) ''(2)(E)'' of the bill that creates what appears to be a new cause of action to attack patent listings.

Aside from setting an unwelcome foothold for trial lawyers to reach into the FDC Act, one must wonder how a provision that seems to create a parallel course of litigation to the well-established Paragraph IV patent contests simplifies or adds any measure of certainty to the patent challenge system? As the debate unfolds, I may have more to say on this matter and urge my colleagues to act to strike this language.

The last major area on which I wish to comment with respect to the pending legislation relates to the collusive agreements that have occurred in connection with the 180-day marketing exclusivity incentive of the 1984 law.

Mr. President, in closing, I have just discussed why I believe the pending bill's treatment of the 30-month stay is an improvement over the McCain-Schumer bill. For the reasons I have just discussed, I think the NDA plus 30-day rule goes too far. I come here today to give you my views on the 30-month stay issue and to see how the sponsors of the pending legislation respond to my arguments. If they say this is a nonnegotiable matter, that is one thing. If they are willing to modify the language, I will be willing to work with them on this. I would like to hear from them on this issue.

I have a number of other issues I will raise, but I want first to see whether there is a willingness to work with me in correcting what I consider to be inflexible language and to work with me in providing the flexibility to work on the 30-month stay, the file-it-or-lose-it or the sue-on-it-or-lose-it provisions, and the private right of action.

I have worked on many occasions with the Senator from Massachusetts. I have worked against him. I have worked with him. I know sometimes he adopts the no amendment strategy. The minute we yield the floor, I am raising the question of whether the sponsors are totally locked in on the language, and then I would like to hear what they have to say about the arguments I have made. This is too important an issue to play politics. We are talking about the health of the American public. I am willing to work to improve the bill. The language has improved as it has moved further away from the original Schumer-McCain language, but for the reasons I have described I think the language still needs some work.

I have a lot more to say, but I will end by rereading first an administration policy from the Executive Office of the President and then rereading a paragraph from this book.

In the Statement of Administration Policy, it says:

> However, the administration opposes S. 812 in its current form because it will not provide lower drug prices. S. 812 would unnecessarily encourage litigation around the initial approval of new drugs and would complicate the process of filing and protecting patents on new drugs. The resulting higher costs and delays in making new drugs available will reduce access to new breakthrough drugs. Moreover, this new cause of action is not necessary to address patent process abuses. Clearly, the bill would benefit from consideration by the Senate's experts on Hatch-Waxman law on the Judiciary Committee, the proper committee of jurisdiction for this bill.

Let me finally conclude where I began, and that was the book written by Haynes Johnson and David Broder, highly respected journalists, certainly not conservative journalists but journalists I respect, and they said this on page 90:

> In the campaign period, Fried recalled, Clinton's political advisers focused mainly on the message that for ''the plain folks, it's greed—greedy hospitals, greedy doctors, greedy insurance companies. It was an us-versus-them issue, which Clinton was extremely good at exploiting.'' Clinton's political consultants—Carville, Begala, Grunwald, Greenberg—all thought ''there had to be villains.'' Anne Wexler remembered—

Who is one of the leading Democrats in this town, one of the leading lobbyists in this town. I respect her greatly. She said—

> It was a very alarming prospect for those of us looking long term at how to deal with this issue. But at that point, the insurance companies and the pharmaceutical companies became the enemy.

All I ask in this debate is that we get rid of some of this rhetoric that the large pharmaceutical companies are a bunch of criminals and bad people who have run up the costs of drugs and who really do not play much of an important role in our society, and who literally are the reason we cannot get low-cost, affordable drugs to the American people.

During those 18 days or so, whatever it was, that we debated in my office and came up with the Hatch-Waxman

Act, we had almost fist fights between the PhRMA companies, the pioneering companies, and the generic companies, but in the end we were able to bring them together. Neither side was totally happy, but I believe both sides have been totally happy with the Hatch-Waxman results over the last 18 years. To be honest, before we change something that has been so doggone effective and efficacious, I might add, to use an FDA term, it seems to me we ought to at least make sure we are doing it the right way.

I have a lot more to say, but I have spoken for a long time. I understand that. I apologize to my colleagues, but I will be back to discuss other issues such as the 180-day rule which is at the center of what are considered to be collusive deals between the generics and the pharmaceutical firms.

To me, these issues are important. I want to apologize to my colleagues for going on so long, but this is a very complex bill. There is no way it can be explained in a matter of a few minutes. I have only covered a small part of it, but I have covered some very important parts, and I think, and I hope, my colleagues will realize I have made a case that they really ought to give consideration to.

I do not have any political axes to grind. I like both sides of this business. I like the pharmaceutical companies that have done so much to come up with lifesaving drugs, and I love the generic firms that have done so much to duplicate those drugs at an almost nonexistent cost, compared to the $800 million to create those products, but that have gotten them out there in bioequivalent ways for the benefit of the American people.

They both deserve a great deal of credit. Neither one of them deserves to be torn down in the Senate. I think we can fix Hatch-Waxman in ways that will continue to give both of them the incentives to continue to provide a pipeline of very wonderful drugs, lifesaving drugs, for us, and at affordable prices ultimately. I hope my colleagues will listen to what I have to say. I do not have any desire to malign anybody, but I really believe what I have had to say today is important and that Hatch-Waxman is an important bill. I do not want to see it fouled up because we are unwilling to pay the price to do it right.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, I rise to extend in many ways the comments made by the Senator from Utah. At the outset, I not only express my respect and admiration for his eloquent remarks, but also for the tremendous commitment he has shown on this particular issue over the last 20 years, especially with the Hatch-Waxman law which for the last 18 years has achieved so much for the benefit of the American people. The Senator from Utah has shown a commitment and has shown real foresight, in sponsoring and authoring—along with other colleagues in this body—the original Hatch-Waxman bill in his eloquent analysis of the legislation before us, as has been modified and improved markedly in the Health, Education, Labor, and Pensions Committee. He has also provided an excellent analysis of the underlying McCain-Schumer bill and some of the deficiencies he sees within this legislation.

After listening to his remarks, I think the underlying message was the real beauty in this legislation and in the original Hatch-Waxman legislation in achieving a sense of balance between the brand pharmaceutical companies and what they achieve through research and development, creativity and innovation, that balance with the growth and the appropriate incentives given to the generic community, where we know that cost-effectiveness has been demonstrated and needs to continue to be demonstrated as we move forward. We need to keep this in mind especially in this world with skyrocketing drug costs, which are putting the cost of pharmaceuticals out of the reach of seniors, of everyday Americans, and of individuals with disabilities.

Much of the discussion over the last 3 days has been on how best to provide seniors and individuals with disabilities in Medicare access to prescription drugs, and that debate will continue into next week.

Throughout this entire discussion is the whole issue of cost—what we need to do responsibly that can be sustained long term in terms of cost to make sure the cost of drugs are appropriate, reasonable, and not beyond the reach of Americans. The Hatch-Waxman law has had 18 years of balance, and now is the time to go back and readjust and make sure that balance is well situated for the next 5, 10, 15, or 20 years.

I heard the distinguished Senator from Utah say the legislation, as currently written—and recall he commended the various amendment processes in the HELP Committee to improve the bill—goes too far in correcting what is out of kilter today. That balance needs to be readjusted. The underlying legislation has many deficiencies that he believes, and I agree, should be addressed. I will walk through several of those from the perspective of having served on the Health, Education, Labor, and Pensions Committee.

The issue of cost is one that disturbs everyone. It is at the heart of the discussion on health care and on extending prescription drugs in an affordable way, in a bipartisan way, to seniors and individuals with disabilities. The cost is not just in the public sector but the private sector as well. The skyrocketing cost is driving people to the ranks of the uninsured.

As we look at the overall skyrocketing cost of health care, the cost of prescription drugs is increasing in a way that cannot be sustained over time. In the name of cost savings and in the name of reaching out and rallying support for particular pieces of legislation or amendments focusing on cost savings, never should we threaten public health, which we talked about yesterday. Furthermore, never should we threaten the research and innovation that has made us the envy of the world in terms of health care—the great breakthrough drugs, the investment in research and delivery, which eventually will deliver a cure for things which are not curable today, such as HIV/AIDS. That virus will kill somewhere around 60 million people over the next 20 years. We do not currently have a cure, however, I am confident a cure will be found by research and development from our pharmaceutical companies.

The Hatch-Waxman Act has served us very well. As the distinguished Senator from Utah said, generic drugs represented only about 20 percent of the market in 1984. Yet today, half of all drugs in this country are generic which, again, is a huge advance. At the same time, we have been able to see this rise in the generic industry, which I advocate because of the cost-effectiveness that is demonstrated there because of the balance we have. The brand name pharmaceutical companies have continued to invest in research and development. Over that same period of time since 1984, that research and development by the brand name pharmaceutical companies have increased not twofold, threefold or fivefold but have increased ninefold since 1984.

We have seen dramatic breakthroughs in pharmaceutical treatments for such areas as mental health, cancer, and heart disease. Costs have put drugs out of reach for too many Americans today, and we must address that. Over time, both the generic industry and the brand name pharmaceutical companies have, unfortunately, circumvented the intentions of Hatch-Waxman. That circumvention is clearly an abuse because it ultimately drives up the cost of health care, and it must be addressed. Adjustments are in order. What concerns me and what clearly concerns the original author of the Hatch-Waxman legislation, the Senator from Utah, is that this underlying legislation goes too far.

I will comment on several of the areas. First, I restate the legislation in the Senate today is currently much improved over the original Schumer-McCain legislation introduced last May. The original version of S. 812 took a heavy-handed approach to this very real problem. It would have dealt a serious blow to pharmaceutical research and innovation, which we all depend on as we look for potential cures and potential therapies in the future.

My colleagues, Senators EDWARDS, COLLINS, GREGG, HUTCHINSON and others should be commended for working

with the chairman of the Health, Education, Labor, and Pensions Committee. Senators MCCAIN and SCHUMER also worked to approve the legislation. Nevertheless, the bill before us has significant flaws. Let me briefly outline several of my concerns.

First, we are focused most importantly on cost savings, the driving force. Everyone knows the costs are too high. It is important for our colleagues to understand there has been no demonstration that the underlying legislation will actually save money, lower the overall burden of prescription drugs and generic drugs in the aggregate to either consumers or in the aggregate in terms of the overall health care dollar.

The intent of the authors has been clear—the goal of the legislation is to improve competition. If improving competition is achieved, and I have real questions about whether competition will be improved as written, I believe costs will decrease. It will speed cheaper generic drugs to the market, which is the intent of the authors of this legislation.

Part of the legislation discussed today is clearly being promoted because of the intent, or what the proponents say it would do, and that is to lower costs. The real question is, Does it? Is there any evidence that it will do so?

The Congressional Budget Office, to the best of my knowledge, has not scored this piece of legislation. By score, I mean it has not estimated the cost of this legislation. Neither this legislation nor the original bill introduced by Senators SCHUMER and MCCAIN has been analyzed by the CBO.

As you listened to Senator HATCH's eloquent comments earlier and you listened to the complexities of this bill, I ask, Does this increased complexity and new cause of action actually contribute to increasing costs?

Lastly, I am not aware of any other estimates of potential savings by independent, nonpartisan experts that members of the Senate will have a chance to review before we go forward.

My second point refers to how best to curb abuses. The whole idea of curbing abuses is a common goal that we share in the underlying legislation, in the amendment process, and in the H.E.L.P. Committee. As Senator HATCH again spelled out in his comments, the Federal Trade Commission is currently conducting an extensive study of potential abuses in this area. As we discussed in the hearing several days ago and as Senator HATCH requested, the FTC is preparing a report regarding this area. It would be nice to have an objective body like the Federal Trade Commission present its data before we potentially complicate legislation over the next several days and weeks.

Unfortunately, we are not going to have that opportunity. It is too bad because as I understand it, the real problem is being made in terms of the Federal Trade Commission's ongoing study.

Current law, as we look at the 180-day exclusivity provision, provides an incentive for the first generic that challenges an innovator's original patent. It awards that generic company 180 days, or about 6 months, during which other generics may not be approved. The bill before the Senate, which is quite different than the original legislation, provides that if one generic loses that 180 days of exclusive rights, it can pass on to the next generic.

I am told the 180-day exclusivity rule has been the most frequently litigated area of the Hatch-Waxman legislation over the last several years.

I am concerned and again this understates the concern of Senator HATCH. The provisions in the proposed bill are overly complex and they might actually encourage even more litigation and promote even greater confusion in this area.

As Senator HATCH mentioned, during the Health, Education, Labor, and Pensions Committee's evaluation, we reached out to understand the language in this particular bill. I have to admit that the new bill's language was confusing to me, but at the end of our discussion, my interpretation as we listened to the proponents of the bill is that the 180-day exclusivity period would allow, theoretically, a rollover indefinitely.

If that is a correct interpretation, it could actually take longer for cheaper generic drugs to get to the market. While a generic drug would be cheaper during this 180-day period than a brand name drug, it certainly would be more inexpensive during the 60-day or 180-day exclusivity period, where it had absolutely no generic competition.

Last May, Senator HATCH and others were highly critical of a concept of rolling exclusivity when they testified before the Health, Education, Labor, and Pensions Committee. In fact, Senator HATCH testified and quoted former Acting Director of FDA's Office of Generic Drugs, Gary Buehler, as follows:

> We believe that rolling exclusivity would actually be an impediment to generic competition.

Senator HATCH further stated:

> If our goal is to maximize consumer savings . . . it is difficult to see how rolling exclusivity achieves this goal.

In fact, many experts believe and have expressed that the 180-day exclusivity period is no longer necessary today, and that if it were abolished, even more significant cost-savings could be achieved. Moreover, eliminating the 180-day provision altogether, in my opinion, could be the best way to curb abuses currently being investigated by the FTC—where brand companies and generic companies have allegedly entered into collusive and potentially anti-competitive agreements to prevent cheaper generic drugs from coming to market and benefitting consumers.

My main point is if we are going to act in the absence of the FTC report, which examines this very issue and their findings, we clearly should not add confusion to this area. We should not add provisions which would increase litigation or increase costs, and we should not add provisions that could exacerbate incentives for anti-competitive behavior by both generic and brand name drug companies. This is the area we need to fix.

If we are not ready to eliminate this 180-day rule or wait for the FTC report to help guide us on how we can make that ultimate decision and act responsibly, I believe what is called a ''use it or lose it'' policy would better discourage anti-competitive behavior. This so-called ''use it or lose it'' policy would take away incentives for generic companies to make their own potentially anti-competitive arrangements.

Senator GREGG initially proposed this ''use it or lose it'' policy during the Health, Education, Labor, and Pensions Committee consideration of this legislation. I believe this policy would clearly benefit consumers more than any form of ''rolling'' exclusivity. If we are going to act in the absence of the full report of the FTC, we ought to at least to do so in a straightforward way that promotes competition and that clearly helps consumers.

The third issue I would like to raise is the issue of bioequivalence. This is a particular issue that I introduced in the Health, Education, Labor, and Pensions Committee and spoke a little about on the floor two days ago. Again, it is an issue I want to put out to my colleagues for their consideration. The unintended consequence, in the way this legislation is written, is potentially harmful in a way that I will delineate.

The Hatch-Waxman law allows generic companies to market off-patent drugs if they are able to demonstrate this so-called bioequivalence. Bioequivalence simply means the active ingredient in a generic pharmaceutical or a generic drug is absorbed at the same rate and to the same extent as the brand drug.

The bill before us—and this is the key point—could significantly weaken this important patient protection by giving the Food and Drug Administration broad authority to significantly relax, to loosen, the statutory Hatch-Waxman bioequivalency standard. My concern is this potential loosening of the standards.

We all have agreed—at least in the Health, Education, Labor and Pension Committee discussions, including the proponents of the legislation—that the FDA has broad authority with regard to bioequivalence and that there has not been a successful challenge to the FDA bioequivalence standards as they exist today.

Based on existing statutory language the FDA has developed through the process of notice and comment—rulemaking specific bioequivalence test methods to address a range of products have been established over time. They

have not been successfully challenged. As we discussed this in committee, the FDA has been uniformly successful in defending its bioequivalence methodology and its findings. In fact, we agreed in committee that the FDA's authority in this area has been repeatedly upheld. There has not been a reported case challenging the FDA's bioequivalence standards since the case was decided in FDA's favor back in 1997, five years ago.

Therefore, as we look at bioequivalence, I think it is unnecessary, imprudent, and unwise to include any bioequivalence language in this legislation. Nonetheless, the bill before us would deem FDA's regulations to be authorized under relevant provisions of the Food, Drug, and Cosmetic Act.

Again, my concern is that it could insulate the FDA from any potential challenge in this area.

The reason I keep bringing it to the floor and talking to my colleagues about this issue is because I hear a lot about it from the medical community, the scientific community, and the biological research and development community. Given the importance of the bioequivalence requirement in assuring the safety of generic drugs, I believe any loosening of standards is in the disinterest of the American people. Why? Because, once again, it goes back to safety and public health. Instead of moving forward, it is moving backwards.

There are many examples, but a typical example would be taking a blood thinner such as Coumadin. Coumadin is used all over the country. It is a tremendous drug and a very powerful drug. It is well known that one generic of Coumadin versus another versus yet another behaves in a different way, even if you prescribe the same dose in milligrams. The bioequivalence can be variable and might be tiny, 3 percent, 5 percent, 8 percent. But when the goal is thinning of the blood so you do not have another stroke or heart attack, when you go from one drug to another drug for whatever reason—it might be the pharmacy telling you to do it, it might be your health plan, it might be you who has chosen to do it—your blood might be thin one day and not thin the other, and you think you are taking the same drug.

That is what bioequivalency is—where there might be loosening of the current standard. The reason I say there might be loosening is because people who are a lot smarter than I who study the language tell me the language as written looks to be loosening.

Mr. GREGG. Mr. President, will the Senator yield for a question?

Mr. FRIST. I am happy to yield for the question.

Mr. GREGG. The Senator from Tennessee understands the issue better than anybody else, and certainly the points he makes are excellently made.

It was my understanding on this specific point of bioequivalency that the Senator had a commitment from a primary Democratic sponsor of the bill, Senator EDWARDS, that this would be worked out or straightened out before the bill came to the floor. Am I correct?

Mr. FRIST. Mr. President, in response to my distinguished colleague, this issue of having a general agreement that we would work out technical language, and then after 48 hours or 72 hours have the bill come to the floor without the opportunity, in a bipartisan way, to be able to access experts in the field, is what concerns me most. You can take an initial bill and improve it a little bit, and then you can leave something out and not reach bioequivalency. In response to the question is a particular instance where during the discussion, the mark-up, we said let's get together and make absolutely sure that we address it in a way so that standards are not being loosened; yet, the bill that comes to the floor does not have that guarantee in it.

Mr. DURBIN. Will the Senator yield for a question?

Mr. FRIST. Mr. President, let me continue. Let me answer one question, and then return to my comments. I would be happy to yield for a question.

Mr. DURBIN. The Senator from Tennessee is the expert. He is a cardiac heart surgeon who is recognized for what he has done before he came to the Senate. I will certainly bow to his educational and professional experience.

Talking about bioequivalency, is it not true that when it comes to the efficacy of a drug that we should also take that into consideration when we are dealing with women, children, or pregnant women? It is my understanding that all of these are relevant to the efficacy of drugs—bioequivalency.

Is it not correct that were it not for the congressional pressure and mandating the same pharmaceutical companies the Senator is speaking of they would not be engaged in clinical trials sufficient to make certain that the efficacy of drugs would be the same for women and men, and dosages for children?

The point I am making is the industry, itself, had to be pushed into a position to find exactly what was better for people in usual circumstances of life. Is that not a fact?

Mr. FRIST. Mr. President, I agree with my distinguished colleague that we need to do a much better job in pushing the pharmaceutical industry to make sure that when it comes to testing of drugs or investigating drugs that they are adequate, especially as you look at bioequivalency in a varied population.

In fact, in the HELP Committee, as my colleague knows, we have passed legislation and we will continue to work on legislation that says we need to do more in terms of testing to see what the bioequivalent standard is. What is called in my profession of medicine a ''dose response'' relationship is in populations—whether it varies by race, age, or gender—we need to do a lot more. We need to keep pushing there.

My concern with bioequivalence—we will agree, whichever population it is or whether clinical trials are being conducted—the way this language is written today allows a significant loophole for a lessening of the bioequivalent standards that we as the American people deserve. That is my concern.

As the Senator from New Hampshire addressed in his question to me, we are reaching out. Clearly, we are in the minority. We are not going to have the votes. But I am going to continue to reach out. And I think you will see that our side will continue to reach out in the interest of cost savings. We do not want to push so hard that we lower the standards for the safety of the American people who take these drugs. I do not care if the cost savings is $100, $50, or $5. If that drug is not bioequivalent—if the dose is too strong, then your blood will not clot properly and you can get a stroke from bleeding in the brain, or, if the dose is too weak, then your blood clots too easily and you can get a stroke from having a blood clot go to your brain—you have done a disservice to the American people.

As the Senator from New Hampshire just mentioned, I will continue to reach out on this particular issue of bioequivalence.

You heard Senator HATCH from Utah stress that we need to slow down a bit to make sure that your intent in having cost savings does not hurt the American people. That is really the issue.

I am not the expert. Of course, I have dealt with a lot of these drugs, and I know what it is like being told by a managed-care organization that you have to switch drugs. The fear I have is that the drug has not been tested in a certain population effectively. Again, it could be by race or gender or age. That concerns me. Therefore, I do not want any lowering of those standards by our Government.

The Biotechnology Industry Organization sent a letter to Senator KENNEDY dated July 15.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BIOTECHNOLOGY INDUSTRY ORGANIZATION,
July 15, 2002.

Hon. EDWARD KENNEDY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: This letter protests proposed legislation (the Edwards-Collins substitute) to alter the Hatch-Waxman Act of facilitate generic drug approvals. The substitute's proposed changes raise serious concerns for members of the Biotechnology Industry Organization (BIO). We urge you to reconsider these amendments and to work on a more considered basis on any effort to revise the carefully-balanced Hatch-Waxman system.

As you know, the Drug Price Competition and Patent Term Restoration Act of 1984 (the ''Hatch-Waxman'' Act) strikes a balance between promoting access to generic drugs and fairly protecting the legitimate rights of the patent holder. It proves an expedited path to market for generic drugs, while ensuring that innovators receive an adequate term of patent life to stimulate new drug development.

The initial purposes of proposed amendments to Hatch-Waxman were to prevent abuses and facilitate efficient market entry of generic products. The reported bill goes far beyond these purposes. Among other things, the reported bill would completely abolish patent rights if litigation is not initiated within 45 days of notice by a generic that it intends to challenge a patent, or if a new drug applicant failed to list its patent with the FDA within 30 days. It creates a private right or action for generic manufacturers to attempt to ''correct'' patent information filed on a listed drug. At least prior to committee consideration, the bill provided the FDA with broad authority to define and apply standards governing bioequivalence—the critical determination of safety and efficacy of a generic drug—without challenge (or even comment) from affected members of the public. If enacted, these proposals would significantly erode the measures included in Hatch-Waxman to ensure an effective patent incentive for new drug development, and would create undesirable precedents for sound science-based regulations of drug products in the United States.

Our specific concerns follow:

When it enacted the Hatch-Waxman Act, Congress recognized that patent disputes over drugs regulated by the abbreviated new drug procedure were inevitable. The abbreviated new drug system thus provides procedures to permit generic and pioneer manufacturers to resolve these disputes before the FDA grants marketing approval to a generic producer. Under its procedures, the FDA will not immediately approve an abbreviated new drug application if the ANDA applicant challenges a patent that has been identified as covering the drug (a so-called paragraph IV patent certification). Instead, the patent challenge triggers, by statute, an opportunity for the patent owner to initiate a legal proceeding to resolve the patent dispute. The initiation of a patent suit in response to the paragraph IV certification will trigger a 30-month stay of action by the FDA on the abbreviated new drug application. The patent challenge procedures and the stay of approval ensures that products that would clearly infringe the patent rights of the innovator will not enter the market.

The amendments approved by the HELP Committee convert these procedures—which were designed to enhance the ability of a patent owner to enforce its rights—into an all or nothing system that can eliminate the patent rights of our companies. Under the legislation, a patent owner who for any reason fails to initiate litigation against a generic drug applicant within 45 days of receiving notice under the ANDA procedure will be barred from enforcing patent rights in any forum against either the ANDA applicant or any party that manufactures, uses, sells or offers for sale the approved drug product. In addition, a new drug applicant—who may not even be the patent owner—who fails to list a patent with the FDA within 30 days of approval of a new drug application, or within 30 days of the grant of a patent if that occurs after the NDA is approved, is similarly barred from enforcement of patent rights on the drug against a generic manufacturer. Either of these events will completely abolish patent rights in new drugs or related technology.

The legislation also creates new opportunities for generic drug makers to harass our companies through unnecessary and pointless litigation. As proposed, our companies and their drug marketing partners would be required to list patents that pertain to an approved new drug. Failure to list patents would render our patent rights void. Notwithstanding this mandatory listing process, the legislation would create a private right of action to permit a generic manufacturer to challenge these mandatory patent listings. The legislation also would allow generic drug applicants to initiate this litigation regardless of whether our companies or their partners intend to assert their patent rights in the ANDA process. Plainly, the motivation to prevent improper listings of patents has been turned onto its head by these procedures.

Members of BIO thus unquestionably will be harmed by the Edward-Collins substitute. Many of our companies focus on improving currently marketed drugs regulated under the new drug and abbreviated new drug approval system. These innovations of our companies create new and better medicines for patients that are more effective, easier to administer and open up new opportunities for treating unmet medical needs. These technologies frequently—often by commercial necessity—are licensed to multiple drug manufacturers who have the resources to bring new drug products that use these technologies to market. Perversely, under the legislation approved by the HELP committee, if our companies elect to not aggressively enforce their patent rights by immediately suing every generic drug applicant, or if one of the marketing partners makes administrative errors in listing patents with the FDA, the patent rights of our companies will be forfeited. This forfeiture will occur without compensation, without a right of appeal and without any recourse. This provision is probably unconstitutional, and in any event is totally unconscionable.

Finally, as you know, as originally drafted, Section 8 of the bill would selectively codify certain regulations governing ''bioequivalence'' requirements and would legislatively shield the FDA from challenges to its actions in setting approval standards. We understand the purposes of Section 8 to be limited: to confirm the authority of the Food and Drug Administration to use testing methods other than those specifically set forth in current law to establish the bioavailability and bioequivalence of a generic drug, when the methods specified cannot be applied. Types of generic drugs to which alternative testing methods would be applied would include drugs intended to deliver the active moiety locally, such as topical preparations for the skin or oral dosage forms not intended to be absorbed.

As pointed out by Senator Frist during markup, section 8 as currently drafted goes far beyond the intended purposes of the provision. The draft proposal presented during markup would codify fifteen pages of FDA regulations governing ''bioequivalence'' requirements on both new drugs and generics and would legislatively shield the FDA from challenges to its actions in setting approval standards. In essence, the proposed changes would make it impossible for drug manufacturers, whether pioneer or generic, or members of the public, to challenge improper standards enacted by the agency on key approval criteria, or to challenge improper decisions made under valid authority. Moreover, the current regulations include several provisions in which FDA provides to itself unfettered discretion to create or define at will any standard ''deemed adequate by FDA.'' This makes an otherwise legitimate challenge to an agency decision virtually impossible to sustain. Shielding the agency from actions to challenge its proper authority simply makes no sense, particularly when the consequences involve potential risks to patients and to public health.

We were assured by your staff that this provision would be narrowed to its intended scope, in consultation with BIO, prior to floor consideration, and we provided alternate language to your staff that would accomplish the intended purpose of section 8. We have been presented with another draft that would continue to codify all of FDA's bioequivalence regulations (including the ability to define at will any standard it deems adequate) but only preserves ''existing'' legislative authority to regulate biologics under the Federal Food, Drug and Cosmetic Act. This is simply unacceptable to BIO. At this stage we can only ask that the entire section 8 be deleted. We point out that FDA's authority to establish different standards for non-systemic drugs has been confirmed by the courts. See *Schering Corp.* v. *Food and Drug Administration*, 51 F. 3d 390 (3rd Cir., 1995).

Provisions in the draft that served as the basis for committee discussion were made available to the biotechnology industry less than two days prior to markup. These provisions would have an enormously negative impact on the property rights of the emerging biotechnology industry and completely upset the delicate balance between the interests of pioneer and generic companies crafted by the Hatch-Waxman law. They go far beyond the provisions of McCain-Schumer, which served as the basis for the Edwards-Kennedy redraft; the late release of the redraft made meaningful legal review and comment impossible.

We urge you not to rush this bill to the Senate floor. The implications of the changes being proposed by the Edwards-Collins substitute are far reaching and will significantly and adversely impact biotechnology companies. They would severely diminish the incentives of the patent system for our industry to develop newer, safer, easier to administer and more effective drugs that could help patients lead better lives. The changes being proposed, simply stated, will not yield better results for patients or the biotechnology industry.

Sincerely,

CARL B. FELDBAUM,
President.

Mr. FRIST. Mr. President, I also ask unanimous consent to have a similar letter from the Massachusetts Biotechnology Council be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MASSACHUSETTS BIOTECHNOLOGY COUNCIL,
Cambridge, MA, July 16, 2002.

Hon. EDWARD M. KENNEDY,
Russell Senate Building,
Washington, DC.

DEAR SENATOR KENNEDY, I request that you oppose S. 812, legislation to alter the Hatch-Waxman Act. The bill raises serious concerns for our Massachusetts Biotechnology Council membership. I urge you to work on a more considered basis on any effort to revise the carefully-balanced Hatch-Waxman system.

I understand that under the reported bill, a patent owner who for any reason fails to initiate litigation against a generic drug applicant within 45 days of receiving notice under the ANDA procedure will be barred from enforcing patent rights in any forum against either the ANDA applicant or any party that

manufactures, uses, sells or offers for sale the approved drug product. In addition, a new drug applicant—who may not even be the patent owner—who fails to list a patent with the FDA within 30 days of approval of a new drug application, or within 30 days of the grant of a patent if that occurs after the NDA is approved, is similarly barred from enforcement of patent rights on the drug against a generic manufacturer. Either of these events will completely abolish patent rights in new drugs or related technology.

The legislation also creates new opportunities for generic drug makers to harass biotech companies through unnecessary and pointless litigation. The reported bill would create a private right of action to permit a generic manufacturer to challenge these mandatory patent listings. The legislation also would allow generic drug applicants to initiate this litigation regardless of whether our companies or their partners intend to assert their patent rights in the ANDA process.

The proposal would codify fifteen pages of FDA regulations governing ''bioequivalence'' requirements on both new drugs and generics and would legislatively shield the FDA from challenges to its actions in setting approval standards. In essence, the proposed changes would make it impossible for drug manufacturers, whether pioneer or generic, or members of the public to challenge improper standards enacted by the agency on key approval criteria, or to challenge improper decisions made under valid authority. Moreover, the current regulations include several provisions in which FDA provides to itself unfettered discretion to create or define at will any standard ''deemed adequate by FDA.'' This makes an otherwise legitimate challenge to an agency decision virtually impossible to sustain. Shielding the agency from actions to challenge its proper authority simply makes no sense, particularly when the consequences involve potential risks to patients and to public health.

I urge you to oppose S. 812. The implications of the changes being proposed are far reaching and will significantly and adversely impact biotechnology companies. They would severely diminish the incentives of the patent system for our industry to develop newer, safer, easier to administer and more effective drugs that could help patients lead better lives. The changes, simply stated, will not yield better results for patients or the biotechnology industry.

Sincerely,

STEPHEN MULLONEY,
Director of Government Relations and Communications, Massachusetts Biotechnology Council.

Mr. FRIST. Mr. President, the Biotechnology Organization represents over 1,000 biotechnology companies and their members all over the country and in every State. California, Massachusetts, and Maryland have the highest concentration of biocompanies in the United States.

I think what people understand and what my colleagues understand is that the biofield is a fairly new field. When I was in medical school, these biotech companies were not out there. The drugs they are looking at today were nonexistent. For the most part, they are in their infancy today. Fifty years from now and looking back, we will see on the curve an increase that right now we are at the beginning of.

Of the 130 biotech drugs approved by the FDA, all were produced by fewer than 100 companies. As I just said, there are over 1,000 biotechnology companies that exist today. What that means is, if you have ten companies working at the early research stage to figure out what drug is going to cure HIV/AIDS, or reverse a certain case of emphysema or reverse that blood clot just about ready to cause a stroke in your brain, one company will ultimately produce an effective product. Many of these companies are small, emerging companies.

Look at Senator KENNEDY's language on bioequivalence. That is the language that will ultimately go into the bill.

These letters make clear the concerns raised by myself in committee and others during the Health, Education and Labor Committee markup. The bioequivalent language in the underlying bill has not been addressed.

You heard Senator HATCH's plea. Even if this bill sails through, please listen to us and allow us to participate in changing that language.

Let me just say that I also share the concerns of others about the codification in this bill.

Let me quote from their letter only three sentences. This is from the biocommunity.

. . . section 8 as currently drafted goes well beyond the intended purpose of the provision. In essence, the proposed changes would make it impossible for drug manufacturers, whether pioneer or generic, or members of the public, to challenge improper standards enacted by the agency on key approval criteria, or to challenge improper decisions made under valid authority. Moreover, the current regulations include several provisions in which FDA provides to itself unfettered discretion to create or define at will any standard ''deemed adequate by FDA.'' This makes an otherwise legitimate challenge to an agency decision virtually impossible to sustain. Shielding the agency from actions to challenge its proper authority simply makes no sense, particularly when the consequences involve potential risks to patients and to public health.

Bioequivalence—again, that is probably the last time I will be able to address this issue on the floor. It is a plea that we work together and come to an agreement so we do not accomplish a loosening of these standards.

The Senator from Utah also mentioned the 30-month stay provisions.

Let me just say that this 30-month stay provision has served a very important purpose. If you look back at the legislation, which is consistent with remarks from the Senator from Utah, you will see that the 30-month stay is part of the balancing act between the brand name pharmaceutical companies, which are heavily invested in R&D, and the cost-effective generic companies to achieve that balance, which we have seen is so important.

As I have said, it has been the magic over the last 16 to 18 years. We need to be very careful when we start tinkering with that and whether or not that goes too far in upsetting that balance.

I know and my colleagues know that there have been huge abuses by some brand name companies versus the generic companies in our discussions. They have filed what are late patents. They file late patents that may not represent significant medical advances. Their purpose is because they saw the law written this way as simply to extend that 30-month stay protection period. And they are protected. When you have that sort of protection, obviously, it affects prices throughout.

The legislation before us would treat patents, listed after a new drug application is approved, differently than patents listed when a new drug application is approved. Providing lower protections to patents at any point in time will have real implications in terms of innovation, in terms of incentives to innovate as you develop new formulations and new aspects of drugs.

There are a whole slew of examples where these patents that are issued, not early on but later, could involve an important innovation. I will not go through the examples here today, but we have talked about them in our Health, Education, Labor, Pension Committee.

So if you have a new drug here, a patent here, and you can improve on that drug later in the life cycle, that improvement needs to be protected in some way. Furthermore, you need to give a pharmaceutical company an incentive, which is what this patent protection is. That is what patents are all about: an incentive to look at a new formulation of that drug that could be important.

There was a question, a few minutes ago, about certain populations. For example, this applies very specifically to the pediatric population. If you have a drug that can either be injected or be applied intravenously inside a vein, and you have a patent on that drug, it would be nice to give somebody an incentive to make sure you can use that same drug in a liquid formulation, to give them some incentive to develop that liquid formulation. And it may come later in the cycle of that drug.

In fact, two weeks ago Dr. Tony Fauci of NIH was quoted in the New York Times about the importance of developing an oral formulation of a drug that was discovered as an injectable drug to treat HIV/AIDS. Forty million people in the world today with HIV/AIDS are struggling in countries, such as in Africa, where two out of three of these cases are today. Many of my colleagues, on both sides of aisle, are trying to figure out how we can link prevention, care, and treatment. The problem is, treatment today is just so expensive. So we want to incentivize people to take an injectable drug, which is very difficult to administer throughout Africa, and develop an oral formulation of that particular drug.

Dr. Tony Fauci talked about the importance of developing and patenting an oral formulation of this drug. Unfortunately, that is the kind of new patent, on a previously discovered drug,

that would be afforded less protection under this bill. When you afford something with less protection, it is true that fewer companies, fewer people, are going to be interested in investing and figuring out that new formulation.

Again, because the distinguished Senator from Illinois mentioned the pediatric population, it brings to mind the fact that we worked very hard on what is called a pediatric exclusivity bill. We unanimously passed it in the Senate. It provides a market incentive for brand-name drug companies to test certain drugs in the pediatric population. Many of us were cosponsors of that bill, and it unanimously passed in this body. It provides a market incentive for brand-name drug companies to test certain drugs for pediatric use for which the FDA issues a written request.

We gave certain protections. Now, all of a sudden, we are saying: Well, maybe or maybe not in the pediatric population. Let's lower the protections that we are giving instead of increasing the protections—which was the intent of this body—and give less legal protection just because of the timing in which a patent was filed.

The issue is complex, as Senator HATCH has said. People say, you are being critical of it. You illustrate the problems. Are there better approaches? The answer is, yes, there are better approaches, to my mind, that I hope we will have the opportunity to debate.

One approach would be to not allow brand companies to automatically extend the 30-month stay for patents issued after the filing of what is called an abbreviated new drug application—what is called an ANDA—by a generic company.

Another alternative would be to allow an additional 30-month stay only for patents that were filed but not approved by the Patent and Trademark Office at the time of the NDA.

The impact of this would be to reduce incentives for brand companies to ''game'' the system, something that all of us want to avoid—companies coming in and trying to take advantage of whatever structure we set up.

The fifth point that I want to bring up, in the hopes that we will be able to come back in some form to be able to address these issues, is the broad bar on patent lawsuits. Senator HATCH also raised this point, for the record.

I am troubled by provisions in the bill that cause patent holders to lose their rights to sue for infringement of a patent if the patent holder does not meet certain requirements, including these timing requirements.

For example, a patent holder would lose its right to sue for infringement if it does not submit appropriate patent information to FDA within the specified deadline, or if it does not bring an infringement lawsuit within 45 days of receiving notice from the generic applicant that its patents are being challenged.

I believe this fundamental change, of which the Senator from Utah spoke, to the Hatch-Waxman law will force companies to bring more litigation, not less litigation. In our hearing, we kept saying that we want to see less litigation. It will force more companies to bring more litigation to avoid the risk that otherwise they will waive their rights for all time.

If they do not sue, they are going to waive those rights for the future. That is a concern to me, especially as we are looking to decrease the number of lawsuits and decrease overall cost.

In fact, as I understand it, this provision alters basic rights that go with a patent, rights that give brand-name drug companies the incentives, as I mentioned earlier, to improve upon existing products.

I have to ask: What happens if a patent owner does not have a good-faith basis to sue at some point in time, but later learns something that would give him reason to sue for infringement? The answer is that that patent holder is simply out of luck.

America's research institutions and academic medical centers would clearly suffer under the ''list-it-or-lose it'' or ''sue-or-suffer'' provisions of this bill. Under these provisions, NDA holders are required to file patents that meet listing criteria whether or not they own or have a license under those patents. Under the bill, patent owners will be lose their rights to enforce their patents if the NDA holder fails to list, and the patent owners can do nothing about that (only NDA holders, not patent owners, have the ability to list patents).

For example, suppose Harvard University owns a patent on a drug substance discovered by one of its academic researchers. Normally Harvard would license that patent to a brand name pharmaceutical company that would develop the drug and submit an application for approval to the FDA. Under the bill before us, if that brand name company failed to list the patent within the arbitrary 30 day period, Harvard, the patent owner, would irreparably forfeit its ability to enforce its valuable patent rights against any generic drug applicant forever.

This is true even if a company completely unrelated to Harvard develops a drug that might potentially be claimed in a Harvard patent. Under this approach, Harvard, which has not control over the timing of the listing, would suffer a complete loss of its patents rights against generics without any recourse or ability to remedy the situation. That is both arbitrary and punitive.

While we are acting, in large part, over these next several days out of concerns over health care costs, as I mentioned before, the Senate has no formal cost estimate from the Congressional Budget Office, the Office of Management and Budget, or really any other credible source.

I mention that only because the overall assumption—and what we would all like—is that whatever we pass here will ultimately bring costs down. But we do not have any outside independent evaluation of that.

While we are acting aggressively to curb past abuses, we do not have the benefit, as you have heard from Senator HATCH and myself today, of the ongoing information that is being compiled by the Federal Trade Commission. The FTC has been specifically charged with the investigation of potential abuses by brands and generics. I believe and I am confident this report will provide crucial additional information. As Senator HATCH has said: We just simply don't have the facts.

I look forward to working with my colleagues on these issues. Again, Senator HATCH and I have spent a long time outlining our concerns, in large part, because I do not think we are going to be in the climate—I know we are going to other very important amendments about extending prescription drug coverage to seniors—that each of these very technical issues are going to be able to be adequately debated, but also to write in language that would fulfill the intentions on the floor, and that we are going to reach out and hopefully have that opportunity to work together on these.

I will likely end up, for the reasons I have outlined, voting against this underlying base legislation, despite the good work and the incremental advantages that have been added to this bill by Senators COLLINS—and I mentioned most of them—EDWARDS, GREGG, HUTCHINSON, and many of my colleagues.

The bottom line is, the balance is critical. Balance has been achieved to a very successful degree, much better than I would think anybody would have anticipated in 1984 from the Hatch-Waxman legislation. It is the magic as to why it has worked. It is why we have seen this proliferation of generic drugs and, at the same time, preserving the innovation and research.

What I am afraid is that in the legislation as written, we have gone too far. Going too far could indeed have a detrimental impact on research and innovation and the public good, without providing the cost savings promised by its supporters.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that before I am recognized to speak, the Senator from Missouri be recognized for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri.

Mrs. CARNAHAN. I thank the Senator from Illinois.

Mr. President, over the next 2 weeks, the Senate will address an issue that Americans have come to understand far too well—the high price of prescription drugs. We need to do all we can to lower the price of prescription drugs for consumers.

Senator STABENOW's amendment is one example of a concrete action the Senate can take. Her amendment would give the State the flexibility to negotiate Medicaid drug discounts for non-Medicaid-eligible individuals. This amendment would help lower prices for all consumers. I am a cosponsor of the amendment and encourage my colleagues to support it.

We need to do much more. We need to pass the underlying Schumer-McCain legislation. Today, pharmaceutical companies are making historic profits while average Americans are paying historic prices. Let's look at those profits.

Earlier this year, Fortune magazine did a comparison of U.S. industries to see how profitable they were in the past year. The pharmaceutical industry ranked No. 1 in all three of Fortune's profitability measures. Almost 20 percent of its revenues were profits.

But now let's look at the prices. In 2001, the prices of the 50 prescription drugs used most often by seniors increased on the average by nearly three times the rate of inflation. For example, Lipitor, which is used to treat high cholesterol, rose 13.5 percent, more than five times the rate of inflation. Paxil, which is used to treat depression, rose 11.6 percent. And Celebrex, used to treat arthritis, rose 10.4 percent. For seniors who are living on a fixed income, the high price of prescription drugs means making tough choices every day between lifesaving medication and food and rent and heat.

The No. 1 issue which I hear about in Missouri from our seniors is prescription drugs. Whether people live in urban or rural or suburban areas, they are all feeling the pain of high prices.

Recently, I visited the Terrace Retirement Community in Columbia, MO. While I was there, I led a roundtable on the topic of prescription drugs. If you could have heard some of those stories. They were definitely heart wrenching.

One of the women I met that day in Columbia was Annie Gardner. She is an impressive 63-year-old mother of five children, but she suffers from diabetes and high blood pressure. Her hardship began after taking a buyout from her employer. In this transaction she lost her health insurance and was not able to afford insurance on the private market. This left her unable to afford her prescriptions. Often she had to ration them by taking half the prescribed amount so it would last longer.

Ms. Gardner knows how dangerous this can be because she is a licensed practical nurse and has been for 40 years. Later, she had to quit purchasing the drugs entirely because of other expenses, such as fixing her car and paying increased taxes on her home. Ms. Gardner and thousands like her make these tough life-threatening decisions every day. But no one should have to make those kinds of decisions.

Seniors are not the only ones who have been hit hard. For far too many families, the cost of prescription drugs is a budget buster. Working families without health insurance are paying the highest price of all because they do not get the benefits of the negotiated discounts. This issue also hits employers. They absorb the cost of high prescription drug prices in the health benefit packages they provide to their employees.

For example, last year General Motors spent $1.3 billion for prescription drugs for its employees and retirees. This problem has reached such a crisis that companies, including General Motors, have joined the Governors to form the Business for Affordable Medicine Coalition. Their key issue is the one we are debating today—closing the loopholes in the current law so that generic drugs can compete fairly with brand name drugs.

I am pleased that the Senate is considering ways to close these loopholes with the Greater Access to Affordable Pharmaceuticals Act. I applaud Senators SCHUMER and MCCAIN for authorizing this legislation. I, too, am proud to be a cosponsor of that bill.

It is imperative that we close these loopholes in current law that prevents generics from coming on the market. Generics cost on the average one-third the price of brand name drugs. Generics bring competition into the market and lowers the price for drugs for all Americans.

When a brand name drug is under patent, its manufacturer enjoys a monopoly. One company sells the drug; one company sets the prices. Now I support patents for drugs. Patents are there for a legitimate reason—to allow companies to recoup the cost of research and development that they invest in creating the drugs. But drug companies are abusing loopholes under the current law and extending their monopoly on prices sometimes for years at a time.

A 1-year delay in a generic coming to market can translate into hundreds of millions of dollars in profit for the brand name company. In 1984, Congress passed the Hatch-Waxman act. This act was intended to strike a balance, a balance between brand name drug companies being compensated for their investments and generic companies eventually having access to the market. But the original purpose of the law has been distorted.

The law is now being used to extend patent protections far beyond what Congress intended. Balance needs to be restored. American taxpayers deserve better than what they are getting.

Over the next 5 years, a remarkable 26.7 percent of the entire 2001 pharmaceutical market is scheduled to face exposure to generic competition. If generics are allowed to come on the market, it would mean more choices and lower prices.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURBIN. Mr. President, I yield 5 additional minutes to the Senator from Missouri with the consent of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CARNAHAN. Generics can save consumers over 60 percent per prescription. Here are some examples of brand name drugs whose patents are supposed to expire in the next few years. Listen to the numbers on what consumers should be expected to save.

The patent on Claritin, an allergy medication, is scheduled to expire in December. Annual savings after the generic becomes available are expected to be over $500 million. The patent on Zocor, a cholesterol-lowering drug, is scheduled to expire in December 2005. The annual savings after the generic becomes available is expected to be about $735 million. The patent on Zoloft, a drug for depression, is scheduled to expire in December 2005. The annual savings after the generic becomes available is expected to be $577 million.

However, given the amount of money that is at stake, pharmaceutical companies have a lot of incentive to delay generics from coming on the market. Unfortunately, current law allows them to do this.

If we in this Congress have the courage to act, American consumers will save billions of dollars. If we don't, the money will go directly from the pocketbooks of American families and on to the profit statements of the drug companies.

Congress must move on yet another front. We will soon be considering a historic addition to the Medicare Program, a prescription drug benefit. The legislation I am supporting would create an affordable and accessible benefit administered through the Medicare Program.

This Senate plan is simple. Assistance begins with the first prescriptions. There are no gaps or limits on coverage, and seniors will pay $10 for generic drugs and $40 for brand name drugs. There is certainty and there is stability.

The House bill is the complete opposite. It is complicated. There is a $250 deductible before seniors get relief. There are months where seniors have to pay a premium, but they would not get assistance with their drug costs. Under the House plan, seniors will pay approximately a $35-a-month premium but still pay the full price at the drugstore.

The House Republican plan would require seniors to use drug HMOs to get their benefit. However, there are no guarantees that private plans would provide a benefit in all geographic areas, or that a plan would even stay in business.

Look at what has happened with Medicare+Choice, Medicare's HMO. Since 1998, nationwide, 2.2 million Medicare enrollees have lost Medicare+Choice as an option because of plans withdrawn from the market. In Missouri, from 1998 to 2001, eight health plans stopped providing Medicare+Choice options in the State.

Furthermore, some options are available in only urban centers and not in rural areas.

Why would we rely on this same type of system to give prescription drug coverage to rural areas?

To me, what the House passed is unacceptable. It is an incomplete benefit with absolutely no effort to lower drug prices. It is unacceptable for Missouri's seniors and unacceptable for American seniors. We must do better in the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, I thank my colleague from Missouri. The Senator spelled out in amazing detail what this debate is about. We come to this floor understanding that a miracle has taken place in terms of health care in America within the lifetime of most of us. When this Senate considered the Medicare bill back in the 1960s, there was a very limited formula, a limited number of prescription drugs that were available, and they did not include in Medicare the coverage of prescription drugs.

Look at what has happened since then. There has been a massive investment by the Government, the taxpayers, and by private industry, and we have seen emerging from that brandnew pharmaceuticals that give us the hope of conquering diseases that have plagued mankind forever. This new formulary, ever-expanding, has created a new demand. Of course, it is a demand brought on by people who want to save their own lives as well as those of their family members. It is a demand that is monitored by doctors; a doctor will decide whether this particular drug is right for this patient at this moment.

But at the same time that this miraculous evolution was taking place, the cost of these pharmaceuticals was also rising geometrically, to the point that today many average Americans cannot afford the very prescription that their doctor believes will keep them healthy and out of the hospital. So many of them put off filling a prescription and maybe take half of what they are supposed to take or they have to make a sacrifice—whether it is food, shelter, or paying a utility bill—in order to pay for their drugs.

There has been a demand growing in America for the Congress to respond and to expand the Medicare Program again so we would include prescription drugs. That is something that is worthy and is supported by Democrats and Republicans and Independents.

When you come down to the specific challenge of making it work, one of the biggest problems you face is price. If the cost of prescription drugs continues to grow, as it has in the past, there is no way any of us in the Senate or in the House can devise a Government program to pay for it and to keep up with that cost. Last year, the cost of prescription drugs across America went up some 18 percent. You cannot create a Government program and fund it properly that will keep up with that kind of geometric growth in price.

So there are various ways we can address it. To the north of us, Canada has addressed it with a national health system. We can argue back and forth about whether doctors or hospitals should be Government employees, but when it comes to prescription drugs, what Canada said to the drug companies in America is: If you want to sell your product in Canada, we will bargain with you as to how much you will be paid. The American drug companies said: Fine, let's start the bargaining process. As a result of that bargaining process, there are dramatic differences in the price of drugs between the United States and Canada.

If you look at this chart and go through the drug names, you will recognize some of them. These are the drugs that you find advertised on television, on radio, in newspapers, and in magazines almost on a daily basis. Celebrex, for arthritis, goes for $135 for 90 doses in the United States. In Canada, the same drug, same dosage, and the same company, it is $83. Lipitor, for cholesterol, is $266 in the United States and $179 in Canada. Nexium, for ulcers—the little purple pill, I think it is—is $344 in the United States and $219 in Canada. Paxil, which we have seen ads for, is for depression and anxiety; it is $236 in the United States and $152 in Canada. The list goes on. There is Premarin, Prevacid, Vioxx, Zocor, Zoloft—all the names we are familiar with because of advertising.

The lesson to be learned is that when the Canadian Government said they were going to bargain for the good of people living in Canada, they started saving money for their people and their health system. What is missing in this picture? There is nobody in the U.S. who is bargaining for the American consumer.

Yesterday, on the floor of the Senate, my colleague from Pennsylvania, Senator SANTORUM, argued that is just a price Americans have to pay. It is our responsibility, as he argues, to subsidize the profitability and growth of American drug companies. The fact that these same drugs are costing a fraction—the exact same drugs—in countries around Europe, Canada, and Mexico, he believes is just part of their socialized Government-controlled system.

I can tell you from the U.S. consumer's point of view, it is cold comfort to be told that for a drug you have to pay 40, 50 percent more than someone living a few miles over the border in Canada because it is your burden to subsidize American pharmaceutical companies. But that is the argument being made by those who are opposing many of the issues before us today.

Now, Canada isn't the only entity bargaining with American drug countries. Mexico and a lot of European countries bargain and say: If you want to come into our health system and sell your drug in our country, we are going to reach an agreement as to what you can charge; otherwise, you are not welcome. Well, the companies, by and large, have all agreed to do exactly that—enter into this agreement and reduce drug costs in every country but the United States.

In the United States, there are certain elements within our society that have bargaining power with the drug companies. A couple of examples come to mind immediately. The Veterans Administration, on behalf of America's veterans and hospitals, bargain with drug companies to bring down the cost of drugs. I am glad. The veterans benefit from it. Indian Health Service, the same story; Public Health Service, the same story. Many States, through Medicaid, bargain in terms of bringing down the cost of drugs. When you look at it, private insurance companies reach these same bargains. They say to a drug company: If you want to have an eligible drug for the people we insure, we are going to bargain on a price that we think is acceptable. That bargaining takes place to the benefit of another group of Americans.

If you look at the population of this country, who is being left out in the cold? I will tell you. The first group you will notice is Medicare recipients, people over the age of 65. No one is bargaining for them. These people, retired and on fixed incomes, are paying the highest prices, not only in America but in the world, for drugs that are being made in the United States. High prices, of course, apply to many other families as well.

There are several ways we can approach this. We can decide that, as a society and as a government, we are going to negotiate on behalf of American consumers, the same way it is done in other countries around the world. Well, we have not quite reached that decision. Instead, we are trying to inch toward more competition and price justice. I salute the Schumer-McCain bill—the underlying bill—because this bill says we are going to try to make certain that generic drugs continue to play a major role in terms of providing the kinds of protections that Americans need.

Generic drugs have come a long way in America. We have seen, in a very short period of time, that they have become a substantial part of serving America's health needs. Almost 40 percent of the drugs today are generic drugs.

What is the difference between a brand named drug and a generic drug? Well, by classic definition, a brand name drug is under patent protection exclusivity. Only one company can make that drug. But when the patent runs out, expires, other companies can move in and use the exact same formula, make the same drug, and the price drops dramatically.

I will give you an illustration of how it works. I doubt there is a person in

America who hasn't heard of Claritin, made by the Scherling-Plough drug company. The ad shows people skipping through a field of wildflowers saying, I am not sneezing, so go to the doctor and tell him you need Claritin. Scherling-Plough spent more money advertising that drug than Pepsi-Cola spent advertising Pepsi in a given year or Anheuser-Busch spent advertising Budweiser. They wanted the Americans to develop an appetite for this drug Claritin. Then they got panicky because the patent was running out because then someone else could make a Claritin generic drug at a fraction of the cost. So they would come to Congress and try to find, at the midnight hour, a way to slip in an amendment to extend their patent another few months or years. We fought them back time and again.

And Scherling-Plough wasn't the only group trying to do that. What we have seen happen now is Claritin is coming off patent and the generic drugs are going to compete. Scherling-Plough is thinking: What are we going to do?

What did they do? They tweaked a molecule in Claritin and created a new allergy drug called Clarinex. Have you seen it on TV? It will soon be coming to a television near and dear to you. Now they want to create this appetite for Clarinex because it is back at the price they used to charge for Claritin. The odd thing is, if you had asked, many doctors from the start would have told you that over-the-counter drugs are as effective as Claritin or Clarinex will be ever be for most Americans.

The point I am making is, when you are talking about generic drugs, you are talking about affordable drugs for Americans. You are talking about giving them the same type of drugs, bioequivalent, as those under brand name and patents, and making certain they save money in the process. Senator SCHUMER and Senator MCCAIN are trying to eliminate some of the abuses as drugs come off patent and move toward generic so consumers can enjoy that benefit.

Yesterday, on the floor of the Senate, by a vote of 69 to 30, we adopted an amendment by Senator DORGAN. Senator DORGAN of North Dakota said he finds it strange that in Canada, the exact same drug made by the same American company subject to the same inspection sells for a fraction of the cost, and why shouldn't we be allowed to reimport these drugs from Canada for the benefit of American consumers?

They came here on behalf of the pharmaceutical industry and said it is an invitation to terrorism; you are going to bring in counterfeit drugs. One of my colleagues said he had a formula he was holding up that was made out of highway paint. I could not follow the debate very closely, but the suggestion is that drug that moved across the border is, all of a sudden, suspect when it comes back.

I wanted to ask the critics of the Dorgan amendment why, if we have busload after busload of Americans going into Canada buying these drugs, if there is such a danger, why have we not heard some scandalous report about people dropping dead on the buses or as soon as they got home? It has not happened. It will not happen.

In the Senate, by a vote of 69 to 30, we decided to create another opportunity, beyond generic drugs, for reimportation of drugs from Canada, with the approval of the Secretary of Health and Human Services in terms of their safety and the fact they save us money. That was a step forward.

Today, I am happy to be a cosponsor of an amendment presently before the Senate which, frankly, has not been discussed for about 3 hours. I have listened to the debate on the floor, and no one has discussed this amendment by Senator STABENOW.

The last two speakers on the Republican side, Senator HATCH and Senator FRIST, spoke to the generic drug part of the bill, but they are not addressing this bill which I think is a good one by Senator STABENOW.

What this bill says is that States across the Nation, such as Maine, Vermont, even the State of Illinois, can decide they want to try to bargain with the drug companies to bring down prices for everyone living in the State. What is wrong with that? If we are letting it be done in Canada and Mexico, the Veterans' Administration, private insurance companies, the Indian Health Service, why shouldn't a State try to find drug prices more affordable for the people living there? That is what the amendment says. It is as simple and straightforward as that. It is another opportunity for us to put some competition in drug pricing and to give consumers a break when it comes to paying for the pharmaceuticals they need to survive.

I think this amendment moves us in the right direction. It is sad that, once again, we are looking for another alternative to national action. That is what we need in this situation. We can think of a dozen different ways to reduce prices—by where you live, what State, whether you happen to be a veteran, whether you happen to have access to Canada. But shouldn't we as a nation address this in a straightforward fashion, understanding that the drug companies are in business to make a profit?

I will concede that point, but for the last 10 years, when one takes a look at the profitability of drug companies, one finds that it is about 19 percent a year on average. The median income and profitability of Fortune 500 companies during the same period of time is 3.3 percent. Drug companies are extremely profitable, and they are selling more and more drugs at higher prices and driving up that profitability.

We also believe that you should have enough money at a drug company to put money back into research—capital investment in research for new drugs. It is obvious. It is not only a question of making a profit, it is a question of finding that next generation of drugs to improve the lives of Americans. I think that is a very valid thing to do.

Senator STABENOW will not be offering the amendment I cosponsored with her that said those companies that are spending more money on advertising than they are on research ought to be held to only deducting the amount of money equivalent to what they spent on research for their advertising. I think that is reasonable, too. It calls the bluff of a lot of companies that say: We need to be more profitable for research. They need to be more profitable for more advertising, advertising creating many times a false appetite.

I stand today in support of this legislation on generic drugs. I believe it is a step in the right direction. The average price paid for a prescription for a brand name drug is about three times the amount of that paid for generics. The average consumer pays 238 percent more for brand name drugs, an average of $45.96.

Last year, 47 percent of all prescriptions were filled with generic drugs. Remember, the doctor makes the ultimate decision. If the doctor happens to believe a brand name drug is better for you or your family because of some situation, some peculiarity, that is the doctor's call, but having generic drugs available gives that doctor a choice and gives you a chance to find an affordable alternative for safe and efficacious treatment.

The underlying bill on generics is sound. I supported the reimportation amendment and stand in strong support of flexibility for States to act, which Senator STABENOW has submitted and which I am happy to cosponsor. Let us give to the States the opportunity to reduce prices so people can benefit from this competition and bargaining and still remain healthy.

Mr. SCHUMER. Will the Senator yield?

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois may yield for a question.

Mr. DURBIN. I believe I have the floor, and I have agreed to yield to the Senator from New York.

The PRESIDING OFFICER. The Senator may yield for a question.

Mr. SCHUMER. Mr. President, I know the Senator from Iowa is in a hurry. Maybe I can ask unanimous consent I be recognized immediately after he finishes instead of yielding.

Mr. DURBIN. If the Senator from New York does not have a question, I will be happy to yield the floor.

The PRESIDING OFFICER (Mr. MILLER). Is there objection to the unanimous consent request?

Mr. REID. Mr. President, what was the unanimous consent request?

The PRESIDING OFFICER. The Senator from New York wishes to speak for 5 minutes immediately following the remarks of the Senator from Iowa.

Is there objection? Without objection, it is so ordered. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am so glad we are in a position where we are able to discuss these very important prescription drug issues, including a prescription drug program for senior citizens as part of Medicare.

I am also glad that we are in a position on the floor of the Senate where we are divided in a traditional way, and in that traditional way, I do not mean just Republican and Democrat because too often that is overplayed.

We are divided between a group of Senators. First of all, I think we may not have 100 Senators who favor a prescription drug program for senior citizens, but I surely believe that we have 85 Senators who believe that we should have a prescription drug program for senior citizens as part of the modernization of Medicare.

Within that 85, I suggest we have some traditional division—division between those who have only confidence in the Government running the program and those, including myself, who have some confidence in the Government but not enough to believe that drug prices are going to be kept minimal through Government control so that we have confidence in the competition of the marketplace to reduce the price of drugs.

We are going to find over the next several days, as we continue to debate this legislation and hopefully bring it to culmination and pass a bill so we answer the concerns of our senior citizens who sometimes have to choose between food or medicine—and they should not have to make that choice—that we will have a prescription drug program as part of Medicare.

During that debate, I hope the American public listening will consider, do they have confidence in the Government running a program or in the private sector and the competition of the private sector keeping down prices?

Quite frankly, I believe when the Government is involved, we are going to run up the price of drugs. I think I can give evidence from the Congressional Budget Office, the nonpartisan scoring arm of the Congress, to that effect. I can also give evidence that if we have a program for senior citizens that has competition in it—in other words different organizations competing for membership of seniors and, in turn, competing for the lowest possible price with the pharmaceuticals—we are going to bring down the price of pharmaceutical medicines.

Since 1965, the Medicare Program has provided lifesaving health care services to our Nation's seniors and disabled populations. Hundreds of millions of Americans have had their quality of life improved and their health protected because of this Medicare Program. So we must ensure that Medicare continues the exemplary service it has provided beneficiaries since its inception in 1965, and through these program changes, including prescription drugs, improve it vastly.

Unfortunately, we have a situation that this is necessary because Medicare has not kept up with the advances in medical treatment. Medical advances in delivering health care have moved us light-years beyond 1965, but the Medicare Program has not changed to reflect those health care advances. So in order to ensure that Medicare is meeting the needs of today's and tomorrow's seniors, the program needs to be brought into the 21st century.

Very few people drive 1965 automobiles today, but every senior citizen is using a 1965 model of Medicare. So that is why, after a year of work, I introduced, with Senators SNOWE, BREAUX, JEFFORDS, and HATCH, a bipartisan bill—or if you look at the political backgrounds of all five, a tripartisan bill. Our 21st Century Medicare Act, as we have named it, is designed to bring Medicare up to date by adding a comprehensive prescription drug program and by making other improvements in the program as well. The Congressional Budget Office has estimated our bill will cost $370 billion over 10 years.

Now there are other proposals. Senator DASCHLE, from the other side of the aisle, has a bill. As I understand it, it has not yet been scored by the Congressional Budget Office. How much does it cost? I have heard figures from introducers of that legislation, maybe $450 billion, maybe $600 billion. We need to know what these programs are going to cost before we vote for them.

I want to take a moment and walk my colleagues through the elements of the 21st Century Medicare Act. First, the prescription drug benefit adds a comprehensive, voluntary, and permanent drug benefit to Medicare. Our monthly premium is $24. It is the lowest premium of any comprehensive proposal before the Congress, as the authors of those proposals have expressed what their premium is. Our drug benefit is focused on providing money where it is needed most—to the low-income senior citizen who has to choose in some instances between food and medicine. They will no longer have to make that choice.

It also targets those who have very high out-of-pocket expenses. Some people might refer to that as catastrophic coverage. We have other names for it, but I think we know that we are trying to protect people where the sky is falling in on them because of the need for prescription drugs.

I will describe for seniors with low incomes what this would do, starting with those below 135 percent of poverty. That would be about a $12,000 yearly income individually, about $16,000 a year income for a couple. Medicare will first pay the entire amount of their monthly drug premiums, no out-of-pocket expenses for them buying into the program.

Secondly, Medicare will assist them in paying for drugs at every level of spending. They will pay only $1 to $2 for their prescriptions. On average, this group of low-income, older people will see a 98 percent reduction in their total drug costs, another example of one not having to choose between food or medicine because they are low-income.

Next we would look at seniors with incomes above 135 percent of poverty but below 150 percent of poverty. This includes individuals with income a little bit over $13,000 and couples with income of almost $18,000. These enrollees will receive Medicare assistance on a sliding scale based upon their income to help pay their monthly premium to get into the program, and also Medicare will assist them in paying for drugs at every level of expenditure. There is no gap for these beneficiaries below 150 percent poverty.

Let us look at those with incomes above 150 percent of poverty, which is above $18,000 for a couple. They will pay an average monthly premium of $24 for their immediate care drug benefit—again, the lowest of any premiums that have been announced by other authors that we know about. They will pay a $250 deductible, and after they have reached the deductible, Medicare will cover 50 percent of their drug costs up to the benefit level of $3,450 in total drug spending. Furthermore, Medicare will cover 90 percent of all drug costs after beneficiaries have paid $3,700 out of their pocket for drugs.

Let me say a bit more about our drug benefit for Medicare beneficiaries above 150 percent of poverty. That is the group I just described. First, I wish we did not have a gap in coverage between $3,450 and $3,700, but the problem is that we are working within a limited amount of money—$370 billion—which is about halfway between the President's program for seniors and, let us say, the other prominent plan before the Senate, the Democrat plan. We are about in the middle. We have adopted a policy of using funds to benefit the largest possible number of Medicare beneficiaries, particularly those with low incomes, as I have demonstrated.

So helping low-income people as opposed to doing more with incomes a little bit higher, it requires some sort of a trade-off, and we have opted to help lower income and to help less the further up the line one goes. It is important to point out and to stress that even with these trade-offs, fully 80 percent of all Medicare beneficiaries will spend less than the initial benefit limit or will have access to low-income protections and therefore will have no gap in the coverage. The percentage, again, is 80 percent.

In the jargon of Washington, DC—and I know our constituents get tired of hearing Washington talk; we need to talk Iowa talk, but for my colleagues, that means 80 percent of the seniors in America under our plan will not be touched by what we call the doughnut hole. For the 20 percent of enrollees exposed to this gap in coverage, our bill

requires that Medicare drug plans pass negotiated drug discounts along to Medicare enrollees all the time. All of those enrollees will be able to purchase drugs at a reduced price.

Everyone is going to benefit from this legislation. Our bill may include this small doughnut hole, but proposals from the other side of the aisle seem to me to include a black hole since this drug benefit ends in 2010, leaving Medicare enrollees without any drug benefit whatever.

Again, when we talk about legislation, if it comes to an end, we say that is a sunset. It is my understanding that the proposal from the other side has a sunset; in other words, a time when the benefit will end unless Congress reenacts it. Seniors are not going to sunset. Seniors are going to continue to need prescription drugs after this other proposal sunsets.

One of the disputes is lack of understanding of our benefit delivery system. I heard my colleagues describe how we arrived at the approach to delivering drugs, as the tripartisan bill does. That reminds me, I want to say another thing because I think we forget how things get done. No Republican plan can get through the Senate. No Democratic plan can get through the Senate. A Republican plan can get through the House of Representatives because that is the way that system runs and the majority party rules with an iron hand. There is a Republican plan that got through the House. There is a Democrat plan in the House that obviously did not pass the House. We got the President's program that is obviously a Republican program because we have a Republican President. We have a Senate Democrat plan. We do not have a Senate Republican plan, but we have a Senate bipartisan plan. That is the only way we will get anything through the Senate, and that is a bipartisan approach.

Getting back to how did we settle upon our delivery system for the prescription drug program for Medicare, we have been working for several months, to my chagrin, too many months, with the CBO to work through policy and what a certain policy would cost and changing policy—not basic policy but fine-tuning our policy from time to time to fit the realities of what CBO says.

The CBO is important in this process. It is an independent, nonpartisan congressional staff office that analyzes legislative proposals for costs on the one hand and workability on the other hand. The CBO does not have any ax to grind. And they had better not. And we in Congress rely on that. They are the bible for a lot of decisions made, particularly budget decisions.

According to CBO, spending on drugs for seniors over the next decade will grow at an astronomical rate. Over the next 10 years, there will be a steep rise in the price of pharmaceuticals. The CBO said the only way to contain the cost of a drug benefit is to ensure that drugs are delivered efficiently. In turn, the CBO says the only way to have drugs delivered efficiently is to have true competition, two or more organizations competing with the drug prices to get the prices down, as opposed to the other program I am talking about that relies on a government-run program. I quote the CBO that a government-run program will not bring down the price of drugs but one where there is true competition. We have a delivery system based on true competition.

According to CBO, this requires that we must use private plans that assume a reasonable degree of risk; in other words, some risk on the organization to make sure it is efficiently run, to see there is competition, as opposed to a government-run program where risk in pricing of drugs is assumed by the government. What I mean by risk is, if they are efficient, they will make money and, if not, they will lose money. If they drive hard bargains with drug manufacturers, they will make money. If not, they will lose money.

A limited degree of risk is all the tripartisan bill requires. People will ask, What sort of risk do you have if there is going to be a 75-percent subsidy for the Medicare prescription drug plans in our program? Because the Federal Government is protecting that 75 percent. We are told by CBO that at 25-percent risk we will be assured this level of risk is high enough to promote sufficient drug coverage and low enough to assure that plans participate in a stable, reliable drug system. It is the optimal level of risk.

Insurers who are so unhappy with the House bill in 2000 have indicated they can live with the level of risk in our bill. They would be crazy not to participate.

Our opponents are saying if the Federal Government lays $340 billion on the table, by far the largest entitlement expansion ever, plans will not participate. Where do our opponents get that? Flatout, according to the CBO, they are wrong. CBO says the insurers themselves say they are wrong. Most importantly, common sense says they are wrong. Unfortunately for our opponents, no one has invented a prescription drug that gives you common sense.

We need to make the dollars we have go as far as we can. Whatever our individual thoughts, the CBO in this case is an arbiter, and they tell us our bill, the 21st Century Act, does that; in other words, it keeps the cost of medicine down, guarantees the participation of those agencies to deliver the drugs.

Now, I know the Presiding Officer is from a rural State. I will address the question of whether the system the bill will establish will work in rural areas. Even if you are from Atlanta, there are a lot of rural areas in Georgia, so you ought to be asking, will we take care of rural areas? If you are in Montana or North Dakota, it is probably even more of a concern. I represent a rural State—maybe not the most rural State—and I would not support a Medicare drug bill that would put the rural parts of our Nation in jeopardy of not receiving equal access to prescription drugs under the same conditions as people in New York City.

Our bill guarantees that every Medicare enrollee will have a choice of at least two Medicare drug plans, a minimum of two. The Government will establish service areas for plans to offer Medicare drug benefits. These service areas must be the size of a State at a minimum. They can be multistate but at least the size of a State.

I stress that because you hear from the other side that plans will cherry-pick. You are not going to cherry-pick in the State of Iowa. You have to serve Des Moines just as you have to serve Armstrong, IA.

Another point I want to make concerns pharmacists. Pharmacists play a very important role in prescription drug programs for seniors. Not only that, but as we have increasing use of drugs, and seniors taking multiple prescriptions, and the interaction of those, pharmacists are going to play an even more important role. They are going to be needed to protect—I don't know whether the word ''protect'' is right—but oversee, to some extent, when prescription drugs are given, how they interact. Maybe a doctor won't be on top of that. You might have a person who gets a prescription from two different doctors. Are they going to interact? The focal point for that determination might be the pharmacist—ought to be the pharmacist, and will be. So there is going to be an increasing need for pharmacists.

Another thing I want to point out about the legislation is our assurance that Medicare beneficiaries will have convenient access to a brick-and-mortar pharmacy. The standards outlining what is convenient will be determined by our Department of HHS. Furthermore, in developing convenient access standards, our Department is explicitly required to take into account Medicare beneficiaries in rural areas.

We ought to consider consumer protection, so I will address that as our bill does. Our drug benefit proposal puts into place important consumer protections for our Medicare enrollees.

By the way, one of the things I didn't say that the CBO said about ours, we will have 99 percent of the seniors taking advantage of this program. That is how high the enrollment is going to be.

First, in regard to consumer protections, all Medicare drug plans will be put through a comprehensive approval process to ensure they will deliver quality drug benefits to seniors. The new Medicare competitive agency in the Federal Department of Health and Human Services will have to review and approve the application of the plan before that plan can participate in the program.

Standardized information on each drug plan will be sent by Health and

Human Services to all Medicare enrollees. If a Medicare drug plan wants to advertise for enrollees, all marketing material will have to be approved by HHS. All seniors will have access to necessary prescription drugs. Health and Human Services will determine therapeutic classes of drugs. Medicare drug plans will be required to offer drugs in all therapeutic classes.

If Medicare drug plans use formularies, they must establish a pharmacy and therapeutic committee to develop and review the formulary. Physicians and pharmacists must be represented on that committee. The P and T Committee shall base formulary decisions on scientific evidence and on standards of practice.

What I have outlined is a few ways in which our bill differs from Senator DASCHLE's bill. I would like to add a few more ways in which our bill differs as well.

First, Senator DASCHLE's plan is overly bureaucratic and I think extravagant, therefore it does nothing to curtail or even slow skyrocketing prescription drug costs. Why pass a bill if we are not going to do something to put the damper on the rapidly rising increases in the cost of drugs?

That is why it is essential that any new prescription drug benefit contain proper cost management controls that moderate growth in price while ensuring Medicare enrollees' access to prescription drugs.

While guaranteeing prescription drug coverage for all seniors, our proposal imposes reasonable cost-sharing obligations on beneficiaries and does promote competition among prescription drug plans which, as I have said so many times, will lead to a better overall effect on drug prices. That is a benefit to Medicare beneficiaries and to all Americans who are not even yet eligible for the Medicare Program because of age.

We have flexibility in Medicare drug benefits that we do not want to overlook because under Senator DASCHLE's plan, seniors face fixed copayments that, in many instances, mean they will actually pay more for drugs than they would under a system such as the one we propose, that gives prescription drug plans more flexibility to offer lower cost copayments.

I suggest that before the plan is finally put before the Senate by the other side—I will bet they will have that fixed because they have looked at our plan and they know we are more fair, particularly to low-income seniors, with our flexible drug benefit than what their fixed costs are.

Senator DASCHLE also writes into law the monthly premium seniors will pay for a drug benefit. But what happens if a plan has been efficient and wants to attract more Medicare enrollees by lowering their premium below that of other plans? Under Senator DASCHLE's approach, Congress would have to pass legislation for the plan to lower the premium. If you look at most of the problems we have with Medicare developing over the last 35 years, probably those coming directly from reimbursement of various health care providers, you will find that micromanagement of the Medicare Program by the Congress has led to most of the problems we have. So to the extent that we can have the marketplace be the disciplinarian in premium prices, copayments, in deductibles where catastrophic kicks in, et cetera, et cetera, we ought to allow that to happen.

We ought to look at what has benefited us as Senators and 10 million Federal employees or retirees or their families. You will see that competition among several of the Federal employee health benefits plans—they have, I don't know how many dozens of plans, but at least a couple of dozen plans, with competition among those plans, flexibility in those plans, the tailoring in those plans for particular interest groups of people in Federal employment, including Senators, they have been able to keep down the price of our Federal programs. That is directly related to the flexibility in the plans and the competition.

Why would you want to write into your plan a certain monthly premium?

Our plan then gives the freedom to offer premiums, copayments, and deductibles that are flexible, saving seniors money, or gives them more money.

We also have an enhanced Medicare fee-for-service option that is an improved and strengthened Medicare option—not one that seniors would have to take. If they are satisfied with the 1965 model, they can keep it with or without prescription drugs. If they would like to have a new and improved 21st century Medicare Program with or without prescription drugs—because prescription drugs are optional on all of these plans—we would give them the opportunity to do that. I will explain that.

None of the other proposals on the table do any of this. It creates the enhanced option. It is within the Medicare Program. It is a fee-for-service program. Let me be clear about the fact that it is delivered by the Federal Government just like Medicare. There has been some confusion on that point. It ought to be easily understood.

We think it is an option that many beneficiaries might find attractive. But the beauty of it is that we are not going to make that choice for them. It is voluntary. It is their choice.

Here is the bottom line. Beneficiaries, such as Medicare, have a right to keep it—keep it until you die. It is their choice. In fact, even future beneficiaries will always have this same choice under our plan—20–50. If you are 65 years old and you want the 1965 model of Medicare, choose it. But if it is 20–50, you are 65 years old and you want a 21st century model of Medicare, then you can choose the enhanced option.

I want to make it very clear that there is no sunset of the existing Medicare benefit package in our bill—like Senator DASCHLE's sunset in his drug benefit. We know on our side that senior citizens aren't going to sunset. They are going to be around forever.

In addition, Medicare enrollees can enroll in the Medicare drug benefit, whether they are in traditional Medicare fee-for-service, enhanced Medicare fee-for-service, or the Medicare+Choice.

Here is the choice that our bill offers seniors, if they want to take it.

Existing Medicare Part A and Part B focus on the coverage of routine, predictable medical expenses. But the enhanced option, which we are going to call Part E, focuses on preventive care and protection against devastating costs of serious illness. If beneficiaries prefer what they have now, for the third time, I say they can keep it. But if they like the idea of a better prevention and better insurance when they need it, then, for the third time, I say they can have the new, enhanced version.

On the subject of prevention, I would like to explain that we put a lot of emphasis on prevention. Medicare's current policy makes beneficiaries reluctant to seek out preventive services that may identify health problems and prevent more expensive care later. Part of that is because they have to pay a deductible.

Unlike many private health plans, Medicare today subjects people in this Part B to usually a 20-percent deductible.

For those who would elect the new, enhanced option, preventive benefits would not be subject to any deductible, or to any coinsurance.

That is an example of moving Medicare from 1965 to the 21st century.

I would like to highlight another improvement of enhanced option.

Medicare today has no limit on a beneficiary's expenses in a year, creating the potential for crippling costs in the event of a serious illness and maybe impoverishing some families. The bill would limit beneficiaries' exposure then to out-of-pocket costs for Medicare coverage services other than drugs to $6,000 per year. Beyond that amount, Medicare would pay 100 percent of any costs incurred by the beneficiaries.

In a given year, it is estimated that 2 to 3 percent of beneficiaries may have costs that reach above that level. Of course, if one looks at beneficiaries over multiple years, the likelihood of such expenses increases accordingly. If beneficiaries want the peace of mind that comes from such protection against serious illnesses, then for a fourth time, I say they have that choice.

Another issue our enhanced option addresses is the Medicare deductible structure. Under current law, the Part A deductible will be extremely high in the year 2005—$920 every time you go to the hospital—while the Part B deductible is going to stay at $100 per

year. The enhanced option includes a unified deductible of $300 per year for all services.

Medicare's irrational two-deductible system is unheard of in the private insurance industry today. Beneficiaries are used to single deductibles from their prior employer-based plan. If they like what they had while they were working, then they have the option, as I say for the fifth time, of taking the enhanced option within Medicare.

Here is another benefit from the enhanced option. Because Medicare benefits have so many holes in contrast to private insurance, most beneficiaries are forced to carry supplemental coverage to fill in the gap. We call that Medigap. Reducing those gaps will make such supplemental coverage less necessary, but, more importantly, if they want to have it more affordable for the beneficiaries, our bill establishes such new more affordable Medigap plans.

By the way, those employers who offer supplemental coverage will also find it less costly to do so under the enhanced option since it will have fewer holes to fill.

Is the enhanced option a better deal? From an actuarial standpoint, the answer is definitely yes.

The Congressional Budget Office tells us it is a more valuable benefit, largely because of the serious illness protections that it offers our seniors. But not all seniors are actuaries. So we are leaving it up to the seniors to decide which of the two plans is a better deal.

We make a few changes also in Medicare+Choice improvement. Starting in 2005, our bill takes modest steps to improve the Medicare+Choice Program. Medicare+Choice has been a big disappointment in my home State of Iowa. Only 1 county out of 99 has it. But seniors elsewhere—particularly in the larger cities and in the Sun Belt—rely on it.

Our proposal keeps that option alive without throwing money at the program as we have so much in the past. Instead, we create a competitive bidding system under which Medicare+Choice plans will compete with each other but not with the Medicare fee-for-service programs for beneficiaries.

I want to emphasize that no one in the fee-for-service Medicare will be affected by this change. We have made this change because today's bureaucratic pricing system sets arbitrary and inaccurate rates, and that discourages Medicare+Choice plans from participating. Our approach to Medicare+Choice is based on a bipartisan model embraced by the Clinton administration, and will result in fairer and more accurate payments to Medicare+Choice.

Before I give up the floor, I would like to comment for a short period of time on some statements that were made yesterday regarding our tripartisan 21st Century Medicare Act by people on the other side of the aisle. I think in some ways the facts were not given straight. I would like to correct the RECORD for the benefit of my colleagues.

Yesterday, there was reference made to an assets test as if there is something wrong with it. There is nothing wrong with it. Public policy for low-income Medicare populations has included assets tests since 1987. Our policy here in the Congress for low-income Medicare populations has included an assets test since 1987.

I said it twice so people know that it is not something new being thrown out there.

Specifically, assets test policies were first included in Federal policy in the Omnibus Budget Reconciliation Act of 1986, which passed the Senate by a vote of 88 to 7 with help from people who, yesterday, were denigrating our plan, and voted for the 1986 plan.

Our bill includes an assets test similar to the 1999 President Clinton—remember he was a Democrat—Medicare bill.

Under current law, States have the flexibility to waive this assets test. Nine States and the District of Columbia have chosen to waive the test.

Our proposal allows assets test flexibility, found in current law, to be retained in the Medicare drug benefit program. The assets test ensures that seniors who need assistance the most are provided the most protection.

Also, let me clarify that current law specifically excludes from the assets test a person's home and the land the home is on, household goods, personal effects, including automobiles, the value of any burial space, and other essential property.

The people attacking our plan also attacked our plan yesterday because of the flexibility we have in it. So I want to respond to that.

Medicare enrollees deserve a quality drug benefit that meets their individual needs. The Daschle-Graham proposal does not allow any variation in cost sharing or premiums and is a one-size-fits-all plan which will fail to adapt to the needs of seniors, as we are now so far behind with the 1965 plan that was adopted in 1965.

It is also important that Medicare enrollees get quality drug benefits at the lowest possible price. The tripartisan plan strikes the right balance to ensure Medicare enrollees have access to prescription drugs they need at the best possible price.

Anyone wanting to offer a Medicare drug benefit will be required to receive the approval of Health and Human Services. This is not a checkoff approval process. There will be intensive interaction between any plan and the Government to ensure that Medicare enrollees are getting what they are paying for.

There are five separate places in our bill where the administrator is required to certify that a plan meets strict standards of actuarial equivalence. The plans will not be determining what is the equivalent standard benefit. The U.S. Government is going to make that determination. If a plan is not equivalent to the standard benefit, it is obvious the bid will be rejected, and should be.

In fact, the Congressional Budget Office has told us our standards of equivalence are strict enough that Medicare drug plans will have little room varying in premiums or cost sharing. In their words, that little room to vary is critical to the success of a Medicare prescription drug benefit and indicates how the tripartisan bill has found the right policy in Government assumption of risk—just enough—to make sure there is competition out there, to make sure plans are run efficiently, to make sure there is competition to drive down drug prices.

While the Democrat plan claims to include competition, I do not understand how Medicare plans will compete if they are required to offer identical premiums and identical cost sharing. If drug plans wanted to lower their cost sharing or lower their premiums in order to attract Medicare enrollees, the only way it could be done is for Congress to pass more legislation.

The tripartisan bill ensures the innovations of the private sector are not stifled by micromanagement, one-size-fits-all, Government-run drug benefits.

There is guaranteed access to the plan. We have had Members of the other side apparently unaware that the tripartisan bill guarantees access provisions. The tripartisan bill guarantees two Medicare prescription drug plans to every Medicare enrollee.

If the enrollee lives in an area where there is Medicare+Choice, the Medicare+Choice plans will not count towards the two-plan minimum.

The Medicare plans are not determining their own service areas. The Government will determine service areas, and the service areas must be at a minimum the size of a State.

The Government will be covering 75 percent of the value of the Medicare drug benefits, equalling $340 billion over the next 10 years. So anyone who says the plans will not participate is simply not operating with any common sense—$340 billion of encouragement to participate. This is a clear attempt, and a failing attempt, I believe, to paint the tripartisan bill not as what it is—something that five Senators have worked on for a year—but to paint it, instead, as the House Republican bill, which it is not.

Lastly, we have been attacked from the other side about the tripartisan's policy toward employers. The tripartisan bill gives employers a 100-percent subsidy to offer drug benefits to their retirees, as long as the retiree plan is, at a minimum, as generous as the standard Medicare benefit.

In contrast to the tripartisan plan, the Democrat plan only gives employers a two-thirds subsidy to retain their retiree prescription drug plan.

Listen, from the other side you heard that our plan does not take into consideration protecting retirees who already have a corporate retirement plan with health benefits in it, when we pay 100 percent of that. And what does the other side pay? Sixty-seven percent. The other side's plan forces a standard benefit on all Medicare beneficiaries. Will employers be forced to change their entire drug benefit structure in order to obtain the two-thirds subsidy? This could result in employers being forced to charge higher drug expenses for their retirees in order to receive the subsidy.

Mr. KENNEDY. Is the Senator willing to yield for a question?

Mr. GRASSLEY. I will try to answer your question.

Mr. KENNEDY. I was just wondering about the time that the Senator will use. We have several Senators indicating——

Mr. GRASSLEY. I will be done in 2 minutes.

Mr. KENNEDY. I thank the Senator.

Mr. GRASSLEY. Currently, employers receive no assistance whatsoever in paying the drug costs for their retirees. Our 100-percent subsidy plan will allow employers who are offering a drug benefit at least as generous as the standard benefit to receive the full value of the standard benefit.

Again, our policy targets dollars where they might do the most good. And an employer subsidy recognizes the value of employer-sponsored retiree drug benefits.

In closing, I will simply say something I said when I started. In the next 3 or 4 days, there will be a lot of debate on this subject. It is very important to have a lot of debate on this subject.

You are going to find strong advocates for plans where the advocates have great faith in Government-run price programs versus whether or not you ought to have competition from the private sector. Remember, CBO says that a Government-run program is going to raise the price of prescription drugs. The alternative is to have competition. The Congressional Budget Office says that is going to reduce the price of prescription drugs.

We should be in the business of having public policy that is going to give seniors the best medical care, including prescription drugs, based on the least cost to the Government, as well as the least cost to the senior citizen.

I yield the floor and I thank my colleagues.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized

Mr. KENNEDY. Mr. President, I know we have not had an agreement with regard to time, but we have had the opportunity to hear from that side of the aisle for about 2 hours 40 minutes of the last 3 hours. So I was going to see if we could recognize the Senator from New York. And although our leaders here don't frown on allocating the time and indicating individuals, the Senator from New Hampshire has been willing to agree to this proposal: The Senator from New York would go for 10 minutes, the Senator from Georgia 10 minutes, the Senator from New Jersey 10 minutes, and I need 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

Mr. SCHUMER. Mr. President, I have been waiting here patiently to speak for a particular reason. Earlier this afternoon, the administration came out with its Statement of Administration Policy on S. 812, the Greater Access to Affordable Pharmaceuticals Act sponsored by myself, Senator MCCAIN, and 10 others.

I have rarely seen a piece of paper so far from reality and so far from the truth. Let me quote from it:

> . . . the Administration opposes S. 812 in its current form because it will not provide lower drug prices.

What planet are they on? What are they smoking? Generic drugs will not lower the cost of drugs? If you want to oppose the bill for one reason or another, fine. Here are some costs: Claritin, brand name $86; generic $33; Cipro, brand name $89; generic, $35; Zocor, high cholesterol, $116; generic, $45; Zoloft, $69; generic, $27; brand of Singulair, $84; generic, $32.

That doesn't lower costs? It has been estimated it will save the American people $70 billion. It has been estimated it will save our State governments hundreds of millions of dollars. And they say it doesn't lower cost. What kind of argument is that? We all know it will lower cost. If they want to come clean and say they don't want to alienate the pharmaceutical industry, fine. If they want to say there is a better plan and better scheme, fine. If they want to say, keep things status quo, fine. But it won't lower costs?

I think they have a lot of disagreement even from people normally on their side. Here are some of the groups that think it will lower costs: General Motors, Ford, Chrysler, UAW, AFL–CIO, Verizon, Wal-Mart, Kodak, Motorola, Caterpillar, Kmart, Georgia Pacific, Albertson's, UPS, Kellogg, Sysco. The list goes on and on. These companies are not usually supporters of the kind of legislation we are talking about. They are all for this. They are for it for one reason: lower cost. Their own health care plan costs are going through the roof. I am utterly amazed. I ask the administration to retract this statement or prove why they believe that moving to generic drugs is not going to lower cost.

They say a few other things, too, which shows you that they really don't know what the bill is. They say in their statement that this bill would encourage litigation around the initial approval of new drugs. The legislation does not allow litigation for the approval of new drugs. They don't know what the bill does.

Will it prevent unnecessary litigation when someone files a patent in the Orange Book that is frivolous? Yes. That is not about a new drug. In fact, when it comes to a new drug, that is one of the few places where, of course, the patent can be contested by our legislation. What our bill does is simply force them to play by the rules.

The administration says the bill would complicate the process of filing patents. Of course, our initial legislation was clean. There was an amendment to change it, mainly to get support from members of their party. But if what the administration means is that it will complicate the process, if that means it makes brand companies comply with the FDA's current rules, you bet it will complicate the process.

The FDA requires that brand companies only list patents in the Orange Book that cover the drug or cover that approved use of the drug. Now the FDA does not enforce this, so the brand companies don't play by the rules. Our bill requires them to do it.

I had hoped that when Senator MCCAIN and I introduced this legislation—and my hopes were heightened when the legislation passed 16 to 5 and got half the members of the HELP committee from the Republican side—that we could have a debate and come to an agreement. The Senator from Utah, understandably, has pride of authorship. He may want to make some changes. But to just so baldly oppose a bill on specious grounds makes one wonder where the administration is coming from. Are they so afraid to offend PhRMA that they have to put out a statement that is just patently wrong?

We saw in the area of corporate litigation that the administration, which likes the American people to think it is moderate, is to the right of the Business Roundtable. We are finding the same thing here. We are finding that the administration, on the issue of drugs and the high price of prescription drugs, is to the right of much of corporate America.

Please, Mr. OMB Chairman, Mr. Vice President, work with us. We are not going to agree on everything, but work with us. This is a serious problem. If this memo is an indication that all we are going to get on the issue of reducing the cost of drugs and increasing the access of drugs is stonewalling, then it is a sad day for the American people.

We are going to fight hard for this legislation. The American people need this legislation. It needs to go beyond the original bill. That is why I have supported other amendments, and I hope the prescription drug plan offered by the Senators from Florida, Georgia, and Massachusetts prevails. But if even in this modest bipartisan step we get such stonewalling and such failure to grapple with the truth, then all those Americans who are paying such high prices for drugs are in trouble.

Mr. GREGG. Will the Senator yield for a question?

Mr. SCHUMER. I am happy to yield for a question.

Mr. GREGG. The Senator is probably not aware of this because this information has just been forwarded to me. I will actually have a paper on it. But there have been a lot of different representations as to how much the underlying bill would save. I have seen numbers that ran from $20 billion to $60 billion, and I believe the Senator mentioned it is actually a higher number.

We have just been advised by CBO that the underlying bill, the Edwards-Collins bill, will have $8 billion savings assigned to it by CBO. So as we debate this issue—I know some people are planning to use that savings to assist the major movement on the overall drug benefit—this is going to change the dynamics around here a little bit. But just so we are all playing off the same song sheet on savings, this bill is now scored by CBO as an $8 billion savings.

Mr. SCHUMER. If I could answer the question, which I know was meant to be a question, of the Senator from New Hampshire—the junior Senator from New Hampshire to correct the error of my ways—first, the $8 billion is the CBO estimate—I guess; I haven't heard it yet—but that is just for Medicare. The administration is saying it will not provide lower drug prices. The estimates are pretty widespread and pretty accepted that when you take not just the Medicare savings but the savings to every consumer who goes and buys the drug, the savings to all these companies that have their own health care plans, the savings to the States, it is going to be much more than that.

I am not debating how much right now. I don't know if that estimate is correct. It seems low to me. But let's assume it is. It is in direct contradiction to the Statement of Administration Policy that came out this morning which says: ''will not provide lower drug prices,'' period—not ''will not lower them enough,'' not ''will not lower them for everybody.'' It says, unequivocally, no lower drug prices.

So I would like to thank my colleague from New Hampshire because even though he is making a different point, he makes mine. The administration seems so hardheaded against anything to change the status quo, even though the vast majority of Americans are unhappy with the status quo, that it leads them to make statements that are patently absurd on their face.

The PRESIDING OFFICER (Mr. KENNEDY). The Senator's time has expired.

The Chair recognizes the Senator from Georgia.

Mr. MILLER. Mr. President, I rise to urge the Senate to let us try to come together on a prescription drug bill in these next 2 weeks for the sake of America's seniors.

Our seniors are up against a rich and powerful drug industry—an industry that, obviously, will fight tooth and nail against anyone who seeks to meddle with its obscene profit margin or its astonishing salaries for its CEOs or its TV media blitz.

Our seniors cannot fight this battle alone. Goliath is too big. Congress must step in immediately and help America's elderly in their day-to-day life and death struggle with prescription drugs.

This Senate has already taken a very big step toward helping seniors get their medicine at lower prices by passing the reimportation amendment. Now it is time to give some more help. It is time to add a prescription drug benefit to Medicare.

I was very glad to hear this week that the Nation's largest advocacy group for seniors, AARP, has declared the Graham-Miller-Kennedy bill as the one that, in their opinion, offers the very best value for seniors.

Let me take just a few minutes to tell you why they think and why I think this bill is better than the rest.

First, we use a system that is now in place—a system that is now in place for most working Americans, a system that the Federal Government and most employers use right now for their own workers. This new benefit is too important to risk using an untried, experimental delivery system; but the competing bills do just that.

Under our bill, every beneficiary will know how much their premium will cost each month and how much they will have to pay for each drug they buy. We guarantee seniors an affordable premium, while the Republican bill allows private insurers to set the premium cost. That means insurers would be free to charge seniors whatever premium they want, whenever they want.

It is simply a fact that seniors who live in rural America are often older, often sicker. Under the Republican bill, insurers would be able to charge them even higher premiums than those who live in urban areas. That would hurt the very people I call my friends and neighbors back home, and that is unacceptable.

The private insurers that are the centerpiece of the Republican bill will make profits based on managing drug care for beneficiaries, just as HMOs make their profits on managing care. That would result—it could not help but result—in fewer drugs being available to our seniors. That is not the kind of benefit our seniors need. That is not the kind of benefit they deserve.

Our bill uses a system that is already up and running in every ZIP Code in the United States. We guarantee that services will be available to seniors 24 hours a day, 7 days a week, for any emergency that arises. The competing bills offer no such protection.

The Graham-Miller-Kennedy bill is also the best plan out there because it has no gaps in coverage. That is very important to me, and to AARP, and to every senior in this country. We help seniors pay for the very first drug they buy each year. That coverage continues with no interruption through the last day of each year. No other bill makes the same guarantee.

There are two gaps in the competing bills. First, under the House Republican plan, all seniors would have to pay a $250 deductible. That means they would pay premiums but would get no coverage for the first $250 of their drug bills. Then, once drug costs reached $2,000, coverage would be cut off altogether. Seniors would get no help from the program until their out-of-pocket spending hit the $4,800 mark.

During this huge gap in coverage, seniors would still be required to pay their monthly premium even though they were not receiving a single penny of benefits from the program. And every beneficiary would experience that first gap in coverage because every senior would have to spend $250 before they saw the first dollar of benefit.

Then, almost half of all the beneficiaries would fall into the second coverage gap. Sixty percent of them would never climb back out of that gap to receive coverage again. Let me say that again. Nearly two-thirds of seniors who ran up drug bills of $2,000 would never see another penny in benefits for the rest of the year.

Because of these gaps, the typical beneficiary—let's say an elderly woman whose prescriptions run $2,400 each year—would still have to cover 71 percent of her drug bill each year.

Beneficiaries with higher drug bills are even worse off. Take an elderly man whose drug expenses run $400 a month, or $4,800 each year. He would have to pay 85 percent of his drug costs each year under the Republican bill. That is not much of a lifesaver to be throwing a drowning man.

Once again, there are no gaps of any kind in the Graham-Miller-Kennedy bill. Coverage continues every day, every week, every month, all year long, regardless of how high a senior's drug bill is.

Once drug costs have reached $4,000, the Graham-Miller-Kennedy bill says that we will pick up the entire bill for the rest of the year. It is what our seniors need. It is the least they deserve.

Mr. President, the time has come. It is just like back in 49 B.C. when Caesar had to ask himself a question: ''Do we cross this Rubicon?'' Do we make the commitment? Do we take this risk? You know, we throw around the term ''It's a matter of life or death'' pretty lightly. Seldom is that really the case. But this time it really is.

Many seniors—our mothers, fathers, grandparents, and other loved ones—will live or they will die because of this vote. Are we going to pass a meaningful prescription drug benefit as we have been promising and talking about for years? Are we going to go home and face the seniors of this Nation without doing diddly squat?

We have had a lot of sound and fury in this Chamber. Will it signify nothing, just a big fat zero? It isn't enough to have just good intentions, Mr. President. The road to hell is paved with good intentions. It isn't enough to promise good deeds. We must do them.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. TORRICELLI. Mr. President, the Senate is engaged in probably the most important health care debate in a generation. If we succeed in establishing a pharmaceutical benefit for the American people, it will be the greatest contribution to health care since Medicare.

We are engaged in this debate in the middle of an economic and corporate crisis. It would not be honest or even productive to pretend that one event is taking place without the backdrop of the other.

It is an extraordinary time to be redesigning the delivery system of an industry while corporate America is going through a series of tumultuous events.

I have an amendment prepared that I will offer to this legislation that is the nexus between the two problems because the pharmaceutical industry requires a transparency and a proper accounting of itself in the delivery and pricing of its products, just as certainly a variety of other American industries have suffered from their failure to do the same.

I address specifically two persistent problems. First, when an American family goes to a pharmacy to buy a prescription product, they operate under the assumption that they are getting sound medical advice, that the prescription that is being offered to them is suited for their problem, their malady, it is priced properly, and a medical judgment is being made on the merits. That is the assumption of every American family. It may not always be sound.

Through the years, marketing techniques from sporting events and theater productions to expensive vacations and gifts have become part of the routine of marketing pharmaceutical products. American families and senior citizens are left not knowing whether a product is being prescribed because it is the best for their health or because the doctor is indebted to a marketer or a corporation.

The same could be true of a pharmacy. Of all the corporate governance issues in America that deserve transparency, nothing could be more fundamental than the relationship between an individual American family and the delivery of their health care. People want to know, people have a right to know, is a gift an incentive, part of the prescribing of a prescription drug, or is it the quality of the product? Has a doctor been convinced this is the right drug for your child, for your family, for your health, or is this simply part of a relationship with an undisclosed incentive?

Under the amendment that I will offer, any corporation providing a gift to a doctor or health care provider as part of marketing a pharmaceutical product will need to disclose it. The incentive can be provided, the gift can be provided, you can offer the vacation, but at least people have a right to know whether the sales of products are related to price, science, the merits, or the financial incentive to consume them.

Some will argue that such techniques are common in industry. It may be true, but it is one thing if a retailer is getting an incentive to sell you a shirt or an automobile manufacturer is getting a secret or private incentive to an automobile dealer. That might be business. It may or may not interfere with the right judgment of the proper pricing, but that is marketing.

It is something else when it interferes with the judgment of a doctor and the confidence in health care delivery upon which people have come to rely, a judgment that involves not simply price but the intangible of trust in a health care provider.

Second, the amendment expands to deal with pharmaceutical benefit managers, otherwise known as PBMs. PBMs are essentially health maintenance organizations designed to deal with the delivery of pharmaceutical products. They are the middlemen who have placed themselves between drug manufacturers, health plans, and pharmacies. If they operate properly, they negotiate better prices, provide service and delivery at a superior cost to a beneficiary. For most of the last 25 years, that is exactly how they have operated.

A problem has developed, much like the gift, the vacation offered for selling a pharmaceutical product, except it happens on a much larger scale.

Pharmaceutical benefit managers have an obligation to their clients, the people who have contracted with them to buy the best product at the best price. The best product is to be based on a medical judgment. The best price is what can be negotiated. But the law has allowed a practice that is as morally wrong as it is reprehensible.

Pharmaceutical benefit managers who allegedly represent their clients go to pharmaceutical companies and ask for rebates. That is a polite word for a kickback. The client, the senior citizen, the working person is left believing they are buying a pharmaceutical product represented to them because it will deal with their illness and has the best science and is at the best price.

What they do not know is the pharmaceutical benefit manager may be offering that product because they are getting hundreds of thousands of dollars or millions of dollars in a rebate. Indeed, nothing else would explain what has emerged.

Pharmaceutical benefit managers are far less inclined to ever recommend generic drugs. Indeed, at the moment, brand name drugs are offered only 46 percent of the time compared with 54 percent of the time by a local pharmacist. The cost of a brand name drug offered by a pharmaceutical benefit manager can be $47 compared with $37 at a local pharmacy. So people who believe they are in a benefit plan to negotiate a better price are paying more, and they are not only paying more, they may be directed to products that are offered not based on a medical judgment or on a cost basis but because of a secret rebate.

The chart on my left illustrates exactly the problem, in what is now a four-tiered system from manufacturer to senior citizen. The manufacturer may offer a rebate with the belief that it could lower price and make their product more available through pharmacies to senior citizens, and many of these rebates may be offered by pharmaceutical manufacturers with the belief that like the rebate from an automobile manufacturer to an auto dealer, it is making the product more available, but here is the problem. The law allows the pharmaceutical benefit manager to keep the money. It does not go to the pharmacy. It never reaches the senior citizen. It stays here. The pharmaceutical benefit managers are in a contractual relationship supposedly representing the senior citizen. They are supposed to be their advocate, getting their price. Instead, they are keeping the money.

The PRESIDING OFFICER (Mr. CORZINE). The Senator's time has expired.

Mr. TORRICELLI. Mr. President, I ask unanimous consent for 1 additional minute to conclude.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TORRICELLI. Under the amendment I am going to offer to this legislation in the coming days, as certainly as pharmaceutical companies will have to disclose any gifts they are giving, any incentives they are giving to doctors to influence their medical judgments, so, too, pharmaceutical manufacturers will have to disclose any rebates given to PBMs so the clients of the PBMs know what they are getting and can demand that those rebates be handed down to senior citizens at a lower price.

It is simply transparency. It is what every American is asking of every American corporation. We have a free enterprise system for people to price their products, but we do demand truth and honesty. This is a minimum of transparency that we can bring to the pharmaceutical industry in America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I appreciate very much the Senator from Massachusetts withholding. The Republican leader is present, and I have a unanimous consent request that I would like to propound.

I ask unanimous consent that following the statement of the Senator from Massachusetts—he has 20 minutes. The Senator from Oklahoma, Mr. NICKLES, will speak for probably 20 minutes. Following that, Senator GREGG will speak for probably 5 or 10

minutes. Following those statements, we would vote on——

Mr. GREGG. Senator STABENOW would then have the right to close.

Mr. REID. I am going to do that before the vote. Following that, we would have a vote on or in relation to Senator STABENOW's amendment; that prior to the vote on Senator STABENOW's amendment, we would have 2 minutes for her to speak on behalf of her amendment, and Senator GREGG or his designee would speak 2 minutes in opposition to that amendment.

Mr. GREGG. Senator STABENOW would close?

Mr. REID. Yes. That upon disposition of Senator STABENOW's amendment No. 4305, Senator DORGAN's amendment No. 4299 be temporarily laid aside, and Senator GRAHAM be recognized to offer his prescription drug amendment; that immediately upon the reporting of his amendment, it be laid aside and Senator GRASSLEY, or his designee, be recognized to offer his prescription drug amendment; that the two amendments be debated concurrently; that no other amendments or motions be in order during the pendency of these amendments, except motions to waive as listed below; that on Tuesday, July 23, at 2:15 there be 30 minutes equally divided between Senators GRAHAM and GRASSLEY; that at 2:45 on that Tuesday, July 23, the Senate vote on waiving the Budget Act with respect to Senator GRAHAM's amendment; that immediately following that vote, the Senate vote on waiving the Budget Act for Senator GRASSLEY's amendment; that if either amendment successfully waives the Budget Act, it be further debatable and amendable; that if either fails to waive the Budget Act, it then be withdrawn; and that the preceding all occur without any intervening action or debate.

I further ask unanimous consent that when the Senate resumes consideration of Senator DORGAN's amendment that Senator GREGG or his designee be authorized to offer a second-degree amendment thereto and that upon disposition of Senator GREGG's amendment, Senator ROCKEFELLER be recognized to offer a second-degree amendment to Senator DORGAN's amendment.

The PRESIDING OFFICER. Is there objection?

The Senator from Massachusetts.

Mr. KENNEDY. Reserving the right to object, and I will not, will the Senator include that the allocation of time be equally divided on Monday and then Tuesday morning?

Mr. REID. That certainly is fair. We will equally divide the time.

Mr. NICKLES. Will the Senator yield?

Mr. REID. I would be happy to yield.

Mr. NICKLES. Is it correct there would be a budget point of order that would lie against both the Graham and Grassley amendments?

Mr. REID. The Senator is correct.

I ask that the request be amended so the time be designated, Senator KENNEDY, Senator GREGG, even though the amendments are those of other Senators. They are the managers of the bill and that is the way it should be.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Mississippi.

Mr. LOTT. Mr. President, while I object to the process under which this is being considered—I think we should have had this prescription drug issue go through the Finance Committee. We should have a normal debate, markup, and report out what would normally have been a bipartisan bill and probably a tripartisan bill. That is the way we should do business, and I predict right now that eventually the only way we are ever really going to get a real prescription drug result is we are going to have to go back and do that.

Having said that, the bill before us everybody understood was going to be a vehicle to which Senator DASCHLE and others would be able to add prescription drug amendments or bills. That is what has happened.

I think we will have sufficient time for debate later on tonight, on Friday, on Monday, on Tuesday morning, I presume, with the votes to occur one after the other on Tuesday afternoon. I think that is a fair way to proceed.

Right up until the last few moments, we are getting people inquiring about what happens then. Well, of course, if one of them does get 60 votes, as is in the agreement, we could go back and have additional debate and amendments, or if they do not, then other options are available, other amendments to the pending issue that is being set aside or other proposals with regard to a different approach to the prescription drug issue.

I know Senators HAGEL, ENSIGN, SMITH, ALLARD and GRAHAM are interested in the Hagel amendment, and perhaps other amendments on this side.

We also retain the right to move to commit this whole issue to the Finance Committee with instructions, and at some point it might wind up being the most reasonable and popular thing to do. But this is not cutting off other amendments, not cutting off this issue, just setting it aside. It is not blocking other options from being considered. The truth is, both sides have been working for the last couple of days to try to get to this point. So I think it is the fair way to proceed. Everybody will be heard. We will have a vote and then see where we are.

Mr. REID. I want to express the appreciation of the Democratic Senators to the two leaders. It was not easy to get where we are right now, and the reason I appreciate that—I think everyone does on this side; I am sure on their side—we have two big issues that will be debated for several days. This issue, prescription drugs, is why we are here—one of the main reasons we are here, I should say. This will give everyone a chance to listen to what others have to say.

There will be some who do not want either one of these; they want something else. But they have a right to vote accordingly.

I think we have made great progress. If I can get Senator GREGG's attention, Senator STABENOW asked if there would be a problem with her having 5 minutes, and the Senator from New Hampshire having 5 minutes immediately prior to the vote.

Mr. GREGG. That is no problem at all.

Mr. REID. I say to the Senators who are watching, this vote will probably occur around 5:30, give or take a few minutes.

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts is recognized for 20 minutes.

Mr. KENNEDY. Mr. President, I yield myself 15 minutes.

I thank our leaders, Senator REID, Senator DASCHLE, and our Republican leaders, for this agreement we have entered into. This is a historic time. It will be the first time in over 5 years since there have been prescription drug amendments before the Senate.

I am a cosponsor of the Graham-Miller bill and later in this debate, either tomorrow, Monday or Tuesday, I will have an opportunity to go over why I think that measure is so compelling and deserves strong support.

We were reminded, once again, earlier in the afternoon, of the publication of a study that reviewed the different options that are before the Congress most actively; that is, the Republican proposal that passed the House of Representatives, the tripartite, and the Graham-Miller proposal. The study examined the impact of each of these proposals on individual States and what impact each would have on seniors and others that would benefit from the program. In every single instance, every single State, without a single exception, the one that was embraced by the seniors, the one that provided the greatest coverage for the seniors, was the Graham-Miller proposal.

We will have more of a chance to debate that over the next couple of days.

It is very important as we come to vote on the amendment of Senator STABENOW to realize what has happened in the last couple of days.

The focus of the underlying legislation—which was originally introduced by Senator SCHUMER, Senator MCCAIN, and then altered or adjusted by Senator EDWARDS and Senator COLLINS—basically addresses the egregious situation taking place today all over our country by unscrupulous brand name drug companies gimmicking the patent laws in order to take unfair advantage of consumers in this country and maintaining higher costs. They are doing it by extending the patent process with a phony regime called ''evergreening'' and also through collusion with certain generic drug companies. This practice is resulting in costs of billions of dollars to our seniors.

If there are people who are watching this Senate proceeding, if there are cancer patients and they have been paying higher prices for various prescription drugs dealing with breast cancer, the fact is the pharmaceutical companies delayed Taxol, the generic drug, for 19 months. That means consumers paid $1.2 billion more because of the delay of competition. If patients suffer from epilepsy, as a result of this system, those patients have paid $1.4 billion more than they otherwise would have paid. That has been true with various brand name drugs for depression, and it also includes blood pressure as well.

In all those areas, there has been a gimmicking of the system, which permitted those companies that had the patents for a period of time, and under the old Hatch-Waxman legislation were going to have their time expired and the generics would be on the market, to be able to compete, and would have saved the consumers billions of dollars. The actions of those brand name companies have been such as to result in higher prices.

That is the basic issue we have before the Senate, whether we will pass that legislation.

The Dorgan amendment was favorably considered in a vote yesterday. It will also have a dampening down in the increase of prices of prescription drugs. And American taxpayers are paying taxes, and those resources go to fund expanded NIH research, which I strongly support.

This is the time of the life sciences, and we will see unbelievable opportunities in the future in breakthroughs with prescriptions. It is an enormously important time. I believe we will see these breakthroughs in the life sciences, as in the physical sciences last century. We have seen what is happening with the analysis of DNA, and the sequencing of the human genome, and all the breakthroughs with unlimited possibilities, using the high technology available and the advancements in biology. The opportunities are virtually unlimited. It is an enormously exciting time.

That is why it is important to have a policy that will make available to all Americans these lifesaving prescription drugs reasonably.

We had the excellent presentation made by our friend and fellow colleague, Senator DORGAN. The vote was a clear indication that the Members of this body are prepared to see that prescription drugs that are FDA approved, produced in an FDA-approved laboratory, imported here with the safety provisions included in the Dorgan amendment, would be available to American citizens.

Today we have the Stabenow amendment. We have had limited debate on the merits of the amendment. I hoped we would have seen an acceptance of the Stabenow amendment. It makes eminently good sense. We have heard a great deal of debate and discussion about the free enterprise system. That is what the Stabenow amendment is all about.

It is the ability of the States to use their economic power in order to negotiate with the various drug companies to try to get the lowest possible price for the neediest individuals, the poorest people in the United States. And the drug companies say no. Yesterday they said: We want to play by the free market system; and now we have a free market system being utilized and they say: No, no, we want to play by our own rules. What does that mean? They have now taken the various States to task and said: We will not permit that because that is government interference in the free market system.

The fact is, what is being tried in the State of Maine and the other States is the same kind of market experience we have seen with an HMO when they negotiate with various brand name companies. It is the same kind of negotiations insurance companies have. It is routine, the same as major companies. General Motors does this when they buy prescription drugs. It is the same element, to use market forces to try to get the lowest possible prices. When they do not want to do that, and companies do want them to do it, there is no reason they have to sell. It is a free and open exchange.

That is not good enough. We have seen where the drug industry has sued the State of Maine, they have sued the State of Vermont, they have sued Michigan, they have sued Illinois, they have sued Florida. The drug industry is waging war against our Governors and our State legislatures to bring them into court.

From the NGA statement of July 15, I quote Michigan Republican Governor Engler:

> The nation's governors are extremely disappointed with the course of action chosen by PhRMA. It is unfortunate that their organization feels compelled to use the court system to manipulate public policy.

I will mention another feature of the attack by the industries on the States. This is what they are about. First of all, the industry sued the State. That probably is not any surprise, given their abuse of the Hatch-Waxman. The drug industry instructed its front group, the so-called Citizens for Better Medicare, to run television, radio, and prints ads in Maine and Vermont attacking the laws. That is what the drug industry does to keep the prices sky high. They sue our State governments, and waste taxpayers' dollars defending against frivolous suits, because the States have to defend themselves; they have to use tax dollars. And then they run attack ads.

Lest anyone question whether the so-called Citizens for Better Medicare is anything but a front group for the drug industry, let me quote the June 18 Wall Street Journal, Tim Ryan: PhRMA's past marketing director founded the grassroots sounding Systems for better Medicare at the expense of the major drug companies.

So it is a phony organization, but they use the phony organization to attack the public officials in those States for resisting their action.

Enough is enough. The American people are sick and tired of the drug industry's abuses.

I have an IG report from the HHS inspector general, who issued a report in August of last year which documents the fiscal crisis of sky-high drug prices. Here is the inspector general's conclusion about the current Medicaid discounts shared by the States and the Federal Government:

> We believe it is not a sufficient discount to ensure that a reasonable price is paid for drugs.

This is done under a Republican administration, a Republican IG, August of last year.

The Department of Health and Human Services, Office of IG, Medicaid pharmacy. This is what he says in paragraph 2:

> Although this discount averaged 10.31 percent nationally, we believe that it is not a sufficient discount to ensure that a reasonable price is paid for drugs.
>
> We believe that there is a critical need for States to better control the costs of their Medicaid drug program because expenditures are rising at a dramatic rate. Medicaid drug expenditures increased by slightly over 90 percent since our previous review in 1994.

I repeat, 90 percent. So says the IG report, a Republican HHS discussing what is happening in the States.

Then we have the Governors try to do something about it and PhRMA comes right in and says no.

Senator STABENOW's amendment will clarify that. It will support the Governors—support Republican Governors, support Democratic Governors—support the findings of a Republican IG to help deal with this issue.

Just in the last day we had a meeting of the Governors, actually, out in the State of Idaho. The Nation's Governors met out in Idaho and the Governors voiced their concern over the lawsuit that seeks to bar the States from dealing with the Medicaid cost-controlling measures.

This is the Governors saying just what Senator STABENOW has been saying, Republican and Democrat alike.

This is a serious amendment. Therefore, I am very hopeful it will be accepted.

Let me bring to the attention of the membership, something that has developed in my own State of Massachusetts, in the U.S. attorney's office. One of the developments in recent times is the development of a health fraud unit, which has been extremely active. I was talking to our U.S. attorney recently up there. We were discussing the situation about health care fraud. He mentioned to me this particular case.

Just last October, the Federal authorities secured the largest health care fraud settlement in history. Not surprisingly, it was against a drug company for overcharging taxpayers through Medicaid—just what we are trying to deal with here in the U.S.

Senate. The Top Pharmaceuticals paid $875 million in criminal and civil fines for overcharging the States and the Federal Government for the cancer drug, Lupron. It is a life-or-death cancer drug, and here you have Top Pharmaceuticals found guilty of overcharging consumers and now having to pay the criminal fines and civil fines of $875 million. There are now class action litigations brought by consumer advocates in Boston to further recover the overpayments to this drug company.

We need to close ranks with our States, Republican and Democratic Governors alike—consumers against high drug prices. The Stabenow amendment is the right tool in the hands of the States to lower drug prices for low-income people and the uninsured.

I want to reiterate two facts. Who are the States looking out for? Are they trying to use their bargaining power in terms of a massive purchase of drugs for all the people in their States? No. They are trying to use it for the most needy people in their States in most instances—and I think in the State of Maine, in every instance—those who are uninsured, the poorest of the poor who cannot get insurance for one reason or another, or are not eligible for Medicaid, in order to get them lower costs. It is the poorest of the poor trying to get life-sustaining drugs, and PhRMA, the industry, is going after that and saying they do not want that to take place. They think that is un-American. They think it is price fixing and so forth.

We have seen, and I have certainly seen it in our committee because it was not believed we would get this legislation out of the committee because we heard the drug industry is strongly opposed to it—and we have certainly heard that from our friends on this side of the aisle—we understand that—they are opposed to it. They are opposed to the Schumer proposal. We understand that. They are opposed to the Dorgan proposal. We heard that yesterday. And they are opposed to the Stabenow proposal.

What we have not heard is what they are for. What we have not heard is what they would do. What we have not heard is their sense of outrage about these abuses. We have not heard that.

We have been here the better part of the day today, yesterday, the day before, and we have not heard that. That is a matter of deep concern to everyone on this side of the aisle. It is the reason the majority leader has brought this up to the Senate, on the floor of the Senate.

I heard my good friend—and he is my friend—the Senator from Tennessee, talk about the process and procedure, about whether we are circumventing the procedure in order to consider the legislation. Of course it did not bother him very much in May of 2000 when they brought up the energy bill, sponsored by Senator LOTT, without committee approval; or brought up, on March 20, a bill to eliminate the earnings test for individuals attaining retirement age, without committee approval. The list goes on. In June 1999, the Republicans brought up Social Security lockbox without committee approval. It didn't bother them at that time.

But what you did not hear about is a prescription drug program for the needy in this country. They were never willing to circumvent the rules to try to protect the seniors or try to get lower prices. No, there is no example for that. We have had legislation in the committees for over 5 years. This is the first time—the first time—the only time that we have had the opportunity to debate.

Next Tuesday will be the first time we have had the opportunity to vote. And people are complaining about process and procedure.

We know what happens. Every Member in this body knows what happens when you get back in those committee rooms, you get out in the corridors—we know what happens. That is the end of the legislation. That is the end of it. We all know it. But we know next Tuesday we are going to have a chance to vote on this. It will be the first time, and we would not have that opportunity unless Senator DASCHLE said: This is a matter of national priority. This is a matter of central concern. This is an issue that ought to be debated and discussed on the floor of the Senate. This is a moral issue of central concern to every family, young and old—not only those who take the drugs but the families who look at their parents and are concerned about whether they have the resources to purchase those drugs.

The parents themselves do not want to burden their children about their own kinds of conditions. They are proud men and women who want to live in dignity and who have paid a price for this Nation—fought in the wars, lifted the country out of the Depression.

The PRESIDING OFFICER. The time allocated to the Senator has expired.

Mr. KENNEDY. The last 5 minutes has expired? I asked to be reminded when I used 15 minutes.

The PRESIDING OFFICER. The Senator can use that time now—5 minutes.

Mr. KENNEDY. The remaining time.

Mr. President, these are people who have built the country. Now we are asking whether they have paid into the system. I was here in 1965 when that commitment was made here on the floor of the Senate, Republicans and Democrats alike. The President who signed it—President Johnson as well—said:

Look, play by the rules, pay under the system, and when you turn 65 you will have health security.

Everyone in this room understands it. This Chamber understands that we failed the elderly people on that promise. We provided physician services and hospitalization but not prescription drugs. That is a three-legged stool. If you only have two and you do not have the third, you do not have health security. Every family understands that, everyone except the Senate.

We are prepared to do something about it. Can you imagine if we had not provided hospitalization or physician services? We would certainly understand it. Would we not be debating that today? Does anybody believe it to be so? Does anybody believe this is not important?

Finally, I remind everyone in this body as we are coming in, and as I intend to remind them next week, every Member of this body has a prescription drug program.

Every Member of this body has a prescription drug program that is paid for by taxpayers by 80 percent. We understand that. Any Member of this body who wanted to go down to the clerk's office could go in there and say: Take my name off that. I don't want it. I don't believe as a matter of principle that we ought to have the Federal Government dealing with this policy.

Anyone could do that. I have checked on it. There isn't a single Member in here who has done that.

All we are trying to do with this particular proposal is to treat the American people the same way Republicans and Democrats and this President are being treated. Is that asking too much for this body to do? I don't believe so.

I withhold the remainder of my time.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Oklahoma is recognized.

Mr. NICKLES. Madam President, I rise in opposition to the Stabenow amendment. I will mention several reasons.

First and foremost, it is going to increase in the price of Medicaid. I want to make sure our colleagues know that. I am going to say it about 10 times in the course of this debate. If we pass the Stabenow amendment, the price of Medicaid is going up. The price of drugs going into the Medicaid system is going up. That is just a fact that everybody should know.

If we think that we are going to pass this amendment and that this is a great deal for the State—I disagree. The States have to share in the cost of Medicaid, and the cost of Medicaid is going up.

I heard my good friend—he is my good friend—the Senator from Massachusetts say the Governors have united; we need to get cost controls on Medicaid.

This will mean a monumental increase in the cost of Medicaid. I think I can say that very plainly and very easily. I want to make sure everybody is aware of that.

Let me mention a couple of other reasons we should be opposed to this amendment.

Some people say ''process.'' Did we have a hearing on this bill? No. Did we have a markup on this bill? No. Was one even requested? I don't think so. The Democrats are in control of the

Senate. Senator BAUCUS is chairman of the Finance Committee. If he wanted to have a markup on this bill, he could have done that.

I see the sponsor of the legislation. I will ask her. Have we had a hearing on this bill, and have we had a markup on this bill in the Finance Committee?

Ms. STABENOW. Madam President, I think my friend from Oklahoma knows that in fact that did not have a hearing. That is not unusual. That happens sometimes in the process. I have only been here 1½ years. But there are many times when that has occurred. The Senator is correct. That has not occurred on this bill.

Mr. NICKLES. Let me ask another question. Is it not correct that your bill will increase the cost of drugs going into the Medicaid system?

Ms. STABENOW. I would argue that that is not the case, absolutely not. Under the program right now, States operate with companies, and I don't have any indication whatsoever that it is going to increase the cost of Medicaid. I certainly would have to object to that.

Mr. NICKLES. I will make the case that it does. I believe I will show that GAO happens to agree with me. GAO has studied this issue. They basically said it boils down to the fact that if everybody gets a discount, nobody gets a discount. That is the economics of it.

Right now, you have a system where Medicaid gets the best price. Medicaid gets the best price—lowest price—in the country. But if everybody gets it, nobody gets it. If everybody gets a 15-percent discount, that is the price. This is not a discount. That is exactly what we are doing here. You are going to increase the cost of Medicaid by not giving a discount. Does that mean everybody's drug costs are going down? Actually, no. It means the discount or the best price is going up.

Ms. STABENOW. Will the Senator yield?

Mr. NICKLES. I will not yield. I want to make a lot of comments, and I will be happy to discuss it. But I only have limited time. I want to make sure I make all of these points.

No. 1, this is an important issue. It hasn't had a hearing.

This committee is now controlled by the Democrats. It has been for a year and we haven't had a hearing. I don't know that one has been requested. I am on the committee, and I am on the subcommittee.

Some people say that is not insignificant, that we do a lot of things.

When you are talking about major issues—and we are talking about prescription drugs for all of our seniors—we should have a hearing on this. We should have a markup.

There happens to be, collectively, on the Finance Committee hundreds of years of experience dealing with Medicare, Medicaid, and prescription drugs. A lot of us are willing to put some input into it. That is the reason we have the committee process.

I am ashamed of the way the Senate is operating today in this fashion. We are taking probably the most important and most expensive piece of legislation considered in decades and it hasn't had a hearing, it hasn't had a markup, and it hasn't had a scoring by the Congressional Budget Office—none of the above—and yet we are in the process of marking it up. We are going to have votes on Tuesday on a proposal that nobody has a clue about how much it costs.

On one of these proposals, some say it will cost $500 billion. Others say it is closer to $800 billion. Although, they forgot to tell that it only lasts a few years, and it is sunset. Then we will stop paying for prescription drugs. No entitlement sunsets after a few years. If somebody thinks we are going to start paying for prescription drugs and then we are going to stop, that is more than hypothetical. That is misleading.

If we are talking about trying to put corporate officers in jail for misleading financial statements, we ought it be ashamed of what we are doing in the Senate. We are taking up the biggest expansion of an entitlement program, and no one has a clue about how much it costs. And we are going to say we are fiscally responsible? Shame on us. We do it without a hearing, without a markup, and without scoring from the Congressional Budget Office. That is a really poor way to legislate. That is the way you get things started, and you later say: Wow, I had no idea it would cost this much.

Let me be a little more specific about the amendment of my colleague and friends from Michigan.

Very seldom do we legislate by intervening ourselves before a case goes before the Supreme Court and say this is the way we mean for it to be. We usually let the Supreme Court make the decision. This issue is before the Supreme Court. The position of the Senator from Michigan lost at the district court level. Then she won at the circuit court level, which has now brought the case before the Supreme Court. But we are going to intervene before the Court and say: Oh, here is what we mean. Rewrite the law.

Basically, we are going to say: All right, under the Medicaid system, which gives a discount—the best price for Medicaid beneficiaries, low-income beneficiaries—we are going to say that is applicable to anybody the State deems eligible.

Guess what. A lot of States have programs for drugs that have no limitation on income.

Senator KENNEDY mentioned three times that we need this program. He said the Senator from Michigan is trying to help the neediest and the poorest of the poor.

I looked up in the State of Massachusetts. This drug program has no income limitation. You could be a billionaire in Massachusetts and you would be benefitting from this program. This has is no direct relationship to income.

In the State of New York, it is 419 percent of the poverty level. That is about $50,000 for a couple.

So this idea of saying this just applies to the neediest—no, this is hijacking. That happens to be the word used at the district court level—a program that was targeted to benefit the low-income people and say, wait a minute, we want it to apply to a lot of other people who do not need the income eligibility of Medicaid.

We are going to take a discount program that was designed and targeted to help low-income people and say it applies to a lot of people, let's make it apply to everybody.

Really, what you are talking about are price controls. But what you are talking about is saying, we are going to take a discount right now that is targeted towards low-income people, and we are going to spread it around to a lot of other people who aren't low-income, and who in some cases have unlimited income. Does that really make sense?

Let me give you an analogy. Maybe sometimes economics arguments are hard to follow, and maybe with prescription drugs it is harder than others. Let us take an example.

I see my good friend and colleague from New Hampshire. He is the former Governor of New Hampshire. As Governor, he purchased automobiles for the highway patrol and for the State police. My guess is that, as Governors, they get a good deal for the automobiles that are sold to the highway patrol and to the State police. He probably buys hundreds of them. Certainly, in a large State such as New York, or Michigan, they buy hundreds, and maybe thousands. So they get a good discounts. They get a better deal than the average consumer.

But if you are going to say, wait a minute, let us not just give this to the police, and a volume discount to the State, let us just give this to basically anybody in the State. That sounds pretty good, doesn't it? We are all going to get a good deal.

Guess what happens now. The price at which they were selling to the State before has just gone up.

In other words, if everybody gets the discount, nobody gets a discount. You are going to find out that the savings that the highway patrol had by buying several hundred vehicles just disappeared because they are not going to get any better deal than anybody else on the street.

That, in effect, is what is going to happen if we adopt the Stabenow amendment. This is a costly amendment if we are going apply this discount that Medicaid now gives on best price for Medicaid to every State program—and some State programs are quite generous. I mentioned for the State of New York it applies to individuals up to 419 percent of poverty; for a couple, incomes up to $50,000. In Massachusetts, there is no income limit.

So if you make it apply—incidentally, under this amendment, a Governor could say: For any drug sold in my State, I am going to have it come under this agreement because I want to offer low-priced drugs to anybody who comes in the State of Oklahoma. So if that is the State program, then every drug would fall under this program. So the net result is, everybody gets a discount. Let's break out the champagne. This is a great deal.

What you have done is, you have taken away—if that is the case—the discount for the low-income people on Medicaid and just taken it and spread it out to everybody else. Is that really what we want to do?

If we adopt the Stabenow amendment, I am just telling you right now, you are eliminating the discount, you are eliminating the low-targeted subsidy that we are now giving low-income people. So if everybody gets the discount, nobody gets the discount. You have just targeted and, quite frankly, greatly increased the cost of the Medicaid Program. You have increased the cost of what is targeted towards low-income people, the people who really need the help.

Keep in mind, this is not targeted to seniors. I have read the Stabenow amendment very closely, and it does not say anything about income limits. As a matter of fact, it says: Hey, you don't have to meet income limits in Medicaid. You don't have to meet eligibility. You don't have to be unemployed. You don't have to be uninsured to benefit under this amendment. It applies to almost everybody.

If the Governor and the legislature write a program broad enough, anybody can apply. Anybody would. So everybody gets a discount. How great is that? It means that nobody gets a discount. This is the impact of this amendment.

It is going to increase costs, as well as costs to the Federal Government. Maybe this thing will become law. Mark my words, we will just write it down. Today is July 18. DON NICKLES says if this amendment passes, you are going to see Medicaid costs go up. We will find out. Some of us will be here for a while. Sometimes we do things that have results. This will result in Medicaid costs going up.

So the very people we think we are trying to help—whoa, wait a minute, we are not helping Medicaid people; we are hurting Medicaid people because they will have to pay more for their drugs. They will lose their discount. This discount will be spread out amongst a lot of other people.

Let me make a couple other comments.

It not just me saying it. This is not my hypothetical situation: Well, DON NICKLES says: Wait a minute, this may backfire.

The General Accounting Office did a report. I will read part of this and then include it in the RECORD:

In an August 2000 report, the GAO determined:

> The larger the group that would be newly entitled to receive a federal price, the greater the incentive for drug manufacturers to raise that price. The Medicaid rebate experience suggests how federal and nonfederal drug price discounts could change if Medicare beneficiaries had access to the same price discounts available to federal purchasers. Following the enactment of the rebate program, discounts for outpatient drugs decreased significantly because manufacturers raised the prices they charge large private purchasers.

That is from the General Accounting Office. That is looking at the facts after we enacted the discount program some time ago. They are saying, if you expand that base of people eligible for a discount, costs are going to go up. It is just a fact.

The other thing is, the Stabenow amendment harms Medicaid beneficiaries. It will raise drug prices in Medicaid and raise Medicaid Program costs at a time when States can least afford it.

I will mention something from the administration. I have a note from them:

> The administration opposes any change in the Medicaid law that would increase Medicaid drug prices and reduce Medicaid coverage. This is what the Stabenow amendment would do. Medicaid law has always focused on what is best for Medicaid beneficiaries. The administration opposes changes in the Medicaid law that would harm Medicaid beneficiaries. The administration said this is what the Stabenow amendment would do. That is exactly what this amendment would do—exactly.

I do not find this to be rocket science. You just tell everybody they are going to be able to get a discount, then nobody gets a discount. Medicaid? Sorry, you are going to have to pay more. They do get a discount now. They do get the best price. They do get the lowest price of anybody in the country. But if you make that applicable to everybody in the country, then nobody gets it. That is what is going to happen.

I am just kind of against that people think: Oh, yeah, we will just do this, and this will save money. It is going to cost money. It is going to cost money from people who can least afford it. And it is going to greatly exacerbate the problems that many of our States right now are struggling with, and struggling with greatly. So I just wanted to mention that. I think it is important.

I will mention two or three things. Let's not increase the cost of Medicaid. That is what this amendment would do.

No. 2, let's not intervene in a case before the Supreme Court. That is pretty foolish.

How many of us really studied this case? How many of us have studied the Maine law? How many of us have studied the idea that: Oh, yes, we are going to say that this program, that was designed for Medicaid, should really be applicable to all programs?

Is that really a smart thing to do? Does it have some delusion or some negative impact on one small group if you say it applies to everybody? I think it is very shortsighted.

So I urge my colleagues to vote no on this amendment. And if, for whatever reason, this amendment is adopted, I will tell my friend and colleague from Michigan, I am going to offer an amendment, and the amendment is going to have the effect to guarantee that the amendment would not have an adverse impact on Medicaid.

My colleague stated, with assurances: Oh, I am sure it will not increase Medicaid costs. The administration says it would. GAO says it would. I think anybody who looks at it says it would. But if she is that confident, then I hope she will accept my amendment that says the proposal will not be effective if it is proven to have an adverse or increased cost in Medicaid drug prices.

I will have that amendment later should her amendment prevail. I hope it does not prevail. I think it is a mistake.

There is a reason we have a committee process. The reason we have a committee process is we have two different ideas on this and two different opinions. We could have experts come in and testify, and they could say exactly what they think the results would be of the Stabenow amendment.

We have not had that opportunity. I would love to have that. I will be happy to participate in a hearing on it next week, next month, 2 months from now, and find out what the experts think, the people who are in charge of CMS, the old HCFA. Let's see what they have to say. Let's see what other experts say.

Let's hear from Governors who not only have Medicaid that they are wrestling with, but other programs. Hey, there are some pluses and minuses in it for them. After all, they have to pay part of it.

Ms. STABENOW. Will my friend from Oklahoma yield for a question?

Mr. NICKLES. I will be happy to yield.

Ms. STABENOW. I am wondering if you are saying for the future, then, any amendment that comes to the floor that has not gone through a committee or subcommittee, you intend to oppose from here on out? Is that correct, for as long as you and I are here in the Senate, you would, in fact, oppose any amendment that comes before us that way?

Mr. NICKLES. I tell my friend and colleague, I think the committee process is being totally ignored by the present leadership in the Senate.

Ms. STABENOW. But does that mean you will, in the future—as opposed to what has happened in the past—object to anything that comes to the floor, any amendment that comes to the floor that has not gone through the committee process? I would be interested in knowing if, in fact, that is your position.

Mr. NICKLES. I would not go that far. But I tell my colleague, I will be

happy to join her in requesting Senator BAUCUS to have a hearing on her proposal as soon as possible. Let's bring in the experts. Let's see what they have to say.

I am a little bit chapped at the fact that I had been in the Senate for about 16-some years before I even got on the Finance Committee, and now it is not working. It has the reputation of being one of the most powerful, great committees, and it does not meet.

The chairman of the committee does not call meetings on this. We have not had a markup on the prescription drug bill. I would liked to have input. I would like to be able to offer an amendment. And I would like to have testimony so we can find out what the substance of the proposal is, what the impact will be. How much will it cost States? How much will it increase Medicaid costs?

I heard somebody say: Well, we think it would increase Medicaid costs by $1 billion or a couple of billion dollars. I think it may be a lot more than that. But I would like to know. Well, we don't know. We have not had estimates. It would be nice to have CMS give us an estimate.

Have we had the chance to do that? No. Because we have not had a hearing. I don't believe a hearing was requested, but it should have been. And the chairman of the committee should have agreed.

I will just tell my colleague, I am happy to participate in a hearing so we can get the facts out. But to change a program totally, and say, OK, we are going to have price controls and discounts for one group, and now we are going to expand it for everybody, with these great savings, assuming that everybody is going to get the savings—the net result is, nobody is going to get the savings. Instead of everybody getting a discount, nobody is going to get a discount. And that is the unfortunate result.

Ms. STABENOW. Will the Senator yield?

Mr. NICKLES. No, I will not yield.

That is the unfortunate result of her amendment. It is just too bad that we bypassed the committee. I don't know why the chairman of the Finance Committee and the ranking member are not saying: Wait a minute, this might be a good proposal. Let's have a hearing on it. We will mark it up. We will consider it.

We haven't done that; again, for something that involves State after State, a Supreme Court decision that will be made in probably a few months. We are going to interject ourselves with a trivial amount of debate on the floor, and we will have Senators vote on it and probably not half a dozen Senators have looked at the amendment in any detail. That is not a good way to legislate.

I reserve the remainder of my time.

Mr. GRASSLEY. Mr. President, I do not support Senator STABENOW's amendment No. 4305 to S. 812 to amend section 1927 of the Social Security Act. As my colleague Senator NICKLES pointed out during debate, this amendment raises important policy and budgetary questions that have not yet been considered by the Senate during a hearing or a committee mark-up. The far-reaching nature of this amendment deserves serious consideration by Congress prior to a vote. Additionally, at present there are pending legal decisions related to matters addressed in this amendment, and I believe it is worthwhile to await the decision of the courts prior to enactment of this amendment. For these reasons, I do not support this amendment, but I reserve the right to re-evaluate the matter at a later date.

Mr. KENNEDY. Madam President, what is the order now? We were allocated time to different individuals, and then at the conclusion of that we were going to recognize the Senator from Michigan to make final comments. I think Senator GREGG is here.

The PRESIDING OFFICER. The Senator from New Hampshire has 5 minutes and the Senator from Michigan has 5 minutes.

The Senator from New Hampshire.

Mr. GREGG. Madam President, it was my understanding that I had 5 minutes plus 7 minutes which would have been 12 minutes.

Mr. KENNEDY. That was my understanding as well. I think the Senator was recognized for 5 minutes and then when they extended the time of the Senator from Michigan, I think they extended the time of the Senator from New Hampshire as well. I would ask that he be accorded the 12 minutes.

The PRESIDING OFFICER. The Senator is recognized for 12 minutes.

Mr. GREGG. I understand there is a desire not to have us go to a vote until 5:40 or so. So there is extra time here. I would suggest that I take 12 minutes and the Senator from Michigan take 12 minutes, that we equally divide the time between now and 5:40, and then, at 5:40, proceed to a vote.

Mr. KENNEDY. That is satisfactory to me. I generally try to check with our leadership.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I think, for the benefit of the Members, the time for the vote will be at 5:40.

Mr. GREGG. Let me first associate myself with the excellent comments made by the Senator from Oklahoma who has made most of the points I would have made but made them with more energy and eloquence.

If you look at this proposal which has come forward, offered by the Senator from Michigan, essentially its outcome will be that the discounts allowed under Medicaid, which States get for their Medicaid recipients, which are significant discounts—nobody should underestimate, these are big discounts which drug companies that make your product are required to give to the States through the Medicaid process—those discounts under the proposal of the Senator from Michigan, those discounts will now be transferable to a whole new population of people, a very large, potentially very large population of people.

As the Senator from Oklahoma pointed out rather correctly, that population is not necessarily going to be means tested, not necessarily going to be of need. It could simply be a population which qualifies for this new discount under a State plan.

As a result, what you are going to do is end up for those drugs significantly reducing the revenues which flow to whoever produced that drug. What is the impact of that? Assuming that this is not a situation where the people who produced the drug are charitable organizations but are, rather, organizations which, in order to be able to produce that drug, had to go out and borrow money from somebody through the capital markets or through actual borrowing in order to be able to raise enough money to be able to bring that drug to market, remembering that the average cost to bring a drug to market in America today is somewhere between $500 million and $800 million and it takes somewhere between 10 and 12 years, assuming that this is not a charitable organization, then that company, in order to be successful, those people who invented that drug, who created that drug, who put their life into that drug for 12 years, managed to manufacture it after going through all the hurdles—and believe me, there are an unlimited number of hurdles, an incredible number of hurdles, at incredible expense, had to go out and line up their financing to do this—those people are going to have to raise the cost to somebody else. Because they still have to pay off the people who financed the drug. They have to give a reasonable return to the people who invested in that company or they are not going to be able to produce another drug. The drug that they produce may put them into bankruptcy for all intents and purposes, if they can't get a fair recovery on it.

What is the practical implication? Essentially what we are doing here is another example of saying: The big, bad, greedy drug companies, they can take the hit no matter what. They can take the hit. We have seen it happen out here on the floor. We have heard the argument from the other side. We can just do this because the big, bad drug companies are going to take the hit.

Let's remember what we are talking about. We are talking about one of the most important elements of our society, organizations which are producing products which are making American lives better, longer, and more healthy. Is it our goal to fundamentally undermine the capacity to do that? If we continue on this course—and this is obviously not the most extreme example of it, but this is a clear example of price controls and an attempt to drive

down the return on the ability of somebody to produce a product, which saves lives—if we continue on this process, we are essentially going to be plucking the feathers, rather aggressively, of the guys who are laying the lifesaving drug.

In the end we are not going to have a whole lot of gooses or they are going to be geese that don't have enough ability to produce those lifesaving drugs anymore because they don't have any feathers left on their bodies. This is really pretty obvious, if you think about it logically.

Capital in a marketplace system—I understand this is an elementary concept which has escaped some people in the Government—flows where it gets a return. That is just simple fundamentals. By capital I mean money which allows people to invest in products, which creates jobs, and create items that give us as a nation a better chance to compete internationally but, more importantly, gives our American people a better standard of life.

Capital flows where it gets the best return. If you reduce radically or even if you reduce incrementally but in a way that is basically pyramiding on top of itself like straw on a camel's back, if you continue to reduce the ability of the people who are creating the new drugs which are saving lives to have a viable market to go into and get capital; in other words, to be able to go to somebody who is willing to lend them money or willing to invest in their business and expects a reasonable return, if you reduce their ability to get a reasonable return or to pay that debt, you inevitably reduce the amount of drugs coming to the marketplace that will benefit citizens.

In the process, you cut our productivity, cut our national competitiveness, and take what is a very vibrant part of our economy and undermine it.

I realize it is great politics to come to the floor of the Senate and claim that if we do this we will be helping the poor. We will be helping the indigent, helping people who need help. That is great politics. But if you are not producing the drugs, you are not helping anybody. If that lifesaving drug, that drug that is going to give people a better way of life, isn't going to come to market because the people who produce it can't get the money to make it because they can't go in the capital markets and get a decent return, then you are not helping anybody. It is a fraud to come to the floor and claim you are helping all these people. There was a statistic, which I found most interesting, cited today by a colleague on the other side of the aisle. They said that in the biotech industry today there are a thousand firms, but only a hundred of them have products on the market, and we are really excited to think the next 900 are going to come to market with their products.

Well, if we continue to pluck this goose, those 900 firms are not going to come to market with their products because they are not going to have the financial strength to survive the 9, 10, 11, 12 years it takes to get to market with their product. It takes money, cash, capital flowing into those companies—and paying the employees, by the way. It doesn't happen to go to somebody making a gazillion dollars; it goes to the employee. It takes money, cash, and capital to fund that period from the time you think of the product, from the time you invent that concept, from the time it germinates as an idea in some wonderful scientist's mind, to get it to the market, and $500 million to $800 million. So those 900 companies that are out there that don't have a product on the market, but if those products come to the market—this was their point—those products will save hundreds of thousands of lives.

Those products are not going to be there if we continue on this path of, every time we turn around, taking another nick—a fairly significant nick—out of the ability of those companies to be viable.

Are those companies evil and greedy because they want to bring to the marketplace something that is going to improve the lives, or extend the lives, and improve the quality of life of Americans—and, well, yes, be sold in Canada for less because they take advantage of all our research, in a very mercenary way, as does the rest of the world? No. They want to produce a product that is going to improve the quality of life of Americans; and they are willing to do it, willing to put at risk their time, effort, brain power, and their resources, including cash and capital.

But the argument on this floor is they are greedy, so let's just shut down their capacity to do that. And then, at the same time, we are out here claiming: But we are going to have a wonderful, viable drug industry in this country, and we are going to continue to be on the cutting edge.

Well, we are not. We cannot continue to say to people who are producing products you can't get a fair return on your product and expect that they are going to continue to produce their products.

This amendment is not overwhelmingly egregious, but it is one more straw on the back of the ability of the marketplace to move their capital into the production of quality health care products versus moving it into who knows what—software for video games or movies that are violent or whatever else for which the capital gets a better return.

The basic element of this amendment is that we are going to take a very limited program, which demands that people sell a product at significantly less than what the market will bear, and should bear, in order to give a reasonable return and demand that it be spread across a whole new population. And as a result, that population will get a lower cost drug, no question about it. But somebody else is going to have to pay more for the ones that come to market and are put under that system. It is like a balloon, when you squeeze it in one place, it pops out in another place. Other people—probably those on an insurance program—will pay more. So their insurance will go up and maybe they will become uninsured. We can also talk about that. More importantly, fewer people are going to be willing to pursue the path of producing quality drugs because you are not going to be able to go into the marketplace and get the capital to do it. That is what this debate comes down to—whether this feel good, ''I care about everybody'' concept that says that the way you feel good and you care is you basically say the drug companies are greedy, the production is greedy, the biotechs are greedy, and you drive their price down so they can no longer compete, but for a while at least people get a lower cost drug.

I will admit there will be a window where you will be successful. But 4 or 5 years from now, or 8 years or 10 years from now when that drug that might have addressed the issue of Alzheimer's, or of arthritis or addressed the issue of arteriosclerosis, multiple sclerosis, or any number of diseases, that drug didn't come to the market because the person who had the idea could not get the money in the capital market to finance the 8 to 12 years and the $500 million to $800 million to bring it to market because there was not a market that generated that kind of return. Have we done a lot of good for the American people then? I don't think so.

So as we move down this road, we have to be balanced. Good ideas may flow, things that seem appropriate to the moment. We can throw them out, but let's evaluate them in the context of what their ultimate outcome will be.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 seconds.

Mr. GREGG. Well, I may use all my 10 seconds. I will reserve that time.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. It is difficult for me to know where to begin with all of this what I view as misinformation. I will at least clarify what I believe to be the facts regarding the situation in the bill and, beyond the bill, the general issue regarding the pharmaceutical industry.

I ask unanimous consent that Senators CLINTON and LEAHY be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. I find it interesting, there is great concern about expanding discounts to people who are not on Medicaid. Do you know what is unfair in this country right now? The only people who pay retail, the only people who pay the highest prices in the world are people who are uninsured. No insurance company pays retail. Every insurance company, including Blue Cross Blue Shield, or any company, gets a discount. The States as well—when we

buy for the VA hospital, the Federal Government—we negotiate a discount. Under Medicaid, we have given the States the ability to get what is, frankly, a modest discount—15 percent on brand name drugs, 11 percent on generics. So they don't pay retail. Nobody pays retail. Everybody gets a discount, except for one group—the uninsured in this country.

The majority of those using prescriptions who are uninsured are our senior citizens—the seniors and the disabled of this country. How unfair that we would think they, too, should get a discount. This amendment only affects those who are uninsured. Why? Because everybody else already gets a discount. So if you vote no on this, you are saying this system right now that allows States to get discounts under Medicaid, the Federal Government for the VA, Blue Cross Blue Shield, and every other system—our own insurance system as Federal employees, we don't pay retail—if you vote no, you are saying the only people who don't deserve a discount from retail are uninsured seniors and families. The folks who are not seniors—most of those who are uninsured work and they work for small businesses. Those small businesses are struggling every day to provide health care and they are seeing premiums go up 30 to 40 percent a year, and most of that is because of prescription drugs.

This is a modest amendment. This is an amendment that simply says our States that are struggling right now, both to pay for Medicaid and also to provide some kind of lower cost prescriptions for their citizens, mostly seniors who don't have insurance, ought to be able to use the creativity of a State, the great ''laboratories of democracy'' that I hear about all the time from my colleagues on the other side of the aisle—let them continue to do what they are doing, be creative to lower prices.

I might just quote something that was quoted earlier today by my colleague from Massachusetts, and that is my own Governor of the State of Michigan, who is leading the National Governors Association. We have meeting now Governors who are concerned about prescription drug costs and wanting to provide programs for their citizens, being sued, many of them, because they want to expand the discount for lower prices, to be creative like Maine and Vermont.

We had from Governor Engler:

> The Nation's Governors are extremely disappointed with the course of action chosen by PhRMA, said NGA chairman Michigan Governor John Engler. It is unfortunate that their organization feels compelled to use the court system to manipulate public policy. With pharmacy costs alone rising 15 to 20 percent each year, all purchasers, including the manufacturers themselves, are using tools that manage costs while maintaining quality and access to affordable pharmaceuticals.

That is about an optional program to say to the States: If you choose to be creative and use your leverage under Medicaid to expand a discount to people who do not get a discount, who are the only people who do not get a discount, who are the uninsured, mostly seniors, that you can do that.

I commend the administration because under this administration, the Bush administration, the Solicitor General, Theodore Olson, went to court in support of the Maine plan. He said in his brief:

> The initiative should be allowed to go forward without further intervention.

Olson argued:

> States enjoy a broad measure of flexibility in tailoring the scope and coverage of their Medicaid plans and that court review of Maine Rx was not warranted.

I commend him and the administration for stepping in on the side of States rights, which is what this is all about. This is about States rights. It is not about concerns about the pharmaceutical industry.

I understand they will fight everything, they have been fighting everything, they will continue to fight everything. There is no question about that. We fully expect their arguments to be put forward on this floor.

I wish to make two other points; that is, when we talk about the industry as a whole and the concern that maybe the uninsured would get the same discounts as people with insurance, and what that would do to the poor pharmaceutical companies, we need to look at what the real picture is today economically with this industry as we are concerned about making sure our seniors pay, when they walk into a local pharmacy, the highest prices in the world.

A study that was put out yesterday by Families USA shows some startling comparisons. We all want research. We want those new lifesaving drugs. Unfortunately, 80 percent of the new patents being approved by the FDA are ''me too'' drugs, not new lifesaving drugs, but we want those.

I am deeply concerned about the direction of the companies. The pharmaceutical company is more about being a sales machine, sales and marketing, quarterly reports and profits than about creating new lifesaving drugs, and that is of deep concern to me as to the future for all of us in health care.

A number of companies were outlined yesterday. As an example, Merck spends 5 percent on research and development; 15 percent profits last year, there were three times more profits than what was spent on R&D; and 13 percent was spent on advertising, marketing, and administration. It is almost three times as much on advertising and marketing and three times more in profits than they are spending on R&D.

Pfizer received 1½ times more in profits than they spent on research and development, more than two times more on advertising, marketing, and administration than on research and development. It is a pattern that continues. R&D is not the top expenditure of the companies today.

When we look at the individuals, it is difficult for me, representing the great State of Michigan where people work hard every day for a living, most people working hard for that paycheck, concerned about their kids, whether they are going to be able to send them to college, whether they can afford their health care, working hard every day, and then we hear we cannot possibly lower prescription drug prices, we cannot possibly even get them down to the rate of inflation—they are going up an average of three times the rate of inflation—we could not possibly give a 15-percent discount to uninsured seniors.

Then we look at the numbers, and we see astounding salaries in the drug companies. I mentioned this morning—not to be personal but this is public information—the comparisons are astounding. The former chairman and CEO of Bristol-Myers, $74.9 million last year in earnings and, in addition, $76.1 million in unexercised stock options.

We have been talking in this Chamber about corporate responsibility and integrity and, I would argue, morality. What is the morality of huge, tens of millions of dollars in salaries and huge amounts of profits, and when we say just get the prices in line so people can afford these new lifesaving drugs so they are not cutting the pills in half, taking them every other day—worst yet, not affording them at all—and we are told, no, nothing can be done, nothing can be done. They fight every single attempt to rein in prices or expand coverage.

This is a fundamental battle, I believe. I think we are needing to help an industry save itself and get back to its soul, which is research and development in new drugs, and to get back in touch with the American people.

I commend the States that are involved right now. They are close to the people. They are close to the people in their States and they know, they hear the stories every day, and they are trying to do something. They want us to act. I do not know if we are going to be able to get this all the way through. I certainly hope so, and I will do everything I can humanly do to work with my colleagues to make it happen.

In the meantime, the States are trying to help. We have 30 States that are doing something in the area of prescription drugs trying to help, and we have States being sued by the drug lobby because they are trying to help.

I will simply say, as we bring this debate to a close, that this is an amendment that does not force a State to do anything. It only affects the States that want to expand their drug discounts to those without coverage. It is an issue of flexibility.

The administration has gone on record in support of the Maine project which we use as an example of what can be done, and we appreciate that. It will stop unnecessary litigation. I know there is a great deal of concern by my colleagues about unnecessary

litigation. It will allow States to stop spending money on litigation and put money in essential services, such as being able to make available prescription drugs to their citizens.

I hope my colleagues will join in support of this bipartisan—tripartisan—amendment this evening and send a message that we support our States and we support their right to be involved in putting together efforts to lower prices and make lifesaving medicine available to their citizens.

I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Ms. STABENOW. 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. 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.

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Madam President, I ask unanimous consent that the cloture vote on Executive Calendar No. 825, Richard Clifton to be United States Circuit Court Judge, occur immediately following the disposition of Senator STABENOW's amendment. I further ask unanimous consent that following the confirmation of Judge Clifton, the Senate move to proceed to the nomination of Richard Carmona to be United States Surgeon General; that following the filing of cloture on the nomination, the Senate resume legislative session; that the live quorum for that cloture vote be waived, and that the cloture vote on the Carmona nomination occur on Tuesday, July 23, at 10:30 a.m.; and that the preceding all occur without any intervening action or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Madam President, there is also the possibility of a third vote this evening on confirmation following the two votes previously announced in this unanimous consent agreement.

VOTE ON AMENDMENT NO. 4305, AS MODIFIED

Mr. REID. We are now ready to proceed to the Stabenow amendment. Have the yeas and nays been ordered on Stabenow?

Mr. GREGG. Yes.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to amendment No. 4305, as modified. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER (Ms. CANTWELL). Are there any other Senators in the chamber desiring to vote?

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—56

Akaka	Dorgan	Lincoln
Baucus	Durbin	Mikulski
Bayh	Edwards	Miller
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Graham	Reed
Byrd	Harkin	Reid
Cantwell	Hollings	Rockefeller
Carnahan	Hutchinson	Sarbanes
Carper	Inouye	Schumer
Chafee	Jeffords	Smith (OR)
Cleland	Johnson	Snowe
Clinton	Kennedy	Specter
Collins	Kerry	Stabenow
Conrad	Kohl	Torricelli
Corzine	Landrieu	Voinovich
Daschle	Leahy	Wellstone
Dayton	Levin	Wyden
Dodd	Lieberman	

NAYS—43

Allard	Enzi	Murkowski
Allen	Fitzgerald	Nelson (NE)
Bennett	Frist	Nickles
Bond	Gramm	Roberts
Breaux	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Hutchison	Stevens
Cochran	Inhofe	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Warner
Domenici	McCain	
Ensign	McConnell	

NOT VOTING—1

Helms

The amendment (No. 4305), as modified, was agreed to.

Mr. DASCHLE. Madam President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. Madam President, there are two additional votes. I ask unanimous consent that they be 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Madam President, I would like everybody to stay right here. At the end of 10 minutes, we will go to a third vote. That will be the last vote for the week. I appreciate everybody's cooperation in staying here and voting, and staying here for the second of the two votes. Then we will be finished for the evening.

EXECUTIVE SESSION

NOMINATION OF RICHARD R. CLIFTON, OF HAWAII, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 825, the nomination of Richard R. Clifton, to be United States Circuit Judge for the Ninth Circuit.

Jeff Bingaman, Patrick Leahy, Daniel Inouye, Harry Reid, Tom Daschle, Dianne Feinstein, Orrin Hatch, Chuck Grassley, Michael B. Enzi, Craig Thomas, Christopher Bond, Jeff Sessions, Jon Kyl, Rick Santorum, Pat Roberts, Trent Lott.

The PRESIDING OFFICER. Under the previous order, the quorum call is waived.

The question is, Is it the sense of the Senate that debate on Executive Calendar No. 825, the nomination of Richard R. Clifton of Hawaii, to be United States Circuit Judge for the Ninth Circuit, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Iowa (Mr. HARKIN) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 97, nays 1, as follows:

[Rollcall Vote No. 183 Ex.]

YEAS—97

Akaka	Dorgan	McConnell
Allard	Durbin	Mikulski
Allen	Edwards	Miller
Baucus	Ensign	Murkowski
Bayh	Enzi	Murray
Bennett	Feingold	Nelson (FL)
Biden	Feinstein	Nelson (NE)
Bingaman	Fitzgerald	Nickles
Bond	Frist	Reed (RI)
Boxer	Graham	Reid (NV)
Breaux	Gramm	Roberts
Brownback	Grassley	Rockefeller
Bunning	Gregg	Santorum
Burns	Hagel	Sarbanes
Byrd	Hatch	Schumer
Campbell	Hollings	Sessions
Cantwell	Hutchinson (AR)	Shelby
Carnahan	Hutchison (TX)	Smith (NH)
Carper	Inhofe	Smith (OR)
Chafee	Inouye	Snowe
Cleland	Jeffords	Specter
Clinton	Johnson	Stabenow
Cochran	Kennedy	Stevens
Collins	Kerry	Thomas
Conrad	Kohl	Thompson
Corzine	Kyl	Thurmond
Craig	Landrieu	Torricelli
Crapo	Leahy	Voinovich
Daschle	Levin	Warner
Dayton	Lieberman	Wellstone
DeWine	Lincoln	Wyden
Dodd	Lott	
Domenici	Lugar	

NAYS—1

McCain

NOT VOTING—2

Harkin Helms

The PRESIDING OFFICER. On this vote, the yeas are 97, the nays are 1. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. LEAHY. With today's vote, the Senate will confirm its 11th judge to our Federal Courts of Appeals and our 59th judicial nominee since the change in Senate majority little more than

one year ago. The Senate confirmed the first Court of Appeals judge nominated by President Bush on July 20 last year and now, less than one year later we are confirming the 11th. That is almost one per month.

By contrast, the Republican majority that preceded us averaged seven Court of Appeals confirmations every 12 months. During an entire session of Congress, 1996, the Republican majority allowed no circuit court nominees to be confirmed, not one. The Republican majority confirmed 46 Court of Appeals judges in 78 months. While they were in the majority vacancies on the Courts of Appeals more than doubled, going from 16 to 33. Since the change in majority the numbers are going in the right direction—vacancies are going down and confirmations have significantly increased. We would be doing even better with a little cooperation from the Administration and the Republican leadership, which created roadblocks to the consideration of all judicial nominations by the full Senate since May.

The nominee voted on today, Richard Clifton, was one of the 78 nominees to receive a hearing in the first year since the reorganization of the Judiciary Committee on July 10, 2001. In that period, we held more hearings for more circuit court nominees than in any of the prior six years of Republican control. In fact, we have had hearings for more judicial nominees in the past year than in 20 of the last 22 years under Republican or Democratic presidents. Those who wish to paint the Senate as obstructionist ignore the facts and the fair treatment by the Senate of President Bush's judicial nominees. They focus instead on the most controversial nominees who do take more time, rather than the vast majority who have received hearings and been confirmed in bipartisan votes of the Senate. They would rather use misleading percentage calculations that obscure the fact that the Democratic-led Senate is considering President George Bush's nominees at one of the fastest paces in recent history.

I commend Senators Inouye and Akaka for the statesmanship they have shown in connection with this nomination. I remember very well their important efforts to establish the Hawaii seat on the Ninth Circuit and to try to fill it with a qualified nominee. I voted with them and supported their effort to ensure that every State, even States as small as Hawaii and Vermont, are represented on our Courts of Appeals.

I recall the saga of the nomination of James Duffy to fill the Hawaii seat on the Ninth Circuit, how hard they worked to find a consensus nominee and how that nomination was stalled for years. Despite the ''Well Qualified'' rating he received from the ABA and the strong support of both his homestate Senators, Mr. Duffy never received a hearing or a vote. He was nominated at the beginning of 1999 and remained pending for over two full years until it was withdrawn by President Bush in March 2001 without any Senate action of any kind.

Despite that recent history, the Hawaii Senators support Mr. Clifton for that same vacancy. In contrast to the treatment that Mr. Duffy received, Mr. Clifton's nomination was scheduled for a hearing less than 60 days after his file and paperwork were completed. Mr. Duffy waited 791 days and never got a hearing. When partisan critics charge Democrats with tit-for-tat and seeking revenge, they ignore the facts. The confirmation of Richard Clifton is another example of Democrats treating President Bush's judicial nominees far better than Republicans treated President Clinton's.

Today's vote on Mr. Clifton's nomination should provide some relief to the Ninth Circuit, which has four vacancies that have been classified as ''judicial emergency'' vacancies by the U.S. Courts. Two of those vacancies are more than five years old. They date back to 1996 and 1997, and there were two outstanding nominees to those seats. I have mentioned the nomination of James Duffy. The other nominee was Barry Goode of California, whose nomination also languished for years without ever getting a hearing or a vote.

When Barry Goode was first nominated to a Ninth Circuit vacancy in 1998 it was already a judicial emergency. Both of his home-state Senators supported the nomination but the Republican leadership refused to act. Mr. Goode was nominated not once, not twice, but three times to the Ninth Circuit and he never was given the courtesy of a hearing or a vote during almost 1,000 days (998 days). In March of 2001, President Bush withdrew Mr. Goode's nomination but he has not nominated anyone to this judicial emergency vacancy. It remains one of a number of judicial emergency vacancies for which there is no nominee and one of the 43 judicial vacancies for which there is no nominee.

The Ninth Circuit vacancies are a prime and unfortunate legacy of the partisan obstructionist practices during the Republican control of the Senate. Some are now complaining that a few nominees are waiting a year for hearing. Even though the anniversary of the reorganized Judiciary Committee with a Democratic majority was July 10, and we have already held hearings for 16 Court of Appeals nominees among the 78 total judicial nominees who had hearings in our first year.

I also recall how all confirmations to the Ninth Circuit from California were stalled by the demands of a Republican Senator not from that State to be given the ability to name a Court of Appeals judge from his State. With the support of the Republican leadership in the Senate, that Republican Senator succeeded in getting President Clinton to accord him that prerogative in order to break that logjam.

Just as the May 9th hearing on Mr. Clifton's nomination was the first hearing on a Ninth Circuit nominee in two years, earlier this year we had the first hearing for a Sixth Circuit nominee, Judge Gibbons, in almost five years. Similarly, the hearing we held on the nomination of Judge Edith Clement to the Fifth Circuit last year was the first on a Fifth Circuit nominee in seven years and she was the first new appellate judge confirmed to that Court in six years. When we held a hearing on the nomination of Judge Harris Hartz to the Tenth Circuit last year, it was the first hearing on a Tenth Circuit nominee in six years and he was the first new appellate judge confirmed to that Court in six years. When we held the hearing on the nomination of Judge Roger Gregory to the Fourth Circuit last year, it was the first hearing on a Fourth Circuit nominee in three years and he was the first appellate judge confirmed to that court in three years.

Large numbers of vacancies continue to exist on many Courts of Appeals, in large measure because the recent Republican majority was not willing to hold hearings or vote on more than half—56 percent—of President Clinton's Courts of Appeals nominees in 1999 and 2000 and was not willing to confirm a single judge to the Courts of Appeals during the entire 1996 session. Democrats have broken with that recent history of inaction.

I would like to commend in particular the Senators from Hawaii and also the members of the Judiciary Committee for their efforts to consider scores of judicial nominees for whom we have held hearings and on whom we have had votes during the last several months.

Mr. HATCH. Madam President, I rise to support the nomination of Richard R. Clifton to be U.S. Circuit Court Judge for the Court of Appeals for the Ninth Circuit. Before I speak directly about him and his nomination, however, I would like to take just a moment to make a few comments about the Ninth Circuit.

I think it's safe to say that everyone in the Senate agrees that the Ninth Circuit decision in Newdow v. U.S. Congress, striking down the Pledge of Allegiance as unconstitutional because it contains the phrase under God, was out of the mainstream of American jurisprudence. After all, the Senate voted 99 to 0 to reaffirm the reference to One Nation Under God in the pledge of allegiance—right after the decision was announced.

But to me, the decision was more than wrong. It was an outrageous example of judicial activism and overreaching—of inappropriate, results-oriented policymaking from the bench. And it is a clear example of how the Ninth Circuit is failing to serve the best interests of the western states of California, Arizona, Nevada, Idaho, Montana, Washington, Oregon, Alaska, and Hawaii.

The Ninth Circuit has 28 authorized judgeships. There are 23 active judges,

and thus 5 vacancies. Seventeen of those 23 were appointed by Democrat Presidents—14 by President Clinton alone—and only 6 were appointed by Republicans.

The Administrative Office of United States Courts has labeled all five vacancies on the Ninth Circuit as ''judicial emergencies'' given the enormous per-judge caseload on the Ninth Circuit.

The Ninth Circuit takes several months longer than other circuits to dispose of cases. The average time from filing to disposition is approximately 14 months.

In addition, as is well known and has been widely observed, including by several Supreme Court Justices, the Ninth Circuit has often decided cases in a manner that is well outside the mainstream of American law and entirely inconsistent with binding Supreme Court precedent. In 1999–2000, the Supreme Court considered 10 Ninth Circuit cases and reversed 9 of them. In 1998–99, the Supreme Court considered 18 Ninth Circuit cases and reversed 14 of them. In 1997–98, the Supreme Court considered 17 Ninth Circuit cases and reversed 13 of them. And in 1996–97, in an extraordinary Term, the Supreme Court considered 28 cases from the Ninth Circuit and reversed 27 of them.

All of this makes clear why it is so important for the Senate to consider—and confirm—President Bush's nominees to the Ninth Circuit. We have two excellent candidates pending in the Judiciary Committee right now.

Judge Carolyn Kuhl has extensive experience in federal and state government, in the Executive and Judicial Branches, in public service and private legal practice. She has a superb legal background and broad experience that makes her ideally suited to be an excellent circuit judge. And the same goes for Jay Bybee, who currently serves as Assistant Attorney General for the Office of Legal Counsel at the U.S. Department of Justice. I urge the Judiciary Committee to hold hearings on these nominees without further delay.

Now, I would like to turn to the matter directly at hand, the confirmation of Richard R. Clifton to the Ninth Circuit Court of Appeals. Shortly following graduation from Yale Law School, Mr. Clifton moved to Hawaii to clerk for the Honorable Herbert Y.C. Choy of the U.S. Circuit of Appeals for the Ninth Circuit, the first and only Hawaiian to serve on that court. Notably, Mr. Clifton will be the second.

After his clerkship, Mr. Clifton joined the Honolulu law firm of Cades Schuttle Fleming & Wright, one of the oldest and largest firms in Hawaii. He has remained with that firm since then, becoming a partner in 1982. His practice has focused on business and commercial litigation, with an emphasis on complex litigation and appellate practice.

Mr. Clifton has ably handled cases in the areas of condemnation, tax law, securities transactions, class actions, debtor/creditor law, and trademarks.

Mr. Clifton is the sold male director with the Hawaii Women's Legal Foundation, a member of the Hawaii Women Lawyers, a member of the Hawaii Chapter of the American Judicature Society, and director of the Ninth Judicial Circuit Historical Society.

For approximately ten years, Mr. Clifton was an adjunct professor at the University of Hawaii William S. Richardson School of Law, where he taught appellate advocacy. He served as Chairman of Hawaii Public Radio for five years and remains a director and member of its executive committee. He has served as pro bono general counsel to the Hawaii Republican Party since 1991.

Mr. Clifton has a reputation for excellence. Among other honors, Mr. Clifton was named as one of the 18 finest lawyers in Hawaii for business litigation in 2001. He is widely respected by the legal community in Hawaii.

I proudly join my distinguished colleagues from Hawaii, Senators INOUYE and AKAKA, in supporting Mr. Clifton's nomination to the Ninth Circuit Court of Appeals, and I urge my colleagues to do the same. Richard Clifton will serve well on the federal bench in Hawaii.

Mr. AKAKA. Mr. President, I rise today in support of the nomination of Mr. Rick Clifton to the United States Court of Appeals for the Ninth Circuit.

I commend our Majority Leader, the Deputy Majority Leader, and the Chairman of the Judiciary Committee for the progress made on judicial nominations during the 107th Congress. Hawaii has waited a number of years for Senate confirmation of a Hawaii resident for a position on the U.S. Court of Appeals for the Ninth Circuit.

In 1995, I introduced legislation to require representation on the court from each State within the jurisdiction of the court. We have waited many years for this opportunity. I am pleased that Hawaii will finally have a Justice on the Ninth Circuit.

Rick Clifton has had a distinguished legal career. The Hawaii State Bar Association found him to be highly qualified for this position. A graduate of Princeton University, he received his juris doctorate from Yale Law School in 1975. Mr. Clifton has practiced law in Hawaii since 1975 and has been a partner with the law firm of Cades Schutte Fleming & Wright in Honolulu, HI, since 1982. He has extensive legal experience in civil litigation, primarily business and commercial litigation. I believe he will be an asset to the Court of Appeals for the Ninth Circuit and urge my colleagues to support his nomination.

The confirmation of Mr. Clifton will help to alleviate hardships confronting the Ninth Circuit brought about by four long-term vacancies on the Court. A number of these vacancies date back over five years, spanning a period where the previous Senate majority refused to act on these judicial emergencies despite President Clinton's nominations of several well-qualified individuals supported by their home-state Senators and local legal communities.

I congratulate and commend Chairman LEAHY for his leadership in working to confirm qualified nominees to the Federal bench and rectify the doubling in circuit court vacancies that occurred between 1995 and 2001. In this instance, the Judiciary Committee scheduled a hearing on Mr. Clifton's nomination less than 60 days after his file and paperwork were completed. As both Chairman and Ranking Member, Senator LEAHY has worked with Senator INOUYE and me to fill the Hawaii seat on the Ninth Circuit. I appreciate his commitment to ensure that every State is represented on our Courts of Appeals.

As the Chairman recently noted, Mr. Clifton's confirmation concludes a long and regrettable saga in confirming a qualified nominee from Hawaii. In 1999, the President nominated James Duffy of Hawaii to the Ninth Circuit. He was selected after an exhaustive screening process, following an admirable effort by the White House to consult widely with political, legal, and community leaders in Hawaii. Mr. Duffy was endorsed as ''the best of the best'' by the Hawaii State Bar Association. Despite his sterling reputation, the nomination languished for 791 days in the Judiciary Committee without ever receiving a hearing. Mr. Duffy is one of the well-qualified and talented men and women nominated by the President to the Ninth Circuit and other Courts of Appeals, individuals with bipartisan and home-state support whose nominations were never acted on by the Senate.

I mention this unfortunate chapter not to air past grievances, but to underscore the challenges facing the Chairman of the Judiciary Committee and the Majority Leader in bringing nominations before the Senate for action. In an exceptionally evenhanded manner, they have worked to overcome the partisanship and stalling practices that precipitated many of the judicial emergencies and vacancies some of our colleagues on the other side of the aisle have recently come to this floor to decry.

Today's confirmation vote for Mr. Clifton's nomination attests to the fairness that the Majority Leader and Senator from Vermont have restored to the judicial confirmation process in the past year. I thank them for their support.

Mr. LEAHY. Madam President, have the yeas and nays been ordered on the nomination?

The PRESIDING OFFICER. They have not.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of

Richard R. Clifton, of Hawaii, to be United States Circuit Judge for the Ninth Circuit? The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Ohio (Mr. VOINOVICH) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 184 Ex.]

YEAS—98

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	Gramm	Reed
Brownback	Grassley	Reid
Bunning	Gregg	Roberts
Burns	Hagel	Rockefeller
Byrd	Harkin	Santorum
Campbell	Hatch	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	Warner
DeWine	Lieberman	Wellstone
Dodd	Lincoln	Wyden
Domenici	Lott	

NOT VOTING—2

Helms	Voinovich

The nomination was confirmed.

NOMINATION OF RICHARD R. CARMONA, OF ARIZONA, TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE

The PRESIDING OFFICER. Under the previous order, the clerk will report Executive Calendar No. 921.

The assistant legislative clerk read the nomination of Richard H. Carmona, of Arizona, to be Medical Director in the Regular Corps of the Public Health Service.

The PRESIDING OFFICER. The majority leader is recognized.

CLOTURE MOTION

Mr. DASCHLE. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 921, the nomination of Richard H. Carmona, of Arizona, to be the Surgeon General of the Public Health Service.

Edward M. Kennedy, Debbie Stabenow, Tom Daschle, Harry Reid, Jack Reed, Richard J. Durbin, Barbara Mikulski, Patrick Leahy, Jean Carnahan, Tom Carper, Byron L. Dorgan, Paul Wellstone, Jon Corzine, Jeff Bingaman, Daniel Inouye, Kent Conrad.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

AMENDMENT NO. 4309

(Purpose: To amend title XXIII of the Social Security Act to provide coverage of outpatient prescription drugs under the medicare program)

Mr. GRAHAM. Madam President, I send to the desk an amendment, which reflects the contents of S. 2625, the Medicare Outpatient Prescription Drug Act of 2002.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself, Mr. MILLER, Mr. KENNEDY, and Mr. CORZINE, proposes an amendment numbered 4309.

Mr. GRAHAM. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

AMENDMENT NO. 4310

(Purpose: To amend title XVIII of the Social Security Act to provide for a medicare voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, and for other purposes)

Mr. HATCH. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. GRASSLEY, for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. BREAUX, Mr. HATCH, Ms. COLLINS, Ms. LANDRIEU, Mr. HUTCHINSON, and Mr. DOMENICI, proposes an amendment numbered 4310.

Mr. HATCH. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. GRAHAM. Madam President, this amendment represents the essence of S. 2625, which currently, in addition to those who cosponsored this amendment, has 29 other colleagues' sponsorship.

This legislation is designed to provide to American seniors affordable, comprehensive, and reliable universal prescription drug coverage. This coverage will be available to 39 million older Americans and disabled citizens who are covered by Medicare—citizens who voluntarily elect to participate in this new Medicare benefit. More than 2,750,000 of those 39 million live in my State of Florida and, as have citizens across America, been waiting year after year after year for Congress to finally deliver on the commitment that we have made to modernize Medicare through the provision of a prescription drug benefit.

When I made remarks on this issue on Tuesday of this week, I based those remarks on six principles that I believe should be the touchstone for an affordable, comprehensive universal prescription drug benefit for senior Americans. Let me briefly reiterate those six principles.

First, we must modernize the Medicare Program. We must bring Medicare into the 21st century. In my judgment, the provision of a prescription drug benefit is the single most important reform of the Medicare Program that we can make. Why is this benefit so central? Because in the 37 years since the Medicare Program was created, the practice of medicine has been fundamentally altered by the use of prescription drugs.

Prescription drugs have improved the quality of people's lives. They have reduced long recovery periods, and they sometimes can even avoid surgeries and disabling illnesses, such as strokes and heart attacks.

We must convert Medicare from a program which, since its inception in 1965, has focused on sickness. If you are sick enough to go to the doctor or to the hospital, Medicare will pay 77 percent, on average, of your costs. But if you want to maintain the highest level of health, which generally involves screening, early intervention, and prescription drugs to monitor the condition, Medicare will pay nothing.

Medicare must be converted from a sickness program to a wellness program if it is to serve the needs of senior Americans in the 21st century. That is the first principle.

The second principle is that beneficiaries must be provided with a real benefit. To be successful, this program must attract a wide variety of beneficiaries.

The program will be voluntary, so it must attract enrollment with reasonable and reliable prices and a benefit that pays off from day one. In this manner, we will be able to attract all seniors, from those who today have high drug needs to those who are healthy but might be concerned that they, too, could be struck down with a heart attack or other disabling condition.

If we are able to have a program that will attract that broad range of elderly in terms of their current state of health, then we will have a program that will be actuarially solid for years to come.

Seniors must be able to understand the benefit they receive. The coverage should be consistent, and seniors should receive that coverage without any unexpected gaps or omissions. In other words, it should operate as much as possible as the employer-provided coverage which they had during their working years.

The third principle is that beneficiaries must have choice. All Americans deserve choice in how they receive their health care. We must offer choice in who delivers their prescription drugs, which is why we must assure that each region of the country has an adequate number of providers of the prescription drug benefit. This will encourage competition, helping to keep costs down for seniors, as well as the taxpayers of the Medicare Program, and assure a sustainable prescription drug benefit for this and future generations of America's seniors.

Principle No. 4 is we must use a delivery system upon which seniors can rely. It must be a tried-and-true system, not an untested scheme that will turn older Americans into laboratory animals upon which to be experimented. We want to model our delivery system on what private sector plans have used and with what seniors are familiar.

Principle No. 5 is the program must be affordable. The reality is the majority of seniors live on fixed incomes. In my State of Florida, where many people have the idea that all or most of the seniors live at a level of luxury, the median income of our 2,750,000 seniors is $13,982 a year, and 770,000 seniors in our State live on incomes below 150 percent of poverty.

These fixed-income seniors need a prescription drug benefit that has a low premium, that does not require a deductible, has reasonable copayments that are easy to calculate, and will avoid wide variations from month to month in their coverage.

Finally, principle No. 6 is we must have a fiscally prudent program. We must find that balance between giving seniors what they need, that balance between a realistic assessment of what prescription drug costs are likely to be over the next 10 years for our seniors, and, finally, the balance of what our overall Federal budget will allow.

The Graham-Miller-Kennedy-Corzine amendment meets these six criteria. As a result, it has the support of the major organizations that represent America's seniors, including AARP.

I ask unanimous consent to print in the RECORD eight letters of support of this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AARP,
NATIONAL HEADQUARTERS,
Washington, DC, June 12, 2002.

Hon. BOB GRAHAM,
Hon. ZILL MILLER,
U.S. Senate, Washington, DC.

DEAR SENATORS: We are pleased to restate our position on your revised Medicare prescription drug proposal. Action on a bipartisan prescription drug benefit is a top priority for AARP, our members and the nation.

Medicare beneficiaries have waited long enough for access to meaningful, affordable prescription drug coverage. We know from our membership that in order for a Medicare prescription drug benefit comprehensive coverage it must include:

An affordable premium and coinsurance;

Meaningful catastrophic stop-loss that limits out-of-pocket costs;

A benefit that does not expose beneficiaries to a gap in insurance coverage;

Additional assistance for low-income beneficiaries; and

Quality and safety features to curb unnecessary costs and prevent dangerous drug interactions.

AARP supports your initiative to incorporate these goals. We commend you for including key elements in your proposal that Medicare beneficiaries and our members have indicated they find valuable. For instance, your proposal includes a premium that many Medicare beneficiaries view as affordable and a benefit design that does not include a gap in insurance coverage. Your proposal also now includes co-payments specified as dollar amounts, an approach that our research shows our members prefer to coinsurance. In our view, this plan could provide real value to beneficiaries in protecting them against the high costs of prescription drugs.

It is important that any prescription drug benefit be made a permanent and stable part of Medicare, and we want to work with you to achieve this before enactment.

Thank you for your leadership on this issue. We look forward to working with you and your colleagues as the legislation moves forward. AARP will continue to urge Congress to work in a bipartisan manner to enact affordable, meaningful Medicare prescription drug coverage.

Sincerely,

WILLIAM D. NOVELLI,
Executive Director and CEO.

GENERIC PHARMACEUTICAL ASSOCIATION,
Washington, DC, June 12, 2002.

Hon. BOB GRAHAM,
524 Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the Generic Pharmaceutical Association (GPhA), we would like to commend you and Senators Miller and Kennedy for your leadership in introducing legislation to create a Medicare prescription drug benefit for our nation's seniors. We agree with you that the passage and enactment of a voluntary Medicare prescription drug benefit is long overdue. We are strongly supportive of your innovative tiered co-pay structure, as well as the other provisions advocated by you and your colleagues, that are designed to increase the utilization of high-quality, affordable generic medicines.

Generic pharmaceuticals have a proven track record of substantially lowering drug costs. Studies have shown that for every 1 percent increase in generic drug utilization, consumer, business, and health plan purchasers save over $1 billion. The increased use of generics can play an invaluable role in helping Medicare, Medicaid, the Federal Employees Health Benefit Plan (FEHBP) and other Federal and private plans assure that beneficiaries have access to quality, affordable medications. A tiered co-pay system with a significant differential between brand and generic pharmaceuticals will ensure an appropriate incentive is in place for seniors to consider more cost-effective options when making choices about pharmaceutical therapies. We believe an explicit dollar co-pay will also provide seniors with the comfort of knowing they will pay a fixed cost to have their prescriptions filled.

With your leadership, the Graham/Miller/Kennedy bill employs a number of private sector best practices that are now widely used to assure access to cost-effective, quality affordable medications. These provisions not only encourage the appropriate and beneficial use of these products, but provide unbiased and greatly needed educational information to the public about the benefits of these medicines.

The Graham/Miller/Kennedy bill adheres to GPhA's principles for creating a Medicare prescription drug benefit and steers the Medicare reform debate down a prudent public policy path. We look forward to working with you, your cosponsors and with other Members of the House and Senate of both parties to further our common objective of providing our nation's nearly 40 million Medicare beneficiaries and the taxpayers who help support them with the most affordable and highest quality prescription drug benefit possible. If the rest of the Congress and the Administration follow your lead in recognizing the role generics must play in reaching this objective, we are confident we will achieve this goal.

Thank you again for your efforts. If we can be of any assistance to you, please do not hesitate to call.

Sincerely,

KATHLEEN JAEGER,
President and CEO.

THE NATIONAL COUNCIL ON THE AGING,
Washington, DC. June 11, 2002.

Hon. BOB GRAHAM,
524 Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the National Council on the Aging (NCOA)—the nation's first organization formed to represent America's seniors and those who serve them—I write to commend and thank you for your proposal to provide meaningful Medicare prescription drug coverage to America's seniors. The Medicare Outpatient Prescription Drug Act of 2002 is consistent with the principles supported by the vast majority of organizations representing Medicare beneficiaries. It provides the foundation for a vehicle that we hope can achieve bipartisan consensus on this issue this year.

NCOA is particularly pleased that your legislation would provide prescription drug coverage that is universal, voluntary, reliable, and continuous. Other proposals being offered include significant coverage gaps and would fail to solve the problem. Under such bills, a significant number of beneficiaries would not want to participate in the program, and many of those who do participate would continue to be forced to choose between buying food and essential medicines.

We commend many of the modifications you have made to your Medicare bill from last year. These improvements include a significantly lower premium, the option to provide a flat copayment, an earlier effective date, and assistance with the very first prescription. We believe these changes will make the coverage affordable and attractive to the vast majority of beneficiaries, which is so critical to making a voluntary prescription drug program work. While we have concerns about the need to reauthorize the program after 2010, we understand the budget trade-offs needed to provide meaningful and attractive coverage, and fully expect that the Congress would reauthorize the program.

NCOA is also pleased that your proposal does not include price controls and that the

program would promote stability and efficiency through administration by multiple, competing Pharmacy Benefit Managers (PBMs), using management tools available in the private sector in which PBMs would be at risk for their performance, including effective cost containment.

NCOA deeply appreciates your efforts to move this critical debate in a direction that guarantees access to meaningful coverage—even in rural and frontier areas of the country—and responds in a constructive manner to many of the specific concerns that have been raised regarding other Medicare prescription drug proposals.

It is impossible to have real health security without coverage for prescription drugs. Prescription drug coverage is the number one legislative priority for America's seniors. Virtually every member of Congress has made campaign promises to try to pass a good prescription drug bill. The time has come to get serious and to work together to achieve consensus on the issues in controversy. Your proposal provides us with an excellent starting point.

NCOA looks forward to working on a bipartisan basis with you and other members of Congress to pass legislation this year that provides meaningful, continuous, affordable prescription drug coverage to all Medicare beneficiaries.

Sincerely,

JAMES FIRMAN,
President and CEO.

FAMILIES USA,
Washington, DC. June 13, 2002.

Senator BOB GRAHAM,
524 Hart Senate Office Building, Washington DC.

DEAR SENATOR GRAHAM: We congratulate you and Senators Miller, Kennedy and Rockefeller on the introduction of your bill, ''The Medicare Outpatient Prescription Drug Act,'' which provides prescription drug benefit for Medicare beneficiaries.

This is an issue of utmost important to all Americans who need prescription drugs, especially to seniors and people with disabilities. As you well know senors' ability to afford prescription drugs is a particularly difficult problem today. In our 2001 report entitled, ''Enough to Make You Sick: Prescription Drug Prices for the Elderly, ''we concluded that the 50 top drugs used by seniors rose 2.3 times the rate of inflation between 2000 and 2001. We are in the process of updating this report for last year, and our preliminary data shows that this devastating rate of price increases continues. Millions of seniors have limited income and no, or limited, drug coverage and will find themselves deciding whether to buy drugs or pay for other essentials.

Your bill addressees many important design issue that we care about in a Medicare prescription drug benefit. The benefit is universal, comprehensive, and is delivered through the Medicare program, ensuring that seniors know it will be available to them when it is needed. Low-income people get extra assistance. Also, there are provisions to assure that costs will be contained and quality maintained.

Please let us know how we can assist you to move this bill toward enactment so that all Medicare beneficiaries can have access to the prescription drugs they need.

Sincerely,

RONALD F. POLLACK,
Executive Director.

NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE,
Washington, DC. June 12, 2002.

Senator BOB GRAHAM,
Senate Hart Office Building 524, Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the millions of members and supporters of the National Committee to Preserve Social Security and Medicare, I write in support of your Medicare prescription drug legislation that will provide much needed relief to seniors. Your bill contains all of the elements that seniors need in a comprehensive drug benefit under Medicare, such as universal, voluntary, affordable, not means tested and most importantly, with a defined benefit, so that seniors can plan accordingly. Prescription drugs prices are increasing over 17% per year (faster than inflation) and seniors are spending more on out-of-pocket drug expenditures than ever. The time is now to enact a drug benefit that will provide the Medicare beneficiary with some assistance.

We are pleased that your plan would be available for seniors, no matter where they live. Our members have expressed to us that a prescription drug benefit must be affordable. We believe that a plan such as yours, with no annual deductible and a $4,000 cap on out of pocket expenditures, is reasonable and one that most seniors would be able to afford.

We applaud you for your leadership in this area. Please let me know how we can further support your efforts.

Sincerely,

BARBARA KENNELLY,
President.

AFSCME®,
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL–CIO,
Washington, DC, June 12, 2002.

Senator EDWARD KENNEDY,
Senator BOB GRAHAM,
Senator ZELL MILLER,
U.S. Senate, Washington, DC.

DEAR SENATORS: On behalf of the 1.3 million members of the American Federation of State, County and Municipal Employees (AFSCME), I am writing to express our support for the Medicare prescription drug benefit proposal you unveiled today.

AFSCME has long supported the creation of a Medicare prescription drug benefit that is comprehensive in coverage, affordable and voluntary for all Medicare beneficiaries. We believe that your proposal is a solid step forward in meeting these standards.

In particular, we applaud your proposal's provisions for continuous coverage. We believe that it is one of the most critical components of a meaningful prescription drug benefit. Beneficiaries must have coverage they can count on, with no gaps in coverage. Doing anything less would force our seniors to pay all prescription costs out of their own pocket when they will need the coverage the most.

Since Medicare was started over 35 years ago, many illnesses that were once only treatable in a hospital can now be effectively treated with prescription drugs. Adding a drug benefit to the program is the most urgently needed Medicare reform. We applaud you for not holding the prescription drug benefit hostage to force radical privatization proposals that would cut benefits and increase costs for retirees.

We look forward to working with you and the other sponsors of this important legislation. A Medicare prescription drug benefit is long overdue, and our nation's seniors deserve no less.

Sincerely,

CHARLES M. LOVELESS,
Director of Legislation.

LEGISLATIVE ALERT

AMERICAN FEDERATION OF LABOR AND,CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, June 12, 2002.

Hon. BOB GRAHAM,
U.S. Senate, 524 Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM. On behalf of the 13 million members of the AFL–CIO, I am writing to commend you for your efforts to provide much-needed relief to Medicare beneficiaries. Your proposal to create a voluntary drug benefit within the Medicare program represents an encouraging and solid step toward enacting the one reform most urgently needed for Medicare.

Seniors need a real benefit that provides comprehensive, continuous and certain coverage. The Graham-Miller-Kennedy bill provides that benefit, giving seniors coverage they can count on. A Medicare drug benefit must also be affordable for beneficiaries. The $25 monthly premium and zero deductible in your proposal means seniors need only pay an affordable premium to begin getting coverage immediately. And no senior will have to pay more than $40 for the drugs they need and often will pay less.

In addition, your proposal would not put at risk those retires who currently have some prescription drug coverage through an employer. Retiree heath care is the primary source of prescription drug coverage for seniors, and your proposal rightly provides from relief for employers that choose to continue that coverage.

A proposal widely reported under consideration by House Republican leaders offers only unreliable, expensive and unworkable coverage through private plans, with an enormous gap in coverage that leaves seniors without any coverage at all for drug costs between $2000 and $4500. And the only relief for employers is if they drop the coverage they now offer. Such a proposal will not move us any closer to a real benefit.

As this debate moves forward, we want to work with you and your co-sponsors to enact the best possible Medicare drug benefit. We appreciate your role in advancing that process.

Sincerely,

WILLIAM SAMUEL, *Director, Department of Legislation.*

ALLIANCE FOR RETIRED AMERICANS,
Washington, DC, June 12, 2002.

Senator EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the over 2.7 million members of the Alliance for Retired Americans, I want to thank you for your tireless work on behalf of older and disabled Americans to create a Medicare prescription drug benefit program. I also want to express our views on the Medicare prescription drug legislation proposed by you and Senators Graham and Miller. The Alliance supports this proposal as a positive step forward in the effort to create a Medicare prescription drug benefit program.

The Alliance for Retired Americans believes that all older and disabled Americans need an affordable, comprehensive, and voluntary Medicare prescription drug benefit now. Such a benefit program should have low monthly premiums, annual deductibles, and be administered as part of the Medicare program. Your proposed legislation meets these Alliance principles. Unlike other proposals that would begin in 2005, your plan would start in 2004, which gives beneficiaries the coverage they need a full year earlier.

The Alliance will work to enact your legislation. During legislative deliberations, the Alliance will seek to improve benefits because we believe that an 80/20 co-insurance

payment system, like the rest of Medicare, will provide the best benefits for older and disabled Americans. The Alliance also supports a $2,000 annual catastrophic cap. We will continue to work to improve any legislation that moves through Congress in order to reach these goals.

Older Americans will spend $1.8 trillion on prescription drugs during the next decade. The inflation rate for prescription drugs will continue at an annual double digit pace as well. Our members and indeed all Americans simply cannot afford these costs. We look forward to working with you and Senators Graham and Miller to enact a comprehensive Medicare prescription drug benefit as soon as possible.

Sincerely yours,

EDWARD F. COYLE
Executive Director.

Mr. GRAHAM. Madam President, what does our plan provide? Our plan will require of seniors who voluntarily elect to participate a $25 monthly premium to do so. There will be no deductible. There is an easy-to-understand copayment system, which is $10 per prescription for generic medication and $40 per brand name, medically necessary drug.

I will pause at this point and point out the connectedness of this plan and this structure of benefits to the underlying legislation we have been discussing throughout the week to make it easier for all Americans to gain access to generic drugs.

Our legislation has a strong incentive for the use of generic drugs by having the $10 copayment for generics, $40 for brand names. To the extent that more generics are available, which, of course, is the purpose of the underlying bill, we will reduce the cost of this program and make it even more affordable to senior Americans.

We set a maximum out-of-pocket expense of $4,000 per year. Above that, all of the senior's drug cost, including copayments, will be covered. This is the so-called catastrophic coverage.

Seniors with incomes below 135 percent of the poverty level will pay no premiums, and beneficiaries with incomes between 135 and 150 percent of poverty will pay reduced premiums. We want all senior Americans to be able to participate in this program.

Our plan uses the same delivery model that America's private insurance companies utilize. It happens to also be the same model used by the Federal Employees Health Benefits Plan, a plan that covers virtually everybody in this Chamber.

We use pharmacy benefit managers, or PBMs, to deliver and manage prescription drug benefits, just as they do in virtually every major private and public sector employee health insurance plan. PBMs are companies that negotiate with pharmaceutical companies to get discounted prices based on their volume purchase.

We would allow all seniors a choice of which PBM to join. This would give choice to seniors, and it would give them the opportunity to shop among the PBMs that are competing for their business so that they, the senior, can decide which PBM best meets their particular needs, including factors such as the availability of mail order delivery and access to local pharmacies.

PBMs would be accountable to the Medicare Program and to all taxpayers. They would be required to demonstrate their ability to keep costs down through effective purchasing practices and provide quality service in order to win and keep a Government contract.

CBO has given us an estimate of our plan today. CBO estimates that our plan through the year 2010 would cost $421 billion. Taking into account, in addition to the base cost, the benefits that would flow by the adoption of the underlying generic bill, that figure is reduced to $407 billion through the year 2010.

That date is important because part of our legislation is a required reauthorization by the Congress in 2010. In much the same way as we are now reauthorizing Welfare to Work after it has been in place for 6 years, we would require the reauthorization of this prescription drug benefit so we can take into account the experience we will have gained and make an assessment as to what kind of prescription drug benefit we want to carry into the future.

If the program is extended, then the 10-year cost of the plan through the year 2012 would be an additional $173 billion.

Because this prescription drug benefit would represent the largest expansion of the Medicare Program in its 37-year history, we believe it is important for Congress to review the program to see how well it is working and whether it has given seniors the coverage they need.

Madam President, our good friend and colleague from Utah has introduced legislation which has a similar objective to the one we are proposing; that is, to assure that seniors would have access to a comprehensive, universal, affordable prescription drug benefit.

I have comments to make about the plan which has been introduced. I will defer those comments, however, until Monday.

To conclude tonight, I want to say we are still hearing the background noise that all of this is theater, that there is no real commitment to passing a prescription drug benefit in the year 2002, as there was not in 2001, 2000, and on for the many years which seniors have been promised by different people seeking office that if elected they would deliver on a prescription drug benefit.

What we are committed to today—and I believe this feeling also carries to my good friend from Utah and those who have joined him in his legislation—is we are not interested in election year posturing. We want to actually accomplish a result. We want to be able to say to our senior Americans, we have turned the corner. No longer are you participating in a sickness program, but you are now participating in a program which has as its primary commitment assuring that all senior Americans can live in the highest state of good health.

Our Nation's seniors have waited too long for the help they need to purchase their prescription drugs. An unconscionable number of these people are forced every day to choose between filling a doctor's prescription for a needed medication and paying for other basic needs. These people are not numbers in a statistical database. They are not strangers. These people who have been waiting and waiting are our parents and our grandparents. They are our neighbors. They are the people we used to work with. They are our friends. They are the Americans of the great generation.

We now have a challenge, an opportunity, a responsibility to respond to this great need that they have of some assistance in paying for what has become the fastest growing segment of our health care costs—prescription drugs. If we do not act on the prescription drug benefit this year, I fear the American people will lose confidence in the Congress and our ability to make the tough choices necessary to address our country's priority domestic issues.

Certainly, I do not claim that our bill is perfect, but I do suggest that it is as good as our collective efforts have been able to make it at this point. I believe this amendment justifies the support of our colleagues, as it has already received the support of virtually every major organization which represents the interests of America's seniors.

So I look forward to a full discussion and debate in the best tradition of this great deliberative body. I hope at the end of that debate we not only will have a better understanding of the options before us, but we will have reached a conclusion that will command the votes of a sufficient number of Members of this Senate that we can tell our senior constituents we have heard their long call for assistance in paying the costs of increasingly expensive prescription drugs; that we understand the importance of that call, and that we are now responding to that call. That is the challenge and that is my hope of what will be the conclusion of this debate.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Utah.

Mr. HATCH. I want to express my appreciation to my colleague from Florida. He is an eminent member of the Senate Finance Committee. He is a very serious, reflective Member. He has worked hard to come up with his bill. I respect him for it, and I wish him well with it. However, I will say a few things about Senator GRAHAM's bill before I finish.

Tonight, I introduced an amendment that is called the tripartisan bill. I introduced it on behalf of Senator GRASSLEY for himself, Senators SNOWE, JEFFORDS, BREAUX, COLLINS, LANDRIEU,

HUTCHINSON, DOMENICI, and myself. We believe this tripartisan bill is the only nonpartisan bill being considered by the Senate at this time. It is a very important effort by people of goodwill on both sides and, of course, the only Independent in the Senate.

I want to take this opportunity to talk a little bit about the tripartisan bill. Many of these points were raised two nights ago, when I spoke on the Senate floor about our tripartisan proposal. Tonight, I will raise them again because I believe that all of them are extremely important and worth listening to again.

While drafting this legislation, we tried to reach out to everyone who has an interest in this issue. We have taken this very seriously, and we have worked on it for well over a year. This has required many hours of meetings, among all of the sponsors of the bill and our staffs along with other interested parties. Let me assure everyone that this has been a unified effort, one which has required some give and take from all of us.

We have worked with CBO to come up with a cost-efficient solution. The Congressional Budget Office has told us that our bill will cost $370 billion over 10 years. As far as I know, the Daschle-Graham-Miller bill, S. 2625, does not have a CBO score, but I suspect that it is extremely expensive. The distinguished Senator may have some idea of what that score is because he has indicated that the amendment that he just introduced will cost around $600 billion, if I understand it, over 10 years. The prescription drug program in the Graham legislation would include a sunset at the end of 2010, which is one of the problems with this legislation.

On the other hand, there are no sunsets within our bill. Our tripartisan bill is a permanent solution, not a temporary solution. CBO informs us that once our bill is implemented, 99 percent of all seniors will have drug coverage. That would be truly remarkable. And that is CBO, not us.

Again, this is a nonpartisan approach to providing prescription drugs to Medicare beneficiaries. On the other hand, the Daschle-Graham-Miller bill sunsets after 2010. So in my opinion, that bill is only a temporary solution.

Does a temporary solution truly help seniors in the long run? I do not think it does. Our tripartisan bill provides all Medicare beneficiaries with affordable prescription drug coverage because we let competition determine the prices, not Government bureaucrats. That is how we keep prices of drugs down. It is not a good idea to let the Government set the price, which is what I predict will happen if the Daschle-Graham bill becomes law.

We also provide additional subsidies to low-income seniors so they, too, can afford to pay for their drugs. I find it absolutely appalling that there are people in our country who have to choose between buying food and eating, and having prescription drugs. The tripartisan group's goal is to put an end to that. Through our bill, we will provide additional assistance to those seniors who need it. For example, the 10 million beneficiaries with incomes below 135 percent of poverty will have 95 percent of their prescription drug costs covered by this plan with no monthly premium. They will not have to pay a monthly premium. In addition, these seniors are exempt from the deductible and will pay well under $5 for their brand name and generic prescriptions. Finally, these beneficiaries who reach the catastrophic coverage limit will have full protection against all drug costs, with no coinsurance.

The 11.7 million lower income beneficiaries with incomes below 150 percent of the poverty level are also exempt from the $3,450 benefit limit. Enrollees between 135 percent and the 150 percent of the Federal poverty level will also receive a generous Federal subsidy that on average lowers their monthly premium to anywhere between 0 and $24 a month. The beneficiary's monthly premium will be based on a sliding scale, according to his or her level of income.

It also cuts in half their annual drug bills. All other enrollees will have access to discounted prescriptions after reaching the $3,450 benefit limit and a critically important $3,700 catastrophic limit which protects seniors from high out-of-pocket costs. It is also important to note that 80 percent of Medicare beneficiaries will never experience a gap in coverage.

Let me take a few minutes before we finish this evening to talk about my views on S. 2625, the Daschle-Graham-Miller Medicare Outpatient Prescription Drug Act of 2002. I understand that a new Graham bill has been filed and we are currently reviewing the details. We have not been able to review it very thoroughly, but we have a quick preview of it, and perhaps I can express my thoughts this evening just so people will have something to consider over the weekend.

Again, I commend my good friend, a person I admire greatly, Senator BOB GRAHAM, for his bill. I know he has worked hard. I know he has tried his best. I know he is representing his people in Florida very well and he has worked long and hard on this issue. I respect him for that. I respect him personally. He knows that. He, like those in the Senate in the tripartisan group, has the same goal: To provide Medicare beneficiaries with prescription drug benefits. But that is where the similarities end.

My biggest concern with the new version of the Daschle-Graham bill is still the cost. My understanding is that this bill costs close to $600 billion, over a 10-year period. We all agree a Medicare drug proposal will cost a lot of money, but the Daschle-Graham-Miller bill is, in my opinion, too expensive to both current and future generations because of the magnitude of its costs.

And bear in mind, this bill is still not a permanent program. It sunsets. It sunsets after 2010, which makes it a less than 10 year benefit for approximately $600 billion. That is if I am right on the scoring. I believe having the sunset on such an important bill just to get a decent score from CBO is not being as fiscally responsible as I would like to be. I understand there is some window-dressing language that attempts to address the sunset, but to me that is all it is—window dressing.

Having said that, I am absolutely astounded that the AARP has come out and ask its members to support a bill that does not have a permanent benefit. That is just irresponsible on the part of the AARP. They are, in my opinion, not looking out for the best interests of seniors by asking their members to support this type of a bill. I am very disappointed in the AARP for making what I believe is a poor judgment call.

Again, one of my top concerns with the both versions of the Graham bill is the cost. It is not going to get better as drugs become more expensive and more and more baby boomers retire. I remind my colleagues, our Government is in a Federal deficit. Figures from last week reveal that the Federal deficit could be as high as $150 billion for fiscal year 2002. Passing a bill that I believe could cost well over $600 billion over 10 years is going to increase our deficit. That is, in my opinion, a step in the wrong direction.

The new Graham bill is still a one-size-fits-all bill that very well could lead to having the Federal Government set drug prices, although I know that is not the intention of my dear friend and colleague from Florida. That is, in my opinion, the wrong direction, as well. And why on earth should the Federal Government be making coverage decisions for seniors? I trust senior citizens to make their own decisions about their health coverage. Apparently, the authors of the Daschle-Graham-Miller bill do not agree and that is why they continue to put the Government in charge.

I look forward to the debate on Monday where we can discuss these issues more fully. If I am wrong on some of these suggested interpretations of my friend's bill, I would like him to set me straight on Monday when we debate this bill even further. I would like to know why anybody believes a sunset is necessary. That means the drug benefit ends. I hope we will have a CBO cost estimate we may review regarding the Graham legislation.

Again, I wish to point out that I continue to be concerned that under both versions of the Daschle-Graham legislation, the drug benefit is run by the Federal Government. I don't think that is a good idea, to let the Government run a drug benefit because the Government will end up setting prices for drugs. Keep in mind, Canada sets prices for drugs, and where is their pharmaceutical industry today? They have to look to us because we do not set prices for drugs and we have a competitive

system. Yes, some say it has flaws, but it is the best in the world, bar none. Frankly, with whatever flaws there are, we should be very proud of the system we have in our country.

In the tripartisan Medicare drug bill, we allow Medicare beneficiaries to make choices for themselves. They decide whether or not they want drug coverage. As I mentioned earlier, we allow Medicare beneficiaries to choose from at least two drug plans, and it maybe more, but at least two, competing plans, allowing them to select a plan that best suits their own personal needs.

Another difference between the Daschle-Graham bill and our Tripartisan bill is that we include reforms to the Medicare program and they do not. The current Medicare benefit package was established in 1965. While the benefits package has been modified occasionally, it now differs significantly from the benefits offered to those in private health plans. Our plan gives seniors a choice in their Medicare coverage seniors may remain in traditional Medicare or they may opt for the enhanced Medicare fee for service option which is similar to private health insurance. We do not force seniors to enter into the new enhanced fee for service plan. It is just an option. If beneficiaries want to stay in traditional Medicare that is fine.

We need to give seniors choices concerning their health care coverage. Seniors must be given improved health care choices through the Medicare program. It is extremely unfortunate that the Daschle-Graham-Miller bill does not recognize that the Medicare program needs to be improved so seniors can take advantage of the benefits that are offered by private health insurance. Keep in mind, our bill only costs $370 billion as scored by the Congressional Budget Office. Yet we still reform Medicare in addition to providing high quality prescription drugs to our people. There is nothing in the Daschle-Graham-Miller bill to improve the Medicare program. It just tacks on a prescription drug program and ignores the larger problem. Medicare beneficiaries deserve better.

Senator BREAUX deserves an awful lot of credit for our bill in this area. He has wanted to reform Medicare for a long time and has come close from time to time. This is the best opportunity to do it. I think he sees the value of what we have tried to do. He not only sees it, he helped implement it.

The larger problem is the overall Medicare benefits package which is outdated, inefficient and it does not provide seniors with decent health care options. Let me give you an example. Today, Medicare beneficiaries do not have any serious illness protection. Beneficiaries who are seriously ill end up paying a lot of money out of pocket for their health care coverage each year. In our Tripartisan legislation, if a beneficiary is covered under the new enhanced fee for service program, once that beneficiary reaches a catastrophic limit of $6000, the Medicare program pays 100 percent of any costs incurred by the Medicare beneficiary. I feel that is only fair. Those Medicare beneficiaries with serious health conditions should be offered a choice in benefit coverage so if they want serious, illness protection, they may have it. The Graham-Daschle-Miller bill does nothing to assist Medicare beneficiaries in these types of situations. The Daschle-Graham-Miller bill's answer is to provide seniors with a government-run prescription drug benefit that is extremely expensive, and, isn't even permanent. That just is not enough.

These issues that I have raised about the Daschle-Graham-Miller should have been debated by the Finance Committee. I admit the issues we have raised by the Tripartisan bill should have been debated by the Finance Committee. Who knows, maybe we could have come to some resolution. Maybe the authors of the Tripartisan bill and the Daschle-Graham-Miller bill could have come to some agreement through the Committee mark-up process. Maybe not. Sadly, we will never know because the majority leader wouldn't even give us an opportunity to mark-up a prescription drug bill in the Finance Committee.

I have been here for 26 years and, trust me, it is rare for the full Senate to be considering such an important bill before it is even considered by the Committee of jurisdiction. I am bitterly disappointed at how much the Senate has changed.

At the beginning of the 107th Congress, we all talked about working together in a bipartisan spirit because that is truly what the American people want from us. What happened to that bipartisan spirit? Why are we on the floor debating a bill that will affect the lives of over 33 million Medicare beneficiaries and millions of future beneficiaries without a Finance Committee mark-up? I just do not understand why members of the Finance Committee were not even given that opportunity and, in fact, completely excluded from the process, other than that we can file whatever bill we want to, which we have done.

I want to do everything I can to pass a Medicare prescription drug bill into law this year. But it appears that election year politics are more important than passing a well-thought out prescription drug bill which is extremely unfortunate.

I stand ready to work with my colleagues so that we can provide affordable prescription drug coverage to our Medicare beneficiaries this year. We need to have Medicare available for today's seniors, our children and our grandchildren. So let's stop playing politics and start working on getting a Medicare prescription drug bill signed into law this year. I have no doubt if the distinguished Senator from Florida and I could sit down together we could just work it out—I have no doubt about that. Unfortunately, it has gotten embroiled in some political aspects.

Again, I call attention to the tripartisan bill which has Democrats, Republicans, and the sole Independent. I believe that bill literally could provide an affordable drug benefit for Medicare beneficiaries, although it is still expensive. It could do what we really need to have done—not only on the prescription drug benefit aspect of this matter but also on the Medicare reform as well—and Medicare+Choice as well. To me, that is very important.

I look forward to working with my colleague from Florida and others on the floor and hope we can come to a resolution this year, so the millions of American citizens will have the benefits that we really should be delivering to them and which they need and which are right and just.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, as I indicated, I restricted myself this evening to discussing the essence of our proposal and what I think are the six principles against which every proposal should be evaluated. I defer until Monday a close evaluation of the legislation that has been introduced by our good friend from Utah and others. One of the things I do not want to do is to create a poisoned environment which will make it difficult, if not impossible, to do what I think seniors want, which is to arrive at a reasonable compromise that will provide them with a prescription drug benefit.

They have heard us too many times, as candidates, place in their living rooms on their television screens ads that pronounce our commitment to a prescription drug benefit for senior Americans.

Now is the time to deliver. I recognize that in a democracy that means we have to have at least a majority, and probably under the rules of the Senate not just a majority but three out of every five Senators be prepared to vote for a single piece of legislation.

Therefore, I reach my hand out across the aisle to two of my favorite colleagues, the Senator from Utah, who is now being joined by the Senator from Iowa, with whom I worked on many issues in the past, to say we look forward to engaging in that compromise.

I do want to have printed in the RECORD, and I ask unanimous consent to do so, the CBO estimate of our bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Democratic Drug Bill—Preliminary CBO Estimates

[In billions of dollars]

Full Score (2005–12)	
Gross estimate	594
Score with % drug reduction from GAAP[1]	584
Score with Federal GAAP savings[2]	576
Score with Contingency (2005–10)	
Gross estimate	421

Score with % drug reduction from GAAP[1]	415
Score with Federal GAAP savings[2]	407

[1] CBO estimate of Democratic drug bill assuming lower drug prices for Medicare beneficiaries that would result from enactment of the GAAP bill (S. 812).

[2] Estimate of Democratic drug bill assuming lower drug prices for Medicare beneficiaries that would result from enactment of the GAAP bill (S. 812) and savings from lower costs associated with prescription drugs that the government current pays for under the Medicaid, veterans, and other programs.

Mr. GRAHAM. Mr. President, the estimate of our bill is that, in conjunction with the underlying generic drug bill, if that passes and makes generic drugs more available, our bill, which would only charge a $10 copayment for generic drugs as opposed to a $40 copayment for brand name drugs—our bill would have a cost over the next 8 years of $407 billion—not $600 billion, or $800 billion, or, as some have even said, $1 trillion—and over the next 10 years would have a cost of $576 billion.

I might point out that this is the same program for 8 years that will cost $407 billion, and for 10 years will cost $576 billion.

That differential is a reflection of how significant two factors are: One, inflation of prescription drug costs; and, second, the change in the demographics of Medicare beneficiaries.

I happened to have been born in 1936. I was 65 years old on November 9 of last year. I belong to the second lowest birth rate year in the 20th century. Only 1933 had a lower birth rate than 1936. Therefore, there are not very many people my age. We are not putting a particular demand on Medicare or on the Social Security Program. But, in 10 years, it will be the people who were born in 1946—not 1936—which was the beginning of one of the greatest demographic revolutions in America history.

We are going to begin to feel the impact of that revolution at the outer years of the 10 years. We are now calculating the cost of this program. It is my judgment that it is critically important that we now get started on this prescription drug benefit so that we can learn as much as we possibly can about what the implications are of delivery systems, of methods of providing benefits, and how to attract healthy, older citizens to participate in a prescription drug benefit—all the things that will be critical to the long-term stability of a prescription drug benefit. We need to start that process today when the demand is relatively low—not 5 or 10 years from now when the demand will begin to rapidly escalate.

We have before us two different visions of how to get to the same destination. The Senator from Utah has outlined a number of issues of concern to him. I look forward to having a full debate on Monday. Hopefully, we can frame each one of these issues, such as the relative benefits of using the Medicare system as a means of delivering prescription drugs, or delivering it through subsidized private insurance policies—the relative benefits of having what I call a ''defined benefit plan'' where seniors would know what they are buying as opposed to a defined contribution plan where there would not be that assurance.

Those are all legitimate issues for us to debate.

I suggest to my colleagues that they might take the time over the weekend to read the letters of endorsement from groups such as the AARP, which clearly has no interest other than representing the best interests of their millions of members—most of whom are part of this 39 million Americans who are Medicare participants because they are over the age of 65. There is no reason to suspect their motives, or that they have some hidden agenda other than what they think is in the interest of senior Americans.

I recommend reading their rationale for reaching the conclusion of their support for our proposal.

I conclude tonight with a sense of optimism. We have gotten further this week than we have gotten in a decade in terms of closure on providing our older Americans with a key but missing part of their health care coverage; that is, assistance with their prescription drug costs.

I hope next week we can complete this by the passage of a prescription drug bill recognizing that we have to negotiate with the House, and then secure final passage, and hopefully gather in the Rose Garden where I suspect that the President will, with great enthusiasm, be there to sign this bill into law and provide what America's older citizens have so long sought, an affordable, comprehensive, and universally available prescription drug benefit.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am surely glad that this debate has begun. It is too bad we could not have started the debate on this bill on Monday or Tuesday of this week when the majority leader led us to believe that we would be doing nothing but prescription drugs until we got it done.

I am glad that we now have Senator GRAHAM's alternative before us.

I thank Senator HATCH, who took the position as manager, while I was on the CNN program just a few minutes ago, to introduce the tripartisan bill on my behalf. That bill is a comprehensive prescription drug bill that represents a year of hard work by dedicated members of the Finance Committee, the committee that has jurisdiction over Medicare.

We have Senator GRAHAM's bill that you have heard about tonight. Then we have this tripartisan bill. People wonder what the term ''tripartisan'' means. It means three Republicans, one Democrat, and one Independent in the Senate, but it also implies bipartisanship, or across-party cooperation that must be done to get any bill passed in the Senate.

Our legislation is called the 21st Century Medicare Act. It makes essential improvements to Medicare by adding the comprehensive prescription drug benefits, and a new Medicare fee-for-service option to the 1965 program. These are all first improvements in Medicare since it was introduced in 1965.

As I indicated to you, I have been honored to work with a top-notch group of Senators on this bill. That tripartisan group is OLYMPIA SNOWE, a Republican; JOHN BREAUX, a Democrat; JIM JEFFORDS, an Independent; and ORRIN HATCH, a Republican. The group has dedicated countless hours to this effort.

I must express my disappointment that the Senate Finance Committee has not had an opportunity to consider legislation as part of the committee process. I trust that Senator GRAHAM of Florida will feel the same way. However, the bottom line is America's seniors have waited too long—and too long already—for Medicare prescription drug coverage.

The House has acted in their fashion. The Senate must act as well. We cannot afford to waste a single day.

I look forward to debating this important issue over the next few days and hope that the same bipartisan spirit of cooperation and compromise that guided the tripartisan group over the last year to write this bill will guide all Senators in this Chamber to an agreement that will give long overdue help to our seniors.

Since the tripartisan bill is now introduced, since we have the Democrat version, and Senator GRAHAM's bill is introduced, and since there is some misunderstanding of the differences between the two, I will take just a little bit of time to go over those. I also will take just a little bit of time to express some differences between the bill that passed the House of Representatives because some people have alluded to that bill as something just exactly like the tripartisan bill, which it is not.

In regard to differences between Senator GRAHAM's proposal and the tripartisan proposal that I have offered, the first would be cost.

The sheer magnitude of Federal spending in the Senate Democrat bill—an amount that is obscured by a sunset provision that kills the benefit in 2010—threatens Medicare's long-term stability. As such, the Senate Democrat bill gives seniors temporary help, not a permanent entitlement.

By contrast, the Congressional Budget Office official estimate concluded that the tripartisan 21st Century Medicare Act totals $370 billion over 10 years, a figure that guarantees permanent, affordable drug coverage without breaking the Medicare bank.

There is also the issue of choice that separates the tripartisan plan from the Democrat plan. The Democrat plan relies on the Government to pick one standard prescription drug plan for over 40 million seniors with Medicare. The one-size-fits-all approach means seniors cannot shop for a prescription drug plan that best suits their needs.

Under the tripartisan 21st Century Medicare Act, seniors are guaranteed to have at least two competing prescription drug plans in their community, even in rural areas, using local pharmacies as well. Seniors will have the choice of picking plans on the basis of cost, benefits, and quality. All plans will be required to meet Federal quality standards and to provide a standard benefit package, or its actuarial equivalent, including a $3,700 cap on out-of-pocket drug expenses for seniors.

There is a difference in drug pricing. Because the Democrat plan is overly bureaucratic and excessively generous, that plan does nothing to curtail or even slow skyrocketing prescription drug costs. That is why it is essential that any new prescription drug benefit contain cost management controls that moderate growth in price.

While guaranteeing a comprehensive drug coverage for all citizens, the tripartisan 21st Century Medicare Act imposes reasonable cost-sharing obligations on beneficiaries and promotes competition among prescription drug plans. And with competition being promoted in the bill, that then leads to a better overall effect on drug prices. And that, again, is according to the nonpartisan Congressional Budget Office that does policy analysis and scoring for the Senate.

The other issue is affordability, affordability for seniors. Under the Senate Democrat plan, seniors face fixed copayment amounts that, in many instances, mean they will actually pay more for many of the most commonly prescribed drugs than they would under a system that gives prescription drug plans more flexibility to offer lower cost copayments.

That flexibility is a feature of the tripartisan 21st Century Medicare Act because it gives plans the freedom to offer copayments and deductibles that save seniors more money. Moreover, the tripartisan proposal has a lower average premium than the Democrat plan, and that would be $24. Again, this is according to a Congressional Budget Office estimate.

We have Medicare enhancements in the tripartisan bill that the Senate Democrat plan does not have because that plan leaves current Medicare as it is and simply dumps a massive entitlement expansion, which would be the prescription drug plan, into the old 1965 model.

The tripartisan 21st Century Medicare Act takes long overdue steps to strengthen and improve Medicare's basic benefit package. In addition to adding prescription drug coverage, the bill offers seniors a new enhanced option, including catastrophic protection and free—let me emphasize, free—preventive care; in other words, adopting the principle that an ounce of prevention is worth a pound of cure.

This entire enhanced option is voluntary. If seniors like what they have had since 1965, they do not have to sweat it. They do not have to do it. They can keep what they have. Even 50 years from now they will still have that same choice, but they can also have the enhanced coverage as well. So it is voluntary. And Medicare, as we know it today, will always remain available to seniors who prefer to keep what they have, if they like it.

Improvements are made to yet another coverage option. That coverage option exists today. Medicare+Choice plans are also included. Beneficiaries need not elect the enhanced option in order to have access to the drug benefit plan.

I will finish, then, with a short description of why what the House of Representatives passed has nothing to do with the tripartisan plan.

The tripartisan plan was adopted on principles and pricing and costs, the way the five of us decided to do it. For instance, the House bill has a higher average premium. This is according to the CBO estimate. The average premium under the House bill is $34 per month. The average premium under the tripartisan 21st Century Medicare Act is substantially more affordable, at just $24 per month.

We have a much better benefit. The House bill limits the initial prescription drug benefit to $2,000 before exposing seniors to a gap in coverage. The tripartisan 21st Century Medicare Act basic drug benefit is better and is richer than that in the House bill. Seniors will have drug coverage under the tripartisan plan worth 50 percent of their drug spending up to $3,450 after the deductible is met, and that is $1,450 more than what the House bill offers, even in its initial benefit.

We have greater protection for low-income seniors in this Senate version. The tripartisan 21st Century Medicare Act steps in to give more help to low-income seniors where the House bill does not. It provides full assistance with premiums and substantial assistance with cost sharing for seniors below 135 percent of poverty with no gaps in coverage. For seniors between 135 percent and 150 percent of poverty, assistance with premiums and cost sharing is provided on a sliding scale, also with no gaps in coverage. This critical additional coverage for our most vulnerable seniors is an important distinction that reflects the tripartisan commitment to universal, affordable drug coverage for all.

And then, lastly, I will speak about our enhanced option to which I have already referred. The House bill leaves the 1960s-style Medicare largely as it is today. It does provide $30 billion in additional funds to Medicare providers, but it does little to strengthen or improve Medicare's basic benefit package.

Rather than addressing provider payment issues, the tripartisan 21st Century Medicare Act addresses Medicare's benefit flaws. It offers seniors a voluntary enhanced option, including catastrophic protection, free preventive care, and better Medigap plans.

The new option would be offered alongside current fee-for-service Medicare and a strengthened Medicare+Choice. Seniors can keep what they have if they like it or choose the new option. In all three settings, access to affordable prescription drug coverage would be guaranteed.

I just mention the difference, that the House bill does not have a new and improved and modernized Medicare option that we have in the tripartisan bill.

(Mr. JEFFORDS assumed the Chair.)

Mr. GRASSLEY. Since the distinguished Senator from Vermont has now come to the chair to be the Presiding Officer of the Senate, it gives me an opportunity to say that this provision in the tripartisan bill, of improving Medicare, bringing Medicare from a 1965 model to a 21st century model, improving it beyond the prescription drug provisions, was very much a concern of the Senator from Vermont, the Independent member of the Senate, Mr. JEFFORDS. I thank him very much for his contribution to that.

It really has probably done as much for Medicare as the prescription drug provisions will, as we look to the day when we have baby boomers going into transition from their employer's health plans to Medicare. There will be a smooth transition if they choose the enhanced option; whereas all the other plans, including the Republican plan in the House of Representatives, including even the President's plan, Medicare will still be a 1965 model. And for baby boomers going from their modernized employer's health plan to the 1965 model of Medicare, if that is the only choice they had, it would not be a very good day for those baby boomers going into retirement.

It has been such a pleasure to work with Senator JEFFORDS on this whole package, but most importantly, to have his leadership on this part that deals with the enhanced option, the new and improved and strengthened Medicare.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD this letter to Mr. Carl Feldbaum of the Biotechnology Industry Organization.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 18, 2002.

Mr. CARL B. FELDBAUM,
President, Biotechnology Industry Organization, Washington, DC.

DEAR MR. FELDBAUM: I was surprised to receive you letter of July 15, 2002, opposing S. 812. The Greater Access to Affordable Pharmaceuticals Act (the GAAP Act or Schumer-McCain). The record is abundantly clear that the pharmaceutical industry is exploiting loopholes in our Hatch-Waxman drug patent laws to block less costly generic drugs from coming to market. As our hearings revealed, these actions hurt millions of American patients who are burdened with rising health care costs.

The exciting new cures brought forward each day by America's biotech companies are paving the way for what I believe is the new

century of the life sciences, and I remain a proud champion of the biotechnology industry in Massachusetts and across the nation. It is important, therefore, as an industry concerned about the health of all Americans, for BIO to acknowledge the harm to American patients and consumers caused by today's Hatch-Waxman abuses. Clearly, collusive agreements between brand-name companies and generic companies to block cheaper generic drugs from coming to market do not serve the public interest. Similarly, patients are harmed when generic drugs are stymied year after year by unfounded patent evergreening for brand name drugs. I would strongly encourage BIO to be part of the solution to these challenges.

The Schumer-McCain legislation addresses these abuses and restores the balance intended under the Drug Price Competition and Patent Term Restoration Act of 1984 (the Hatch-Waxman Act). As your letter expresses concerns about the legislation, this letter describes in further detail the Committee's intent in addressing them,. The issues you raised include incorrectly listed patents or patent information with the Food and Drug Administration (FDA), use of patents to trigger multiple thirty month stays that delay effective approval of generic drugs, collusive agreements between brand and generic pharmaceutical companies to block subsequent generic applicants from gaining effective approval of their drug products and litigation attacking FDA's bioequivalence regulations that have delayed entry of generic versions of drugs.

THE 45 DAY PERIOD TO ASSERT PATENT RIGHTS

You express concern that a patent owner's rights will be forfeited under Schumer-McCain. I want to reassure BIO that this is not the case.

Section 4 of Schumer-McCain says that a patent owner that does not sue within 45 days of receiving notice that a generic drug applicant has challenged its patent will be barred from suing that generic drug later.

This provision provides the patent owner with the opportunity to protect its patent rights. It also clarifies those rights in relation to the generic drug product at issue if the patent is not defended, thereby enabling the generic drug product to be marketed immediately. The 45 day period may be thought of as a statute of limitations, and Congress has plenary authority to establish statutes of limitations for federally created rights such as patents. In addition, comparable periods of time for claiming or defending property rights have been upheld by the Supreme Court.

This provision does not eliminate the patent owner's rights against the generic drug applicant and its generic drug product. Rather, it specifies the time within which the patent owner must assert those rights against that applicant and its drug product.

I cannot overemphasize that the bar on enforcing the patent right under this 45 day rule applies only to the particular generic product of the particular generic company that has challenged the patent in its generic drug application. It does not affect the ability of the patent owner to enforce its rights with respect to any other generic company, or with respect to a licensee who strays beyond the bounds of a licensing agreement under which the patent owner has licensed use of the patent.

That being said, I also point out that the bar does protect downstream distributors of the particular generic drug product, such as wholesalers and pharmacies, as well as doctors and patients who will use the generic drug product for treatment.

ENFORCEMENT OF THE PATENT LISTING REQUIREMENT

Seciton 3 of Schumer-McCain says that a patent owner cannot enforce its patent against a generic drug company, or a person who manufactures, develops, uses, offsets to sell, or sells a generic drug, if the patent owner has failed to list the patent information at FDA. This provision provides an effective enforcement tool for a current requirement.

Drug companies are required currently to list patents at FDA, and I am not aware of any complaints about this requirement from the brand pharmaceutical industry. We understand that now companies generally comply with this requirement because patents can trigger 30 month stays of the effective approval of generic drugs.

As you know, however, Section 4 of Schumer-McCain limits 30 month stays to one per generic application, and on only certain patents. The Committee's concern was that limiting 30 month stays in this way reduces the incentive to list patents. We therefore concluded that we needed to provide an effective incentive for compliance with the current requirement to list patents at FDA. Otherwise, we were concerned about increased abuses of the listing requirement.

Currently, under section 505(e)(4) of the Federal Food, Drug, and Cosmetic Act (the FFDCA), FDA can withdraw a drug from the market if the patent information is not filed after the agency gives written notice of failure to file the information. FDA has never used this enforcement tool, and it would not withdraw a drug from the market for this reason when the drug presumptively is being used safely for treatment of patients by health care providers. I believe that Section 3 of Schumer-McCain provides effective enforcement of the FDA listing requirement.

Your letter raises the real concern about situations in which a patent is not listed, or the information is incorrect, because of an oversight or a clerical error. But Schumer-McCain addresses this problem as well.

Section 3 of Schumer-McCain allows FDA to extend the date for listing patents if there are extraordinary or unusual circumstances. An honest administrative or clerical error is clearly such a circumstance. Because FDA publishes patent information immediately upon receipt, the drug company and the patent owner can promptly check that patent information is published and that it is correct. If there is an error, or a patent was not listed, the error can be spotted quickly and immediately corrected. Accordingly, Schumer-McCain allows patent owners to avoid the consequences of the inadvertent failure to list a patent with the FDA.

THE CAUSE OF ACTION TO DELIST OR CORRECT A PATENT

Your letter also raised questions about the cause of action in Section 3 of Schumer-McCain to delist patents from FDA's Orange Book or to correct patent information. In particular, BIO is concerned that generic companies will bring these cases unnecessarily, to harass a drug company or patent owner. I do not believe that this will be the case.

A generic drug company must certify to the patents listed on a drug when it files a generic drug application. A generic company must do so even if it intends to seek the correction or delisting of a patent.

If a generic wants to delist a patent or correct information, it will likely chose to make a paragraph III certification to the patent, saying that the applicant does not contest the patent and requesting that its drug approval be made effective when the patent expires. The generic applicant will then sue to have the patent delisted or corrected.

If it wins, the patent is delisted, or the patent information is corrected so that the generic applicant may make a statement that the applicant is not seeking approval for a use claimed in the patent. In either case, no certification is necessary and the paragraph III certification essentially goes away.

Should the generic applicant lose a delisting case, however, it will have to recertify and challenge the patent under paragraph IV. This could trigger a 30 month stay, and at a minimum would delay the resolution of the patent issues involved. It is therefore my view that there are strong incentives for generic applicants to bring these delisting cases only when there is strong merit to the case. Because this is the case, it is difficult to argue that delisting cases will be either unnecessary or harassing.

To the contrary, in such cases, the delisting of a patent, or correction of patent information, serves a public good. This is because a patent to which other generic drugs would otherwise have to certify is instead either delisted or corrected so that no certification is necessary. In such cases, generic drugs may get more quickly to market, to the great benefit of consumers.

BIOEQUIVALENCE

BIO requests that section 7 of Schumer-McCain be stricken in its entirety. I do not believe this provision raises the concerns that BIO thinks it does.

Section 7 allows FDA to amend its regulations, but it does not say that those amended regulations are legitimate exercises of authorities under the FFDCA. Only the current regulations are identified as continuing in effect as an exercise of authority under the FFDCA. Should FDA ever amend its bioequivalence regulations, they would be subject to judicial review under the Administrative Procedure Act.

Indeed, earlier drafts of section 7(a) covered the FDA's current regulations and successor regulations. But we did not intend to protect amended regulations from judicial review, so the language on successor regulations was removed.

Also, under section 7(a), the application of the current regulations in any particular case would be legitimate issues for judicial review under the Administrative Procedure Act. So FDA can be challenged if its application of those regulations will pose potential risks to patients or to public health.

Finally, BIO believes that section 7(c) is inadequate. This language, which we added in part in response to concerns from BIO, says that section 7 shall not be construed to alter the authority of the Secretary of Health and Human Services to regulate biological products under the Federal Food, Drug, and Cosmetic Act. Any such authority shall be exercised under that Act as in effect on the day before the date of enactment of this Act.

This language is very similar to a statement that Senator Jeffords and I made on December 3, 1997, in a letter to Michael Friedman, then Lead Deputy Commissioner at FDA. It makes it clear that we are not changing FDA's authority under the FFDCA over biological products—in particular that we are not making changes to newly authorize the approval of generic biologics under the FFDCA. That was good enough in 1997 and should be good enough today.

I remain committed to the reforms of the Hatch-Waxman Act provided for in Schumer-McCain, just as I remain committed to a strong and vibrant biotechnology industry, both in Massachusetts and throughout the nation. I believe that the adjustments to the Hatch-Waxman Act found in Schumer-McCain correct imbalances in and will stop abuses of the generic drug approval process that have arisen in recent years. I do not believe that these reforms will adversely impact in any way a company or patent owner

that diligently sees to its legal rights and obligations under Federal law.

I hope that this letter addresses your concerns, and I remain willing to work closely with my many friends in the biotechnology industry in Massachusetts and elsewhere as this legislation moves forward.

Sincerely,

EDWARD M. KENNEDY.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST—H.R. 3210

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of Calendar No. 252, H.R. 3210, the House-passed terrorism insurance bill; that all after the enacting clause be stricken, and that the text of S. 2600, as passed the Senate, be inserted in lieu thereof; that the bill, as amended, be read a third time, passed, and the motion to reconsider be laid on the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses; and that the chair be authorized to appoint conferees on the part of the Senate with the ratio of 4 to 3; all without intervening action or debate.

I have indicated I was going to propound this. I know there is no one present from the other side. I object on behalf of the minority, the Republicans. I do that with some reluctance because we have to move this legislation forward. It is important. I don't do this to embarrass anyone or to try to minimize what is taking place. In fact, it is just the opposite. We have to move forward on terrorism insurance.

I get calls in my office every day saying: Why can't you move this bill? The reason we can't move it is because we have an objection. I repeat what I said yesterday and the day before and the day before: We fought to get this bill on the floor. We were held up getting the bill on the floor. Once we got the bill passed, then we have fought to get conferees appointed.

The sad part about this is we were told initially: We don't like the ratio; the ratio is three Democrats to two Republicans.

We said: What do you want?

They told Senator DASCHLE: We want four Democrats, three Republicans.

We said: Fine, we will go for that.

They still won't let us clear this. It is my understanding the House is going out of session for the summer next Friday. So we have just a few days to do this. Everyone should understand why it is not being done.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. I will put it back on my desk, and I will return with this in the future.

TRIBUTE IN REMEMBRANCE OF DAVIS O. COOKE

Mr. THURMOND. Mr. President, I rise today to pay tribute to the late David O. Cooke, Defense Department Director of Administration and Management. I would like to offer my condolences to Mr. Cooke's three children, Michele, Lot and Davis, along with his other family members, friends, and coworkers. Mr. Cooke has truly imprinted an everlasting legacy on the American defense system and our great Nation. Although our Nation mourns for this tragic loss, we must remain strong in honoring such an outstanding individual. For six decades, David O. Cooke served the federal government distinguishing himself as one of the most exceptional and honorable civil servicemen of our time. He was truly a visionary, epitomizing the core values of exemplary public service. I ask unanimous consent to have printed in the Record an article from the Washington Post.

There being no objection, the article was ordered to be printed in the RECORD,as follows:

[From the Washington Post, June 27, 2002]

DAVID COOKE, 'MAYOR OF THE PENTAGON,' DIES

(By Graeme Zielinski)

David O. ''Doc'' Cooke, 81, the high-ranking administrative director who was known as the ''Mayor of the Pentagon'' for his work over six decades to keep the gargantuan complex humming, died June 22 at the University of Virginia Medical Center.

He died of injuries received June 6 in a car accident two miles north of Ruckersville, Va., when his vehicle veered off Route 29 and rolled over several times, Greene County Sheriff William Morris said yesterday. It wasn't known what caused the accident, Morris said.

Mr. Cooke had served at the Pentagon since the late 1950s and as its top civil servant had a hand in every major Defense Department reorganization during that time. He knew virtually every inch of the 20 miles of corridors in the building and was the department's highest-ranking career civil servant.

As Defense Department director of administration and management, he had a vast institutional memory and numerous friends spread throughout Washington's power structure. It meant that he had the ear and respect of flag officers, members of Congress and Cabinet officials—and not only because he dispensed office space and the Pentagon's 8,700 parking places.

In a 2001 edition of Government Executive Magazine, editor Timothy B. Clark called Mr. Cooke ''a force for good in the federal government.''

Mr. Cooke's many honors included seven awards of the Defense Medal for Distinguished Civilian Service. In 1999, he was given the President's Award for Distinguished Federal Service, the highest government service award.

Mr. Cooke called in some of his considerable chits in the late 1980s and early 1990s as he argued vociferously for a billion-dollar renovation of the Pentagon. Up until Sept. 11, it was scheduled for completion in 2004.

The hijacked airliner that slammed into the side of the building that day, killing 189 people, hit a wedge of the Pentagon that had undergone upgrading. Some of those features supported by Mr. Cooke have been credited with saving many lives.

''The steel that we used to strengthen the walls, the blast-resistant windows, the Kevlar cloth, all those things working together helped protect countless people,'' Walker Lee Evey, the program manager for the Pentagon renovation, said. ''Doc Cooke strongly supported all of these.''

Mr. Cooke also was a strong supporter of the government as an institution and was active in good-government groups and community service projects.

He served on the President's Interagency Council on Administrative Management and was a leader of the Combined Federal Campaign and an active member of the American Society for Public Administration.

In the early 1990s, he worked to create a Public Service Academy at Anacostia High School that has been credited with improving the school's graduation rates. He also was known in the Pentagon as a strong promoter of employment opportunities for minorities, women and disabled people.

Mr. Cooke was born and raised in Buffalo, where his parents were teachers. He began following their path, receiving a bachelor's degree from the New York State Teachers College at Buffalo and later a master's degree in political science from the State University of New York at Albany.

His teaching career was interrupted by World War II, when he served as an officer aboard the USS Pennsylvania, a battleship that saw action in the Pacific.

Mr. Cooke returned to teach high school in Buffalo in the late 1940s, but was recalled to the Navy during the Korean War. After getting his law degree from George Washington University in 1950, he served as a Navy attorney and instructor.

His Pentagon career began in 1958, when he was assigned as a civilian to a Defense Department reorganization sought by then-Secretary Neil McElroy.

Mr. Cooke retained his professorial ways throughout his career, but his humor often helped leaven the serious atmosphere in the Pentagon. Mr. Cooke was just as likely to quote a Greek philosopher as a pithy joke or homespun tale.

Evey, the Pentagon renovation manager, recalled an aside at a dedication ceremony last summer. ''He said that he took it as a sign that the building needed to be renovated when the fungus on the wall took the shape of Elvis,'' he said.

Mr. Cooke was not laughing when he argued in the 1980s for the renovation and for the Pentagon to be transferred from under the auspices of the General Services Administration to the Defense Department. He said it was a crucial step in rehabilitating the world's largest office building.

Mr. Cooke would make routine trips to Capitol Hill with what he called his ''horror board,'' a convincing collage of fallen asbestos or rotted piping from the Pentagon.

In 1998, Mr. Cooke testified before a federal grand jury about alleged leaks by then-Assistant Defense Secretary Kenneth Bacon of

personnel information about Linda Tripp to a reporter. With characteristic good humor, he told reporters after he testified that Tripp's name came up ''now and again.''

Mr. Cooke was a presence on Sept. 11, rushing to aid rescue and recovery operations. In the months after the rebuilding began, the usually low-key administrator began making more public appearances, speaking in memory of the victims.

At a speech in November, he told an Albany, N.Y., crowd: ''The damage to the building will be rebuilt. You'll never know the difference eventually.''

His wife of 52 years, Marion McDonald Cooke, died in 1999.

Survivors include three children, Michele C. Sutton of Springfield and David Cooke and Lot Cooke, both of Fairfax; and four grandchildren.

TRIBUTE TO DR. DONALD L. DURHAM

Mr. LOTT. Mr. President, I wish to take this opportunity to recognize and say farewell to an outstanding leader, Dr. Donald L. Durham, upon his retirement from the Senior Executive Service as Deputy Director of the Naval Meteorology and Oceanography Command at the John C. Stennis Space Center. Throughout his career, Dr. Durham has served with distinction. It is my privilege to recognize his many accomplishments and to commend him for the superb service he has provided the Navy, the great State of Mississippi, and our Nation.

Dr. Durham received a Bachelor of Science Degree in Physics and Mathematics from Centre College, Danville, KY in 1964; a Master of Science Degree in Oceanography, Math, from Texas A&M University in 1967; and a PhD in Physical Oceanography, Geophysics and Math, from Texas A&M University in 1972.

Following his doctoral thesis, Dr. Durham joined the Army Corps of Engineers as a research oceanographer at its Waterways Experiment Station in Vicksburg, MS. In 1978, he joined the staff of the Naval Oceanographic and Atmospheric Research Laboratory, NOARL, at the John C. Stennis Space Center, MS as an oceanographer responsible for analyzing and assessing numerous Navy oceanographic research programs and special projects, including several environmental acoustic/oceanographic studies and tactical fleet exercises. From 1981–1986 at NOARL, Dr. Durham was Head of the Mapping, Charting and Geodesy, MC&G, Division, which was responsible for project management and technical performance of the integrated Navy Research Development, Test and Evaluation, RDT&E, program in MC&G.

In 1986, Dr. Durham joined the staff of the Naval Meteorology and Oceanography Command, Stennis Space Center, MS and served as Assistant Chief of Staff for Program Integration until his selection as Technical/Deputy Director on January 1, 1989. As Technical/Deputy Director, Dr. Durham was the senior civilian manager and top scientific advisor responsible for the planning, coordination, management, direction and administration of broad, multi-disciplinary scientific, engineering and technical programs of the command. Under his guidance, the command has made tremendous inroads in the fields of basic and applied Oceanography through the application of supercomputing technology, providing detailed environmental analysis that our naval forces could have only dreamed about a few years ago. His persistence towards achieving excellence in his field of expertise is highly commendable.

Dr. Durham's many awards include the Distinguished Executive Presidential Rank Award, Meritorious Executive Presidential Rank Award, DoD Secretary of Defense Meritorious Civilian Service Award, Secretary of Navy Distinguished Civilian Service Award, Department of the Navy Meritorious Civilian Service Award, three Army Corps of Engineers' Special Act/Service Awards, Presidential Letter of Commendation, two Navy Commendations for Special Achievement, Marine Technology Society Special Commendation Award, Defense Mapping Agency Research and Development Award, Kiwanis International Distinguished Service Award, Center College Distinguished Alumnus Award, Danville High School Distinguished Alumnus Award, Mississippi Academy of Sciences Research Award, Who's Who in the South and Southwest, International Who's Who of Professionals and the International Who's Who of Intellectuals. In addition, he has published over 50 professional papers, technical reports and presentations and served twice as guest editor for Marine Technology Society Journals. His professional affiliations include the Marine Technology Society, The Oceanography Society, The Society of Research Administrators, The Hydrographic Society of America, International Oceanographic Foundation, Mississippi Academy of Sciences and Sigma Xi. Also, he has served as Vice Chair and Chair of the Mississippi Science and Technology Commission; Member of Mississippi State University's External Research Advisory Council and Mississippi Economic Development Special Task Force; and board member of Mississippi Enterprise for Technology, Inc. and Mississippi Technology Alliance.

Throughout his very distinguished career, Dr. Durham has served our great Nation with pride and excellence. He has been an integral element of, and contributed greatly to, the best-trained, best-equipped, and best-prepared naval force in the history of the world. Dr. Durham's superb leadership, integrity, and limitless energy have had a profound impact on our Nation's Oceanography community and he will be greatly missed in the Navy's Senior Executive Service. Dr. Durham retires as an SES–5 on August 3, 2002. On behalf of my colleagues on both sides of the aisle, I wish Dr. Durham all the success in his future and thank him immensely for the invaluable 30-years of service he has provided to the United States of America.

PEOPLE PEDALING PEACE

Mr. LEVIN. Mr. President, last month more than 25 cyclists made the 190-mile trip from Hampton, VA, to Washington, DC, to honor and remember victims of gun violence. According to the Brady Campaign to Prevent Gun Violence, the People Pedaling Peace cyclists rode not only in honor of the victims of gun violence, but they rode for stronger, more sensible gun safety laws in America.

Sandra and Mike McSweeney started People Pedaling Peace last year after their daughter, Stephanie, was killed while walking out of a roller rink in Hampton, VA. Money raised by this year's bike ride will be used to build a new playground in Stephanie's neighborhood so children can have a safe place to play. Elisha Encinias, a Columbine survivor who narrowly escaped the two gunmen in her classroom that tragic day in 1999, and Amber Hensley, who witnessed the 1999 rampage at Thurston High School in Springfield, OR, also joined in this year's bike trip. Unfortunately, the number of people like them is likely to grow. They represent only a small number of Americans who have lost family and friends to gun violence.

According to the Detroit Free Press, through July 14th of this year, 10 children under the age of 16 have been killed by gun fire and 25 children have been wounded by gunfire in metro Detroit. This past Sunday, a 3-year-old boy found a shotgun, picked it up, and it discharged. He wounded two other children, his 11-year-old sister and 9-year-old cousin. A week ago on Detroit's east side, an 11-year-old boy was accidentally shot in the chest by his 13-year-old neighbor after they found a handgun. Last month, a 14-year-old boy shot a 13-year-old girl while the two were arguing in a Detroit home. Thankfully, they all survived, but many have not. The need for sensible gun safety legislation and vigorous enforcement of our gun laws is desperately needed.

I know my colleagues will join me in recognizing the participants in the People Pedaling Peace bike ride and expressing our thoughts and prayers to family, friends, and communities across America that have been affected by gun violence. And I urge my colleagues to join me in supporting sensible gun safety legislation.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last 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 April 13, 2001 in San Antonio, TX. A 39 year old man was attacked because he was thought to be a homosexual, according to police. The victim was attacked in a park by a man with a knife. The man held the victim in a bear hug before stabbing him in the chest with what was described as a three-inch Buck knife. The suspect was heard to call the victim anti-gay names as he stabbed him.

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 and changing current law, we can change hearts and minds as well.

DROUGHT EMERGENCY IN NORTH CAROLINA

Mr. EDWARDS. Mr. President, I rise today to draw attention to a dire situation in my state. North Carolina is in the midst of a severe drought, and there is no significant rainfall in sight.

North Carolinians are used to hot, dry summers. But the dry spell has lingered and transformed itself into one of the worst droughts in the state's history. The entire State is under drought condition and most areas are experiencing ''extreme drought.'' A significant portion of the Piedmont is experiencing an ''exceptional drought,'' according to the U.S. Geological Survey. In fact, the Piedmont is short almost a full year's worth of rain and the city of Greensboro has a little more than 100 days supply of water.

The damage estimates are already staggering. This drought has put many of our farmers on the edge of financial ruin. At a time of the year when you can drive down any rural North Carolina road and see lush, green crops ready for harvest, farmers are struggling to find enough water to save what hasn't already withered in the blazing sun. Farmers in more than half of North Carolina's 100 counties have already experienced more than 35 percent crop loss and it is still early in our growing season.

But it is not just North Carolina's farmers that are suffering. Small businesses are particularly impacted by the mandatory water restrictions. Believe it or not, drought is not a recognized disaster under the Small Business Administration's Disaster Assistance Program.

Of course, we can't make it rain. We can't cool the weather and slow the evaporation of our lakes and streams. But there are things we can do to help those impacted by this disaster. There are steps we should take immediately. I have asked Secretary Ann Veneman to certify our counties as disaster so our farmers can get the crop loss assistance it is clear they will so desperately need. I urge the administration to quickly act to help my farmers. President Bush is scheduled to travel to Greensboro, one of the most parched areas of North Carolina next week. I hope by then his administration will have recognized the dire conditions and approved my State's request for help.

In the meantime, I am proud to cosponsor the Small Business Drought Relief Act, S. 2734. This is a straightforward measure that will bring important relief to thousands of small business owners by expanding the Small Business Administration's definition of disaster to include droughts.

Another measure that I am supporting is the National Drought Preparedness Act of 2002, S. 2528. This measure creates a Federal drought preparedness and response policy, one that is so obviously needed. We in North Carolina know all too well the expertise and assistance the Federal Emergency Management Agency provides following a hurricane or tornado. We need that same clear, concise policy for droughts.

But these measures can't help with the impact this drought is having on my State right this moment. North Carolinians are doing their part. Under the leadership of Governor Easley, cities and towns are advancing reasonable water-use restrictions. Residents are conserving, and we are all hoping and praying for a good rain.

We need the administration to act quickly on the state's disaster requests. We need to get these residents the help they need.

PESTICIDE HARMONIZATION ACT OF 2002

Mr. JOHNSON. Mr. President, I rise today to thank Senators CONRAD and ROBERTS for holding an important hearing today in the Senate Agriculture Production and Price Competitiveness Subcommittee concerning S. 532, the Pesticide Harmonization Act. It is my pleasure to cosponsor this important legislation.

Differences in the prices of agricultural pesticides in the United States and Canada are one of the most important issues in bilateral trade discussions. Grains harvested in the United States compete on the open market against grains grown in Canada. Much of Canadian grain is treated with pesticides substantially less expensive than those used in the United States. I feel it is necessary for the United States to allow growers to access Canadian pesticides in order to remain competitive on the open market. I commend Senator DORGAN for his leadership on this issue, as lead sponsor of this legislation, which would allow U.S. farmers to access chemicals approved in the U.S. but sold at discounted rates in Canada.

Currently, farmers pay 117 to 193 percent higher pries in the U.S. than in Canada for virtually identical products. Canadian producers are applying less expensive pesticides to their crops and exporting their commodities to the U.S., where the same chemicals cannot be legally purchased at the Canadian reduced price by American producers. Our farmers are not allowed access to these pesticides, but must still compete with Canadian crops grown with these products.

American farmers are at a clear disadvantage to Canadian farmers due to the price differences in agricultural pesticides. This is another example of how NAFTA has put American producers at a disadvantage. I did not support or vote for NAFTA, even though supporters claimed that the trade agreement would create free, equal trade between the U.S., Canada and Mexico. In fact, NAFTA contributes to the present agricultural pesticide differential pricing problem. Allowing Canada to export millions of bushels of grain into the U.S. without restriction was intended to create equal trade, but has instead placed our agricultural industry at a disadvantage.

Furthermore, the agricultural disadvantage that hinders American farmers in this situation, benefits no one other than the pesticide industry. This industry sells the same product to Americans for twice the price that it is sold to the Canadians producers across the boarder.

S. 532 would eliminate the competitive advantage Canadian producers have over American producers by amending the Federal Insecticide, Fungicide, and Rodenticide Act. This legislation would permit a State to register a Canadian pesticide for distribution and use within that State if the pesticide is substantially similar or identical to one already registered in the U.S.

I am confident the time to act on this matter is now.

THE NATIONAL FARMWORKER JOBS PROGRAM

Mr. CORZINE. Mr. President, I rise today to urge Congress to support full funding for the National Farmworker Jobs Program.

Zeroing out funding for the National Farmworker Jobs Program as proposed in the Bush Administration's Fiscal Year 2003 budget would be wrong for our country and wrong for New Jersey. Close to 600 migrant workers make Cumberland County in southwestern New Jersey their permanent residence, with another 6,500 migrant workers estimated to arrive in the county for farm work each year. If the proposed cut is ultimately enacted, I am convinced that the quality of life for these workers and workers throughout the State and country will fall substantially.

The National Farmworker Jobs Program was created in 1964 to address the specific problems migrant workers face. By the very nature of their employment, migrant workers often find

themselves unemployed or underemployed, scraping by on an income well below the poverty line. Language and educational barriers often prevent these workers from receiving permanent employment or attaining economic self-sufficiency.

Because their work takes them across various State and municipal borders, only a national program can address the problems faced by the migrant farmworker population. The National Farmworker Jobs Program provides housing, healthcare, and childcare assistance to workers they can remain employed and provide for their families. Considering that many of these hardworking families are not fluent in English, obtaining these services would otherwise be a daunting if not impossible task.

The National Farmworker Jobs Program has assisted migrant workers with education and job training since its inception. It has also played an active role in job placement, minimizing the amount of time migrant workers remain unemployed. In the fiscal year ending June 30, 2000, 85 percent of the National Farmworker Jobs Program enrollees received services that enabled them to retain or enhance their agricultural employment or secure new jobs at better wages. And that is with a budget of just $80 million.

The National Farmworker Jobs Program services a vital social role, and I urge my colleagues to support it.

HONORING GENERAL BENJAMIN O. DAVIS, JR.

Mr. EDWARDS. Mr. President, 2 weeks ago as America celebrated the birth of our Nation, one of its greatest military leaders passed away. General Benjamin O. Davis Jr., 89, the legendary commander of the Tuskegee Airmen, died at Army Reed Medical Center on the Fourth of July. Yesterday, General Davis was laid to rest in Arlington National Cemetery.

From his youth Davis knew that he wanted to become a pilot and serve his country. In 1932 he entered the U.S. Military Academy at West Point. Throughout his years at West Point he was shunned by his fellow cadets who refused to speak with him. Think of it, 4 years at one of the Nation's best institutions of higher education where no one spoke to you and you ate all of your meals alone. Davis once spoke of the intimidation and harassment he endured at the academy, saying, ''I wasn't leaving, this is something I wanted to do and I wasn't going to let anybody drive me out.'' In 1936, Davis became the first African American in the 20th century to graduate from West Point.

After graduation Davis applied for the Army Air Corps but was rejected because of his race. He became professor of military science at the Tuskegee Institute in Alabama. In 1940, President Roosevelt issued an order allowing African Americans to fly for the military, and Davis immediately began his training at the Tuskegee Army Air Base. In 1942 he took command of the first all-black air unit, the 99th fighter squadron. Due to his excellent service in North Africa and Italy during World War II, he was promoted to colonel of the 322nd fighter group. As a colonel, Davis led 200 air combat missions. Davis would tell his men, ''We are not out looking for glory. We're out to do our mission.'' During his first mission, his 38 pilots held off over 100 German fighters. Davis's fighter group boasted an inspiring 100-percent success rate. None of the bombers he protected was ever lost to enemy fire. Despite his success, he was not allowed to command white troops and was turned away from segregated officers' clubs.

After World War II, Davis led a fighter wing in the Korean War and, in 1953, was promoted to brigadier general, becoming the first black general in the Air Force. Over the next 13 years he would rise in rank to lieutenant general and serve as deputy-commander-in-chief of U.S. Strike Command. When Davis retired from the Air Force in 1970, he was the highest-ranking African American officer in the military.

After hanging up his uniform Davis continued serving our country. He supervised the Federal Air Marshal Program and, in 1971, was named Assistant Secretary of Transportation.

In 1998 President Clinton awarded Davis his fourth star. ''One person can bring about extraordinary change'' President Clinton said when speaking of the general. At the White House ceremony then-Defense Secretary William S. Cohen stated that ''General Davis is often held up as a shining example of what is possible for African Americans. But today we honor him not only as a great African American. We honor him because like his father before him, he is a great warrior, a great officer, and a great American.'' Indeed like his father, General Benjamin Oliver Davis Sr., he served his country with great patriotism in the face of discrimination. His father was the first African-American general in the U.S. Armed Forces.

Even in his 80s, General Benjamin Oliver Davis Jr. still spoke with the strong, dignified and commanding manner he was known for during his professional career. Steve Crump, an Emmy-Award-winning journalist in Charlotte, NC who did a documentary on the Tuskegee Airmen, recalled a speech by General Davis to many of his fellow airmen. Crump said that the general's attendance was a surprise to the audience and that upon seeing him walk out on to the stage, they snapped to attention just as they had done more than 50 years earlier.

At Seymour Johnson Air Force Base in Goldsboro, NC there is a KC–135 tanker with a portrait of Davis on its nose. The aircraft is dedicated to all the Tuskegee Airmen.

One of the greatest of the greatest generation is gone. As those who passed on before him did, General Benjamin O. Davis, Jr. left us with a simple template on how to conduct ourselves in service to our country. Be of great courage, character and humility.

ADDITIONAL STATEMENTS

TRIBUTE TO LARRY BROWN

• Mr. SMITH of Oregon. Mr. President, ever since the days of the pioneers, when folks from miles around would gather to participate in community barn-raisings, the spirit of neighbor helping neighbor has been part of the Oregon story. That spirit is alive and well today, as in every Oregon community you can find individuals who give their time and their talent to make that community a better place in which to live, work, and raise a family. For the past 35 years, in the community of Grants Pass, that individual was Larry Brown, who passed away last week after a courageous fight against cancer.

Larry was a forester by profession, and served in leadership positions for the Southern Oregon Timber Industries Association, the Oregon Small Woodland Owners Association, and the Oregon Board of Forestry Forest Practices Commission.

Larry was not only dedicated to growing healthy trees, he was also dedicated to growing healthy children. He served 5 years on the Grants Pass School Board, and was a passionate advocate for programs benefitting youth during his many years of service and leadership in the Grants Pass Rotary Club.

Larry's love for his country could be seen in his 20 years of service in the Oregon National Guard. Larry retired from the National Guard as a major in 1982, and during his service he was awarded the Meritorious Service Medal and the Army Commendation Medal with 5 bronze oak leaf clusters.

Larry was also a passionate Republican. I am just one of many elected officials who was constantly calling on Larry to organize an event or a meeting. I knew that when I called on Larry, I was calling on someone who knew and loved his community, and who would get the job done right.

Oliver Wendell Holmes once said, ''To live fully is to be engaged in the passions of one's time.'' There can be no doubt that Larry Brown lived a full life, because he truly made a difference in the passions of his time.

I extend my condolences to Larry's wife, Georgette, who continues the family tradition of public service through her service as Josephine County Clerk, and to his daughters Monique and Martie.

I am just one of many elected officials who relied on Larry's counsel, advice, and friendship.•

HONORING MAJOR W. WHEELOCK

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to a man that has dedicated the last 7

years of his life to helping those less fortunate than himself, Major W. Wheelock.

Among his many accomplishments, Major Wheelock has most recently served as the President/CEO of Crotched Mountain foundation in Greenfield, New Hampshire and has previously served as Executive Vice President/Treasurer of Franklin Pierce College. Major Wheelock retired in June of this year. As part of his tireless service to others, Major participates in the River Mead Retirement Community as a board member; the Yankee Publishing, Inc. as a board member; New Hampshire 2002 Health and Educational Facilities Authority as Board Vice Chair; and New Hampshire Hospital Association as a Board Vice Chair.

The service Major Wheelock has provided Crotched Mountain School was doubtless a devotion to those that receive an education there. Crotched Mountain School provides outstanding rehabilitative programs for students with disabilities in Kindergarten through twelfth grade. His duty and service are apparent through his love and devotion for the students at Crotched Mountain.

More than doing an exceptional job, Major Wheelock is to be commended for his service to such a worthy organization. A man of better character, I rarely meet. It is an honor and privilege representing Major Wheelock in the U.S. Senate.●

CELEBRATING THE LIFE AND ACHIEVEMENTS OF WILLIAM BATTERMAN RUGER

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor the life of a dear friend William Ruger, one of the greatest gun designers and manufacturers in the nation.

Joining with Alexander McCormick Sturm in 1949 Ruger founded Sturm Ruger & Co., the largest firearms designer, manufacturer, and distributer in the United States. At the time Ruger's company produced more varieties of sport firearms than any other firm in the world. Turning out his first design in 1949, Ruger's pistol soon became one of America's favorite hand guns, still widely used by many gun owners today.

Ruger would soon design a light machine gun for the United States Army and would continue designing and patenting dozens of guns throughout the last 53 years. ''Ruger was a true firearms genius who mastered the disciplines of inventing, designing, engineering, manufacturing and marketing better than anyone since Samuel Colt,'' said R.L. Wilson, a firearms historian and Ruger Biographer. ''No one in the 20th century so clearly dominated the field or was so skilled at articulating the unique appeal of quality firearms for legitimate uses.''

Recently as chairman emeritus Ruger oversaw the manufacturing of high-quality rifles, shotguns, pistols, and revolvers that law enforcement and sporting enthusiasts have come to expect. Ruger kept a watchful eye on the company as it prospered, building manufacturing facilities in a number of New Hampshire's towns providing work for many.

I have found great friendship with Ruger throughout the last years of his life and continue to admire and cherish the friendship that I have with his family. He was not only a great husband and father but a great businessman, American patriot, and friend.

It was an honor representing William Ruger in the U.S. Senate and remains a distinct privilege in serving his family.●

THE MOUNT WASHINGTON HOTEL & RESORT CELEBRATES A CENTURY OF GRANDEUR

● Mr. SMITH of New Hampshire's. Mr. President, I rise today to congratulate The Mount Washington Hotel & Resort on 100 years of New England splendor.

Located in New Hampshire's White Mountains, The Mount Washington Hotel & Resort emanates the elegance and style of a bygone era. Beginning as a dream of Joseph Strickney in 1902, this superlative of Spanish Renaissance architecture quickly became the place to hobnob with poets, presidents and princes. Serving the wealthiest of patrons, The Mount Washington was the vacation resort of choice, finding appeal by epicureans of the era.

The picturesque National Historic Landmark was once the meeting place for more than 44 nations as they discussed the creation of the World Bank and International Monetary Fund in 1944. The formal signing of the Bretton Woods International Monetary Conference took place in the now historic Gold Room located off the Hotel Lobby.

Continuing the opulence and grandeur of the The Mount Washington Hotel & Resort was at the forefront as five entrepreneurs, Joel Bedor, Wayne Presby, Jere Eames, Robert Clement, and Bill Presby, rallied to purchase the property off the FDIC auction block in 1991. This would be the first time since Stickney that the property would be in the hands of New Hampshire owners.

One hundred years after the 250 master craftsmen began construction on the grand hotel of yesteryear, The Mount Washington Hotel & Resort carries on the timeless beauty and tradition of cordial service spanning the decades.

I recommend Joel Bedor, Wayne Presby, Jere Eames, Robert Clement, and Bill Presby on their commitment to preserving the glory and vintage of the early 1900's in The Mount Washington and for receiving the ''Business of the Decade'' award by Business New Hampshire Magazine.

It is truly an honor and privilege representing these fine men in the U.S. Senate.●

HONORING NEW HAMPSHIRE REVENUE COMMISSIONER STANLEY ARNOLD

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to a colleague for his service to the citizens of New Hampshire, Mr. Stanley Arnold.

After 19 years of service to New Hampshire Stanley will be retiring in September 2002. His service as commissioner began in 1988 when appointed, by then Governor, John Sununu. Prior to becoming commissioner Stanley was an auditor in the Department of Revenue. Praised by Governor Jeanne Shaheen as, ''Essential in difficult and complicated policy debates,'' . . . ''Arnold has been a straight shooter through the five years that I have worked with him.'' Stanley has always strived to provide the best possible service to the people of the community.

Lauded as one of Governor Shaheen's most trusted advisers, Stanley increased use of technology and established a unit to focus on businesses not filing tax returns.

It is an honor to represent Mr. Stanley Arnold in the U.S. Senate.●

LAUD FOR DR. JOAN LEITZEL

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to the outstanding successes of a friend and colleague in the field of education, the President of the University of New Hampshire, Dr. Joan Leitzel.

As UNH's 17th President, Dr. Leitzel began her term by renovating buildings, adding a diverse program list and developing key buildings that provided needed space for classes and research. Thanks to Dr. Leitzel's work, the number of donors increased substantially to support the beloved University. Dr. Leitzel also increased enrollment for subsequent years.

A large portion of her success is attributed to her attention to the needs of New Hampshire's business by providing a quality professional workforce. By working with businesses in the area, Dr. Leitzel better prepares students for the competitive job market. Dr. Leitzel more than doubled research funding from $43 million in 1996 to $82 million in 2001 by making the research proposals more competitive. Greater funding from the state and forthcoming building projects help add to the University's prominence. It is so small accomplishment to steer a University to the level that has been reached under Dr. Leitzel.

I commend Dr. Joan Leitzel on receiving magna cum laude status for her leadership and for her many accomplishments that have put the University of New Hampshire on track to a successful future. I wish her all the happiness life can bring in her retirement.

It is an honor and privilege representing her in the U.S. Senate.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:45 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 bill, in which it requests the concurrence of the Senate:

H.R. 5093. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

From the Committee on Financial Services, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. OXLEY, Mr. BAKER, Mr. ROYCE, Mr. NEY, Mrs. NELLY, Mr. COX, Mr. LAFALCE, Mr. FRANK, Mr. KANJORSKI, and Ms. WATERS:

That Mr. SHOWS is appointed in lieu of Ms. WATERS for consideration of section 11 of the House bill and section 305 of the Senate amendment, and modifications, committed to conference.

From the Committee on Education and the Workforce, for consideration of sections 306 and 904 of the Senate amendment, and modifications committed to conference: Mr. BOEHNER, Mr. SAM JOHNSON of Texas, and Mr. GEORGE MILLER of California.

From the Committee on Energy and Commerce, for consideration of sections 108 and 109 of the Senate amendment, and modifications committed to conference: Mr. TAUZIN, Mr. GREENWOOD, and Mr. DINGELL.

From the Committee on the Judiciary, for consideration of section 105 and titles 8 and 9 of the Senate amendment, and modifications committed to conference: Mr. SENSENBRENNER, Mr. SMITH of Texas, and Mr. CONYERS.

From the Committee on Ways and Means, for consideration of section 109 of the Senate amendment, and modifications committed to conference: Mr. THOMAS, Mr. MCCRERY, and Mr. RANGEL.

At 5:13 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 bill, in which it requests the concurrence of the Senate:

H.R. 5121. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar.

H.R. 5093. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

H.R. 5121. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Appropriations, with an amendment in the nature of a substitute:

H.R. 5010: A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–213).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 293: A resolution designating the week of November 10 through November 16, 2002, as ''National Veterans Awareness Week'' to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 862: A bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2002 through 2006 to carry out the State Criminal Alien Assistance Program.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2395: A bill to prevent and punish counterfeiting and copyright piracy, and for other purposes.

S. 2513: A bill to asses the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence.

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. CRAPO (for himself and Mr. CONRAD):

S. 2750. A bill to improve the provision of telehealth services under the medicare program, to provide grants for the development of telehealth networks, and for other purposes; to the Committee on Finance.

By Ms. LANDRIEU:

S. 2751. A bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to the Committee on Armed Services.

By Mr. JEFFORDS (for himself, Mr. FRIST, Mr. GREGG, Mr. BREAUX, and Mr. FEINGOLD):

S. 2752. A bill to amend title XVIII of the Social Security Act to provide for the establishment of medicare demonstration programs to improve health care quality; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. BOND, Mr. CLELAND, Ms. CANTWELL, Mr. BINGAMAN, and Mrs. CARNAHAN):

S. 2753. A bill to provide for a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Ms. COLLINS:

S. 2754. A bill to establish a Presidential Commission on the United States Postal Service; to the Committee on Governmental Affairs.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 2755. A bill to require the Secretary of the Treasury to mint coins in commemoration of the opening of the National Constitution Center in Philadelphia, Pennsylvania, scheduled for July 4, 2003; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. JEFFORDS (for himself, Mr. LEAHY, Mr. SCHUMER, and Mrs. CLINTON):

S. 2756. A bill to establish the Champlain Valley National Heritage Partnership in the States of Vermont and New York, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BIDEN:

S. 2757. A bill to amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drugs under the medicare program; to the Committee on Finance.

By Mr. DODD (for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. REED, Mr. BINGAMAN, Mrs. CLINTON, Mrs. MURRAY, and Mr. EDWARDS):

S. 2758. A bill entitled ''The Child Care and Development Block Grant Amendments Act''; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HOLLINGS (for himself, Mr. LOTT, and Mr. BREAUX):

S. 2759. A bill to protect the health and safety of American consumers under the Federal Food, Drug, and Cosmetic Act from seafood contaminated by certain substances; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPECTER (for himself and Mr. HARKIN):

S.J. Res. 41. A joint resolution calling for Congress to consider and vote on a resolution for the use of force by the United States Armed Forces against Iraq before such force is deployed; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 267

At the request of Mr. AKAKA, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 267, a bill to amend the Packers and Stockyards Act of 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or

market nonambulatory livestock, and for other purposes.

S. 654

At the request of Mr. TORRICELLI, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 654, a bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 786

At the request of Mr. DURBIN, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 786, a bill to designate certain Federal land in the State of Utah as wilderness, and for other purposes.

S. 1502

At the request of Mr. JEFFORDS, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 1502, a bill to amend the Internal Revenue Code of 1986 to allow a refundable tax credit for health insurance costs for COBRA continuation coverage, and for other purposes.

S. 1785

At the request of Mr. CLELAND, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1785, a bill to urge the President to establish the White House Commission on National Military Appreciation Month, and for other purposes.

S. 1924

At the request of Mr. LIEBERMAN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1924, a bill to promote charitable giving, and for other purposes.

S. 1945

At the request of Mr. JOHNSON, the names of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 1945, a bill to provide for the merger of the bank and savings association deposit insurance funds, to modernize and improve the safety and fairness of the Federal deposit insurance system, and for other purposes.

S. 1961

At the request of Mr. SMITH of New Hampshire, his name was withdrawn as a cosponsor of S. 1961, a bill to improve financial and environmental sustainability of the water programs of the United States.

S. 2027

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2027, a bill to implement effective measures to stop trade in conflict diamonds, and for other purposes.

S. 2053

At the request of Mr. FRIST, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2053, a bill to amend the Public Health Service Act to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine injury compensation program, and for other purposes.

S. 2085

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2085, a bill to amend title XVIII of the Social Security Act to clarify the definition of homebound with respect to home health services under the medicare program.

S. 2119

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2119, a bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, and for other purposes.

S. 2233

At the request of Mr. THOMAS, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 2233, a bill to amend title XVIII of the Social Security Act to establish a medicare subvention demonstration project for veterans.

S. 2239

At the request of Mr. SARBANES, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2239, a bill to amend the National Housing Act to simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers.

S. 2268

At the request of Mr. MILLER, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2268, a bill to amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

At the request of Mr. CRAIG, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 2268, supra.

S. 2480

At the request of Mr. LEAHY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

S. 2531

At the request of Ms. COLLINS, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2531, a bill to amend the Public Health Service Act to authorize the Commissioner of Food and Drugs to conduct oversight of any entity engaged in the recovery, screening, testing, processing, storage, or distribution of human tissue or human tissue-based products.

S. 2554

At the request of Mr. SMITH of New Hampshire, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. 2554, a bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

S. 2611

At the request of Mr. REED, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2611, a bill to reauthorize the Museum and Library Services Act, and for other purposes.

S. 2614

At the request of Mr. CORZINE, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2614, a bill to amend title XVIII of the Social Security Act to reduce the work hours and increase the supervision of resident physicians to ensure the safety of patients and resident physicians themselves.

S. 2674

At the request of Mr. BROWNBACK, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 2674, a bill to improve access to health care medically underserved areas.

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 2674, supra.

S. 2692

At the request of Mr. CORZINE, the names of the Senator from Missouri (Mrs. CARNAHAN) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 2692, a bill to provide additional funding for the second round of empowerment zones and enterprise communities.

S. 2712

At the request of Mr. HAGEL, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 2712, a bill to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

S. 2721

At the request of Mr. SARBANES, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2721, a bill to improve the voucher rental assistance program under the United States Housing Act of 1937, and for other purposes.

S. 2734

At the request of Mr. KERRY, the names of the Senator from Georgia (Mr. CLELAND), the Senator from Missouri (Mrs. CARNAHAN) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 2734, a bill to provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought.

S. RES. 242

At the request of Mr. THURMOND, the name of the Senator from Virginia (Mr.

WARNER) was added as a cosponsor of S. Res. 242, a resolution designating August 16, 2002, as ''National Airborne Day''.

S. RES. 266

At the request of Mr. FRIST, his name was added as a cosponsor of S. Res. 266, a resolution designating October 10, 2002, as ''Put the Brakes on Fatalities Day''.

S. RES. 293

At the request of Mr. BIDEN, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. Res. 293, a resolution designating the week of November 10 through November 16, 2002, as ''National Veterans Awareness Week'' to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

AMENDMENT NO. 4305

At the request of Ms. STABENOW, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from New York (Mr. SCHUMER), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Missouri (Mrs. CARNAHAN), the Senator from Michigan (Mr. LEVIN), the Senator from South Dakota (Mr. JOHNSON), the Senator from Maine (Ms. SNOWE), the Senator from Vermont (Mr. JEFFORDS), the Senator from Illinois (Mr. DURBIN), the Senator from New York (Mrs. CLINTON) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of amendment No. 4305 proposed to S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAPO (for himself and Mr. CONRAD):

S. 2750. A bill to improve the provision of telehealth services under the Medicare program, to provide grants for the development of telehealth networks, and for other purposes; to the Committee on Finance.

Mr. CRAPO. Mr. President, I am pleased to rise today to introduce, along with Senator CONRAD of North Dakota, legislation that would greatly enhance the use of telehealth technology to bring badly-needed health care services to rural and underserved areas throughout the country.

This bill would allow for greater reimbursement for telehealth services under Medicare and calls for a valuable investment in the development of new and more advanced telehealth networks in underserved areas. Telehealth is the future of rural health care. Access to quality health care in rural areas is at a critical stage. Today, many ill and disabled people must drive hundreds of miles, often in bad weather on dangerous roads, just to receive the most basic of health care. Access to specialists is even more prohibitive. However, by using much of the same technologies that we use to communicate with our constituents from here in Washington, we can bring quality health care, and specialty care, to their local health care provider.

I would like to thank Senator CONRAD, who has been a longtime supporter of telehealth services, for joining me in introducing this important legislation. Our bill would allow a wide variety of health care practitioners to provide telehealth services under Medicare. One of the biggest challenges for rural practitioners is obtaining the resources and infrastructure to provide technologically advanced telehealth services. Our bill would also provide valuable resources for the development of new telehealth networks in rural and underserved areas.

Technology in America is booming. We must embrace this technology as a cost-effective way to improve health care in rural and underserved areas. This legislation takes a large step in providing a modest investment toward the improvement of rural health care.

By Mr. JEFFORDS (for himself, Mr. FRIST, Mr. GREGG, Mr. BREAUX, and Mr. FEINGOLD):

S. 2752. A bill to amend title XVIII of the Social Security Act to provide for the establishment of medicare demonstration programs to improve health care quality; to the Committee on Finance.

Mr. JEFFORDS. Mr. President, I appreciate the opportunity to speak today on an issue that has been and will continue to be important and vital to the health of all Medicare beneficiaries. Medicare's origins date back to 1965; since that time little has changed in the relationship between incentives to provide care and quality of care received. The current system does not reward or provide incentives for providing quality health care. Instead, what has evolved over the last years is a perplexing data base of well documented facts concerning quality and utilization. This information is very difficult to explain but hard to ignore. Why is it that the utilization of some surgical procedures varies tremendously from one part of the country to the next? Why is it that the cost of care per beneficiary varies from location to location without clear differences in outcomes, survival, or quality? Today, after much work with numerous health systems, patient advocacy organizations, and medical quality researchers, my colleagues Senators FRIST, GREGG, BREAUX and FEINGOLD and I are pleased to announce the introduction of legislation to create Medicare demonstration projects to address these issues.

The incentives, both financial and non-financial, to provide best healthcare to Medicare beneficiaries are complex and poorly understood. These incentives have historically been rooted in the longstanding Medicare fee-for-service payment model. In an effort to better align the incentives to provide care with best practice guidelines, appropriate utilization, adherence to best medical information, and best outcomes we have written legislation to address these issues through a Medicare demonstration project. This project will implement continuous quality improvement mechanisms that are aimed at integrating primary care, referral care, support care, and outpatient services. The bill will encourage patient participation in care decisions; strive to achieve the proper allocation of health care resources; identify the appropriate use of culturally and ethnically sensitive services in health care delivery; and document the financial effects of these decisions on the medical marketplace.

As we enter an era of rapidly increasing numbers of Medicare beneficiaries, it will be increasingly important that we re-evaluate the Medicare program to insure that the quality of care received is uniformly exceptional in its delivery and quality. It is appropriate that we continue to find better ways to insure that the norms of quality health care are established and followed. It is my sincere hope that my colleges will join me in this endeavor.

Mr. FRIST. Mr. President, I rise today to introduce the Medicare Quality Improvement Act—a bill to help revitalize the Medicare Program by providing for the alignment of payment and other incentives. I want to thank Senators JEFFORDS, GREGG, and BREAUX for their work in helping craft this crucial legislation.

To meet the needs of the 21st century health care system, it is critical that payment policies be aligned to encourage and support quality improvement efforts. Even among health professionals motivated to provide the best care possible, the structure of payment and other incentives may not facilitate the actions needed to systematically improve the quality of care, and may even prevent such actions. For example, redesigning care processes to improve follow-up for chronically ill patients through electronic communication may reduce office visits and decrease revenues for a medical group under some payment schemes.

Current payment practices are complex and contradictory; and although incremental improvements are possible, more fundamental reform will be needed. In this report, ''Crossing the Quality Chasm,'' the Institute of Medicine encouraged the Centers for Medicare and Medicaid Services and the Agency for Healthcare Research and Quality to develop a research agenda to identify, test, and evaluate options for better aligning payment methods with quality improvement goals. The demonstration project authorized by this legislation is part of that larger research agenda—to help us understand the appropriate alight of payment and other incentives and improve the quality of health care in a way that will not increase the overall costs of Medicare.

We already have identified appropriate ways to align provider incentives. Research supported by the Robert Wood Johnson Foundation has noted at least 11 different incentive models—models that can be implemented by a wide variety of organizations and applied to a range of medical groups, providers, and health plans. In many circumstances, key components of these models have been implemented in several health care markets, and the research has shown that both financial and nonfinancial incentives, such as technical assistance, are important in motiving appropriate care. However, we do not know how these incentives might apply to Medicare, and that is why this demonstration is so vital.

It has been an honor and a pleasure to work closely with my distinguished colleagues on this bill, and I look forward to continuing to work with them and others as we move forward on the debate about how to more appropriately reform Medicare.

By Mr. KERRY (for himself, Mr. BOND, Mr. CLELAND, Ms. CANTWELL, Mr. BINGAMAN, and Mrs. CARNAHAN:

S. 2753. A bill to provide for a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, I am pleased today to introduce a critical piece of legislation intended to help small businesses receive their fair share of the Federal procurement pie and to ensure that they are being treated fairly within the Federal procurement system. I would like to thank my cosponsors, Senators BOND, CLELAND, CANTWELL, BINGAMAN and CARNAHAN for working with me and small business groups to craft this legislation, as well as Congressman ALBERT WYNN, for his partnership on this legislation. Congressman WYNN will soon be introducing companion legislation in the House.

In my time as Chairman of the Committee on Small Business and Entrepreneurship and previously as Ranking Member, two facts regarding small business procurement have made themselves very clear, small businesses are not getting their fair share of Federal procurement and there is no one in the entire Federal Government with the sole responsibility of advocating for small businesses, governmentwide, in the procurement process and ensuring that Federal agencies and large business prime contractors treat small businesses fairly. Some individuals are responsible for portions of this job, but no one performs this role as their primary job function or has the authority to do so solely.

I felt this was a glaring oversight and looked to the current make-up of the SBA to see if it could be rectified. My solution is a new position modeled along the Small Business Administration's, SBA, regulatory ombudsman, which could focus solely on procurement matters. A new ombudsman for small business procurement, or the Small and Disadvantaged Business Ombudsman, is needed to fill this role for procurement matters, just as the SBA's National Ombudsman does for regulatory issues. By creating a parallel position, each ombudsman can focus on his or her key mission, without detracting from either regulatory or procurement issues important to the small business community.

While no legislation alone can ever solve the complex problems faced by small businesses in today's Federal procurement environment, I believe the creation of a Small and Disadvantaged Business Ombudsman at the SBA will put us firmly on the right track and address several procurement issues raised through program oversight and communication with small business owners.

For example, small businesses frequently contact my office to report problems they are having with a prime contractor or a contracting agency. Too often, these businesses are afraid to come forward and make an official complaint for fear of being blackballed and denied future contracting opportunities. The SDB Ombudsman will provide one solution for these small businesses who fear being blacklisted by allowing them to submit confidential complaints. The SDB Ombudsman will have the responsibility of tracking these complaints and trying to rectify them.

The SDB Ombudsman will also work to change the culture at Federal procuring agencies by tracking and reporting on the training of procurement personnel and working to ensure that this training not only includes the ''How to's'' of small business participation, but also includes training on why small business participation is crucial to agency success and the national economy.

Until the Federal Government, at all levels, realizes the importance of doing business with small business, small business participation in Federal procurement will continue to decline, our Nation will lose its access to a wide range of small business suppliers, and small businesses across the country will continue to lose billions of dollars in procurement opportunities year after year. Of critical importance in the legislation is the first statutory consequence of an agency failing to meet its small business goals. Under the legislation, if an agency fails to meet any small business goal, the agency would be required to submit a report and an action plan to the SDB Ombudsman detailing why the agency failed to meet its small business goal or goals, and what the agency intends to do to remedy the situation.

The SDB Ombudsman will also be responsible for tracking compliance with Section (k) of the Small Business Act, which stipulates, in part, that the Director of the Office of Small and Disadvantaged Business Utilization at each Federal agency shall report to the head or deputy head of the agency. Late last year, with the support of Ranking Member BOND, I sent a letter to 21 Federal agencies to gauge compliance with this provision. Using a very lenient standard of compliance, I have concluded that at least nine of the Federal agencies surveyed are in violation of Section (k) of the Small Business Act. This is unacceptable.

On June 19, 2002, the Committee on Small Business and Entrepreneurship help a roundtable to discuss Federal procurement policies. The roundtable, title ''Are Government Purchasing Policies Hurting Small Business?'' was attended by a wide range of small business advocates, small business owners and government officials. One of the topics discussed during the roundtable was my draft proposal, the SDB Ombudsman Act, to create a new position at the SBA to monitor Federal agency compliance with certain provisions of the Small Business Act and serve as a focal point to assist small businesses that were treated unfairly in the Federal procurement process.

During the Roundtable, I asked the participants for their recommendations on how to improve the legislation to ensure that the SDB Ombudsman serves as the most effective advocate possible for small business. The Committee record was also kept open for two weeks so that participants could submit further comments.

I have now reviewed the Committee record and further submissions and am pleased to say that the responses were very positive. Several important suggestions were made to strengthen the Office of Small and Disadvantaged Business Utilization at each Federal agency as an important corollary to the creation of the SDB Ombudsman, since the SDB Ombudsman would be relying on each OSDBU to fulfill his or her statutory responsibilities.

Many other small businesses have come to the Committee on Small Business and Entrepreneurship and requested that we strengthen the OSDBUs at each agency as well. This legislation fulfills that request by including six new provisions.

First, the legislation clarifies that OSDBU Directors shall report to the highest level at each agency. In the study I mentioned previously, too often, an agency cited a bifurcated reporting system whereby the OSDBU Director reports to the head or deputy head on small business matters, but to other, lower-ranking personnel for budgetary or personnel matters. The Small Business Act does not envision such a system. Therefore, I felt it necessary to clarify, in no uncertain terms, that the OSDBU Director must report to the head or deputy head of his or her agency only, for all matters.

Second, the legislation requires that all OSDBU Directors now be career personnel. The Director's position is one

of advocacy, which often entails challenging co-workers and political personnel, including superiors. Under current law, OSDBU Directors may be political appointees. While this has worked in some instances, I believe the small business community would be better served by career personnel with job protections.

Third, the legislation requires the OSDBU Director to be well-qualified in assisting small businesses with procurement matters. No one disputes the expertise of Federal procurement officials; however, procurement expertise does not always translate to small business procurement expertise. This provision will help ensure that small businesses are being served by those who understand their particular procurement needs.

Fourth, the legislation requires that, at major Federal agencies, the OSDBU Director have no job responsibilities outside the scope of the authorizing legislation. This provision was included because far too many agencies assign the OSDBU Director title to their procurement chief or another official with similar responsibilities, while the actual OSDBU program is run by someone else. This provision will stop this abuse.

Fifth, the legislation requires that a procurement chief not serve as the Director of the OSDBU program at a Federal agency. I firmly believe that the OSDBU Director's goal is fundamentally different from, and at times even opposed to, that of a chief procurement official who must be fair to all Federal contractors. An OSDBU Director's role is one of advocacy. He or she must take the side of small business, and no procurement chief can do this and perform both jobs fairly and effectively. While OSDBU Directors at major Federal agencies are barred from having additional responsibilities under this legislation, non-major Federal agency OSDBU Directors may. This provision will help ensure that at our non-major Federal agencies, the OSDBU Director can act fairly on behalf of small businesses.

Sixth, the legislation provides statutory authority for the OSDBU Council. Under the legislation, each OSDBU Director will have membership on the Council, which will meet at least once every two months. The Council's role is to discuss issues of importance to the OSDBUs and the small business community they serve. OSDBU Directors serving at major Federal agencies have as a part of their responsibilities an obligation, under this legislation, to attend Council meetings. This provision was included to once again prevent Federal agencies from circumventing the Small Business Act. Attendance at Council meetings will help ensure that Federal agencies are complying with the law and that OSDBU Directors are small business advocates, not simply procurement personnel with two hats.

One final note on the legislation is that the inclusion of a provision to increase the governmentwide small business prime contracting procurement goal from 23 percent to 30 percent has been retained, although it will now be phased in over three years: 26 percent in FY 2004, 28 percent in FY 2005 and 30 percent in FY 2006 and thereafter.

When I first made the suggestion that the small business procurement goal should be increased seven percentage points, my office received numerous calls, both in support of the increase and in opposition. Some even suggested raising the goal to a level of 40 percent. But, by and large, those in opposition pointed to one fact: The Federal Government has never achieved such a level of small business procurement participation. And while that is true, no one said that it was impossible. Given the disappointing achievement of the Federal Government on the current small business goal of 23 percent, I believe it is time to raise the bar.

When Congress enacted goals as part of the Small Business act, the goals were intended to be a minimum standard of achievement. For too long, the goals have been treated as a target for attainment, not a minimum level of acceptable small business participation. This too must change. Almost every year the Federal Government comes very close to hitting the small business prime contracting goal of 23 percent right on the head. Some years it does slightly better, and some years, unfortunately, it does slightly worse. However, this trend demonstrates one important principle, the government is firmly shooting for 23 percent, no more—no less.

By raising the statutory goal, it is my hope that the Federal Government will shoot for the higher target and succeed. But I ask my colleagues to look at this critically in that the goal for small business isn't so much being raised as the 77 percent of Federal procurement that now goes to large businesses, which represent only a tiny portion of all Federal contractors, is being reduced to 70 percent. So if the small business goal should increase to 30 percent, 70 percent of all Federal procurement will still be awarded to a relatively small number of all Federal contractors. Is this fair to small business? No. But it is an improvement.

I am pleased to say that my legislation is supported by groups representing primarily small businesses or small business contractors, such as the National Small Business United, NSBU, Women Impacting Public Policy, WIPP, and the Association of Small and Disadvantaged Business, as well as advocacy groups such as the Latin American Management Association, LAMA, the Minority Business Enterprise Legal Defense and Education Fund, MBELDEF, and the Veterans of Foreign Wars, VFW.

I thank them as well as the cosponsors of this legislation, Senators BOND, CLELAND, CANTWELL, BINGAMAN and CARNAHAN for their assistance, input and support, and I look forward to continuing to work with them on this and other important issues.

I ask unanimous consent that the text of the Small and Disadvantaged Business Ombudsman Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, 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.

This Act may be cited as the ''Small and Disadvantaged Business Ombudsman Act''.

SEC. 2. SBA SMALL AND DISADVANTAGED BUSINESS OMBUDSMAN FOR PROCUREMENT.

Section 30 of the Small Business Act (15 U.S.C. 657) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''and'';

(B) in paragraph (2), by striking the period and adding a semicolon; and

(C) by adding at the end the following:

''(3) 'SDB Ombudsman' means the Small and Disadvantaged Business Ombudsman for Procurement, designated under subsection (e); and

''(4) 'Major Federal agency' means an agency of the United States Government that, in the previous fiscal year, entered into contracts with non-Federal entities to provide the agency with a total of not less than $200,000,000 in goods or services.''; and

(2) by adding at the end the following:

''(e) SBA SMALL AND DISADVANTAGED BUSINESS OMBUDSMAN FOR PROCUREMENT.—

''(1) APPOINTMENT.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Small and Disadvantaged Business Ombudsman Act, the Administrator shall designate a Small and Disadvantaged Business Ombudsman for Procurement (referred to in this section as the 'SDB Ombudsman').

''(B) QUALIFICATIONS.—The SDB Ombudsman shall be—

''(i) highly qualified, with experience assisting small business concerns with Federal procurement; and

''(ii) designated from among employees of the Federal Government, to the extent practicable.

''(C) LINE OF AUTHORITY.—The SDB Ombudsman shall report directly to the Administrator.

''(D) SENIOR EXECUTIVE SERVICE.—The SDB Ombudsman shall be paid at an annual rate not less than the minimum rate, nor more than the maximum rate, for the Senior Executive Service under chapter 53 of title 5, United States Code.

''(2) DUTIES.—The SDB Ombudsman shall—

''(A) work with each Federal agency with procurement authority to ensure that small business concerns are treated fairly in the procurement process;

''(B) establish a procedure for receiving comments from small business concerns and personnel of the Office of Small and Disadvantaged Business Utilization of each Federal agency regarding the activities of agencies and prime contractors that are not small business concerns on Federal procurement contracts; and

''(C) establish a procedure for addressing the concerns received under subparagraph (B).

''(3) ANNUAL REPORT.—

''(A) IN GENERAL.—No later than 1 year after the date of enactment of this subsection, and annually thereafter, the SDB Ombudsman shall provide a report to the Committee on Small Business of the House

of Representatives and the Committee on Small Business and Entrepreneurship of the Senate.

''(B) CONTENTS.—The report required under subparagraph (A) shall contain—

''(i) information from the Federal Procurement Data System pertaining to contracting and subcontracting goals of the Federal Government and each Federal agency with procurement authority;

''(ii) a copy of the report submitted to the SDB Ombudsman by each major Federal agency and an evaluation of the goal attainment plans submitted to the SDB Ombudsman pursuant to paragraph (5);

''(iii) an evaluation of the success or failure of each major Federal agency in attaining its small business procurement goals, including a ranking by agency on the attainment of such goals;

''(iv) a summary of the efforts of each major Federal agency to promote contracting opportunities for small business concerns by—

''(I) educating and training procurement officers on the importance of small business concerns to the economy and to Federal contracting; and

''(II) conducting outreach initiatives to promote prime and subcontracting opportunities for small business concerns;

''(v) an assessment of the knowledge of the procurement staff of each major Federal agency concerning programs that promote small business contracting;

''(vi) substantiated comments received from small business concerns and personnel of the Office of Small and Disadvantaged Business Utilization of each Federal agency regarding the treatment of small business concerns by Federal agencies on Federal procurement contracts;

''(vii) an analysis of the responsiveness of each Federal agency to small business concerns with respect to Federal contracting and subcontracting;

''(viii) an assessment of the compliance of each Federal agency with section 15(k) of the Small Business Act (15 U.S.C. 644(k); and

''(ix) a description of any discrimination faced by small business concerns based on their status as small business concerns or the gender or the social or economic status of their owners.

''(C) NOTICE AND COMMENT.—

''(i) IN GENERAL.—The SDB Ombudsman shall provide notice to each Federal agency identified in the report prepared under subparagraph (A) that such agency has 60 days to submit comments on the draft report to the SDB Ombudsman before the final report is submitted to Congress under subparagraph (A).

''(ii) INCLUSION OF OUTSIDE COMMENTS.—

''(I) IN GENERAL.—The final report prepared under this paragraph shall contain a section in which Federal agencies are given an opportunity to respond to the report contents with which they disagree.

''(II) NO RESPONSE.—If no response is received during the 60-day comment period from a particular agency identified in the report, the final report under this paragraph shall indicate that the agency was afforded an opportunity to comment.

''(D) CONFIDENTIALITY.—In preparing the report under this paragraph, the SDB Ombudsman shall keep confidential all information that may expose a small business concern or an employee of an Office of Small and Disadvantaged Business Utilization to possible retaliation from the agency or prime contractor identified by the small business concern, unless the small business concern or employee of the Office of Small and Disadvantaged Business Utilization consents in writing to the release of such information.

''(4) INTERAGENCY COORDINATION.—Each Federal agency, through its Office of Small and Disadvantaged Business Utilization, shall assist the SDB Ombudsman to ensure compliance with—

''(A) the Federal procurement goals established pursuant to section 15(g);

''(B) the procurement policy outlined in section 8(d), which states that small business concerns should be given the maximum practicable opportunity to participate in Federal contracts;

''(C) Federal prime contractors small business subcontracting plans negotiated under section 8(d)(4)(B);

''(D) the responsibilities outlined under section 15(k); and

''(E) any other provision of this Act.

''(5) GOAL ATTAINMENT PLAN.—If a major Federal agency fails to meet any small business procurement goal under this Act in any fiscal year, such agency shall submit a goal attainment plan to the SDB Ombudsman not later than 90 days after the end of the fiscal year in which the goal was not met, containing—

''(A) a description of the circumstances that contributed to the failure of the agency to reach its small business procurement goals; and

''(B) a detailed plan for meeting the small business procurement goals in the fiscal year immediately following the fiscal year in which the goal was not met.

''(6) EFFECT ON OTHER OFFICES.—Nothing in this section is intended to replace or diminish the activities of the Office of Small and Disadvantaged Business Utilization or any similar office in any Federal agency.

''(7) ADMINISTRATIVE RESOURCES.—To enable the SDB Ombudsman to carry out the duties required by this subsection, the Administrator shall provide the SDB Ombudsman with sufficient—

''(A) personnel;

''(B) office space; and

''(C) dedicated financial resources, which are specifically identified in the annual budget request of the Administration.''.

SEC. 3. OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.

(a) DIRECTOR.—Section 15(k) of the Small Business Act (15 U.S.C. 644(k)) is amended—

(1) in the first sentence, by inserting ''(except for the Administration)'' after ''Federal agency'';

(2) by striking paragraph (2), and inserting the following:

''(2) be well qualified, with experience assisting small business concerns with Federal procurement, and receive basic pay at a rate not to exceed the rate of pay for grade 15 of the General Schedule, under section 5332 of title 5, United States Code;'';

(3) by striking paragraph (3) and inserting the following:

''(3) be appointed by the head of such agency, be responsible to, and report only to, the head or deputy head of such agency for policy matters, personnel matters, budgetary matters, and all other matters;'';

(4) in paragraph (9), by striking '', and'' and inserting a semicolon;

(5) in paragraph (10)—

(A) by striking ''or section 8(a) of this Act or section 2323 of title 10, United States Code. Such recommendations'' and inserting ''section 8(a), or section 2323 of title 10, United States Code, which recommendations''; and

(B) by striking the period at the end and inserting a semicolon; and

(6) by striking the undesignated matter after paragraph (10) and inserting the following:

''(11) not concurrently serve as the chief procurement officer for such agency; and

''(12) if the officer is employed by a major Federal agency (as defined in section 30)—

''(A) have no other job duties beyond those described under this subsection;

''(B) receive basic pay at a rate equal to the rate of pay for grade 15 of the General Schedule, under section 5332 of title 5, United States Code; and

''(C) attend the meetings of the Office of Small and Disadvantaged Business Utilization Council.''.

(b) OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION COUNCIL.—

(1) ESTABLISHMENT.—There is established an interagency council to be known as the ''Office of Small and Disadvantaged Business Utilization Council'' (in this subsection referred to as the ''Council'').

(2) MEMBERSHIP.—The Council shall be composed of—

(A) the Director of Small and Disadvantaged Business Utilization from each Federal agency;

(B) the Small and Disadvantaged Business Ombudsman for Procurement, as an ex officio member; and

(C) other individuals, as ex officio members, as the Council considers necessary.

(3) LEADERSHIP.—

(A) CHAIRPERSON.—The members of the Council shall elect a chairperson, who shall serve for a 1-year, renewable term.

(B) OTHER POSITIONS.—The members of the Council may elect other leadership positions, as necessary, from among its members.

(C) VOTING.—Each member of the Council, except for ex officio members, shall have voting rights on the Council.

(4) MEETINGS.—

(A) FREQUENCY.—The Council shall meet not less frequently than once every 2 months.

(B) ISSUES.—At the meetings under subparagraph (A), the Council shall discuss issues faced by each Office of Small and Disadvantaged Business Utilization, including—

(i) personnel matters;

(ii) barriers to small business participation in Federal procurement;

(iii) agency compliance with section 15(k) of the Small Business Act (15 U.S.C. 644(k)), as amended by this Act; and

(iv) any other matter that the Council considers necessary to further the mission of each Office of Small and Disadvantaged Business Utilization.

(5) FUNDING LIMITATION.—The Small Business Administration shall not provide the Council with financial assistance to carry out the provisions of this section.

SEC. 4. GOVERNMENTWIDE SMALL BUSINESS GOAL.

Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended in the second sentence, by striking ''23 percent of the total value of all prime contract awards for each fiscal year.'' and inserting ''26 percent of the total value of all prime contract awards for fiscal year 2004, not less than 28 percent of the total value of all prime contract awards for fiscal year 2005, and not less than 30 percent of the total value of all prime contract awards for fiscal year 2006 and each fiscal year thereafter.''.

By Ms. COLLINS:

S. 2754. A bill to establish a Presidential Commission on the United States Postal Service; to the Committee on Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today to introduce the ''United States Postal Service Commission Act of 2002.'' This legislation will establish a Commission to examine the challenges facing the Postal Service and develop

solutions to ensure its long term viability and increased efficiency.

The Postal Service's problems have reached a near crisis level. In 2000, the Postal Service lost nearly $200 million, while in 2001, this loss ballooned to $1.68 billion. Losses are projected to be $1.35 billion this year, despite the $675 million in appropriations from Congress to cover the unanticipated costs associated with the September 11 attacks and the anthrax incidents. The Postal Service is mandated by law to break even on its operating expenses and its capital needs, both of which continue to grow.

The Postal Service is also fast approaching its $15 billion statutory borrowing limit. Given its recent history of increasing rather than paying down its debt, increasing the Postal Service's debt ceiling is not the answer. In addition, the Postal Service's long term liabilities are enormous, to the tune of nearly $6 billion for Workers Compensation claims, a staggering $32 billion in retirement costs and perhaps as much as $45 billion to cover retiree health care costs. Meanwhile, on June 30, consumers experienced a third postal rate increase in just 18 months.

How could the Postal Service have landed in such dire straits? The Postal Service's problems stem from many causes. For example, the overall growth rate of mail has been declining since 1997, and first class mail volumes actually have declined over the past four years. This is particularly significant, as first class mail accounts for 48 percent of total mail volume. In addition, revenues from first class mail cover more than two-thirds of institutional costs, such as post offices. Shortfalls must be made up by decreasing costs, increasing volumes in other categories of mail or by increasing postal rates.

Some of this declining volume can be attributed to the increasing forms of electronic communication, particularly the Internet, which has revolutionized the way we communicate and transact business. For example, while financial statements, bills and bill payments constitute about half of first class mail revenue, or about $17 billion annually, electronic bill payment is quickly becoming a major means of doing business. It is estimated that 75 percent of banks will provide online banking services by 2003. This is in addition to other competing methods of communication such as faxes and telephones. In addition, filing tax returns, receiving Social Security payments, and many other transactions are also available electronically.

The Postal Service also faces significant labor-related costs. Indeed nearly 80 percent of its expenses are related to compensation and benefits. By comparison, 56 percent of FedEx's expenses and 42 percent of UPS's expenses are related to compensation and benefits.

The need to preserve a viable Postal Service is clear. Americans rely on affordable, reliable and universal mail delivery as their primary means of communication. The Postal Service delivers more than 200 billion pieces of mail each year to nearly 140 million addresses, which accounts for more than 40 percent of the world's mail. Moreover, 1.7 million new delivery points are added each year—roughly the equivalent of adding the number of addresses in Chicago. More than seven million Americans visit post offices each day.

In States with large rural areas, such as Maine, it is vital that postal services remain in place. If the Postal Service were no longer obligated to provide universal service and deliver mail to every customer, six days a week, the affordable communication link upon which many Americans rely would be jeopardized. Most commercial enterprises would find it uneconomical, if not impossible, to deliver mail and packages to these areas at rates that the Postal Service has been offering.

In addition to providing a critical service to consumers, the Postal Service is the eleventh largest enterprise in the Nation with $66 billion in annual revenues. This is more than Microsoft, McDonald's and Coca Cola combined. While the Postal Service itself employs more than 700,000 career employees, it is also the linchpin of a $900 billion mailing industry that employs nine million Americans in fields as diverse as direct mailing, printing and paper production.

Affordable postal rates are vital to the economic health of many companies, especially magazines, catalog houses and the service providers they use. The June 2002 rate hike alone represents a ten percent increase for periodicals, and a nine percent increase for catalogs. It is estimated that the combined effect of the past three rate increases, totaling 22 percent over just 18 months, have cost the magazine industry about $400 million.

In May I met with a group of about twenty Maine businessmen and women involved in the mailing industry, who described for me the impact that rising postal rates have on their businesses. One magazine publisher told me that postage represents ten percent of her costs. I was amazed to hear that one of the catalog busineses pays more for postage a year than it pays to any one of the companies that supply the raw materials for its products. It was also startling to hear from one printer that his postage costs have doubled over the last ten years.

Most of the people I met with are small business owners, and there are millions more across the country, all grappling with the same effects of rapidly rising postage costs.

At the request of the Senate Governmental Affairs Committee and House Committee on Government Reform, the Postal Service produced a comprehensive Transformation Plan, which it presented to Congress in April. The Plan addresses general measures that the Postal Service believes it needs to take to ensure its survival, but it fails to lay out specific steps the Postal Service will take and a timeline for action. It is also unclear whether these measures will result in the cost savings necessary to ensure the long-term survival of the Postal Service.

Many attempts have been made to reform the Postal Service over the years. My colleagues in the House of Representatives have tried for nearly eight years to pass postal reform legislation, but to no avail. Stakeholders have widely diverging views on what shape postal reform should take, if any. This lack of consensus on how or whether to deal with divisive issues has led only to stalemates in Congress.

To take a fresh look at these difficult issues, I rise today to introduce legislation establishing a Presidential Postal Commission charged with examining the problems that the Postal Service faces, and developing specific recommendations and legislative proposals that Congress and the Postal Service can implement. Precedent exists for such a commission. In the late 1960s, the Kappel Commission was formed to resolve the crisis situation that the former Postal Department then found itself in, train cars of undelivered mail, strikes, and a host of other problems. The Kappel Commission's efforts laid the groundwork for the Postal Service we have today, which has functioned admirably for many years but is now in serious trouble.

Mindful of the body of work that has been done in this area by my colleagues in the House and Senate, by the General Accounting Office, by the Postal Service itself and by others, I intend that this commission have a short life of one year, during which it will carry out its study and produce legislative proposals for consideration by the Administration and the Congress.

Finally, I intend that the commission consider all relevant aspects of the Postal Service. Everything should be put on the table and evaluated. We need to ensure that the Postal Service will stand up to the challenges it is facing today and will face tomorrow.

These and many more issues must be examined in depth, if we are to preserve this vital service upon which so many Americans rely for communication and for their livelihood. The Postal Service has successfully overcome numerous difficulties over its 226-year history, and has continued to deliver the mail faithfully. Yet it has reached a critical juncture and once again, it is time for a thorough evaluation of the Postal Service's operations and requirements.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 2755. A bill to require the Secretary of the Treasury to mint coins in commemoration of the opening of the National Constitution Center in Philadelphia, Pennsylvania scheduled for

July 4, 2003; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SANTORUM. Mr. President I am pleased to introduce legislation along with my colleague Senator SPECTER to establish a one dollar silver coin that will benefit the National Constitution Center in Philadelphia, PA.

As the first national center of its kind in the country, the National Constitution Center will promote understanding of the United States Constitution and its values. The events of the past year in our nation as well as recent judicial rulings have brought increased attention to those principles and values that define and bind us as Americans. All would agree that the United States Constitution is central to defining our country, who we are, and how we live as Americans. Even as we often debate in the halls of Congress and the Supreme Court those policies and laws that best reflect the values and intent of the Constitution, we all recognize the freedoms and opportunity that this remarkable document secures for us.

The National Constitution Center has been an important project in Philadelphia with which Senator Specter and I have been involved. Construction began on September 17, 2000. When the Constitution Center is completed as expected on July 4, 2003, it will be a key feature of a revitalized Independence Mall where it will join Independence Hall and the Liberty Bell. The issuance of this coin would coincide with the opening of the Center.

I encourage all of my colleagues to support the National Constitution Center by cosponsoring this bill.

I ask unanimous consent that the text of the bill be printed in the record.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

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 ''National Constitution Center Commemorative Coin Act of 2002''.

SEC. 2. FINDINGS.

Congress finds that—

(1) a Constitutional Convention was convened in the summer of 1787 in Philadelphia, Pennsylvania for the purposes of replacing the failed Articles of Confederation as a framework for governing the 13 American colonies newly independent from Great Britain;

(2) the United States Constitution produced by the Convention would set the United States of America on a unique course of experiment in self-government that would profoundly impact the United States and the world;

(3) in its deliberations and promotion through such literary works as The Federalist Papers, the United States Constitution drew upon the successes and failures of nations and peoples dating as far back as the city-state republics of ancient Greece in forming representative governments;

(4) the first 10 amendments to the Constitution, known as the Bill of Rights, comprise the best written set of legal protections of the rights and dignity of the individual in the history of human civilization and continue to be the benchmark for nations' adherence to human rights standards;

(5) the principles of the United States Constitution have been enacted into the governing laws of numerous free countries around the globe, and are reflected in the founding documents of the United Nations;

(6) the United States Constitution created the framework for what is now the oldest representative democracy in the world;

(7) in its wisdom, the Constitutional Convention created a mechanism through which the United States Constitution can be perfected, as it has been 27 times to date, to better reflect its founding ideals, as well as to accommodate changing circumstances;

(8) the rights and freedoms secured to Americans by the United States Constitution have and continue to draw millions from around the globe to the shores of this Nation;

(9) all Americans should gain an understanding of and appreciation for the United States Constitution and the role this remarkable document plays in the freedoms and quality of life they enjoy;

(10) the National Constitution Center was established by the Constitution Heritage Act of 1988 (16 U.S.C. 407aa et seq.), which was signed into law by President Ronald Reagan on September 16, 1988, to provide for continuing interpretation of the Constitution and to establish a national center for the United States Constitution; and

(11) the National Constitution Center, located at the site of the birth of the Constitution, only steps away from the Liberty Bell and Independence Hall in the Independence National Historic Park in Philadelphia, Pennsylvania, is the only center in the world solely dedicated to promoting understanding of the Constitution and its values and ideals.

SEC. 3. COIN SPECIFICATIONS.

(a) $1 SILVER COINS.—The Secretary of the Treasury (in this Act referred to as the ''Secretary'') shall mint and issue not more than 500,000 $1 coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 4. SOURCES OF BULLION.

The Secretary may obtain silver for minting coins under this Act from stockpiles established under the Strategic and Critical Materials Stock Piling Act, to the extent available, and from other available sources, if necessary.

SEC. 5. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the National Constitution Center in Philadelphia, Pennsylvania.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''2003''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) DESIGN SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Constitution Center Coin Advisory Committee; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 6. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to mint coins under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act beginning on January 1, 2003, and ending when the quantity of coins issued under this Act reaches the limit under section 3(a).

SEC. 7. SALE OF COINS.

(a) SALE PRICE.—The coins minted under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins issued under this Act shall include a surcharge established by the Secretary, in an amount equal to not more than $10 per coin.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—Subject to section 5134(f) of title 31, United States Code, the proceeds from the surcharges received by the Secretary from the sale of coins minted under this Act shall be paid promptly by the Secretary to the National Constitution Center.

(b) USE OF PROCEEDS.—The proceeds received by the National Constitution Center under subsection (a) shall be used by the Center to promote a greater understanding of the Constitution and its values and ideals.

(c) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the National Constitution Center as may be related to the expenditures of amounts paid under subsection (a).

SEC. 8. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act, unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

By Mr. JEFFORDS (for himself, Mr. LEAHY, Mr. SCHUMER, and Mrs. CLINTON):

S. 2756. A bill to establish the Champlain Valley National Heritage Partnership in the States of Vermont and New York, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. JEFFORDS. Mr. President, I am very pleased to introduce the Champlain Valley National Heritage Act of 2002. I am joined by Senator LEAHY and

Senators SCHUMER and CLINTON of New York. This bill will establish a National Heritage Partnership within the Champlain Valley. Passage of this bill will culminate a process to enhance the incredible cultural resources of the Champlain Valley.

The Champlain Valley of Vermont and New York has one of the richest and most intact collections of historic resources in the United States. Fort Ticonderoga still stands where it has for centuries, at the scene of numerous battles critical to the birth of our Nation. Revolutionary gunboats have recently been found fully intact on the bottom of Lake Champlain. Our cemeteries are the permanent resting place for great explorers, soldiers and sailors. The United States and Canada would not exist today but for events that occurred in this region.

We in Vermont and New York take great pride in our history. We preserve it, honor it and show it off to visitors from around the world. These visitors are also very important to our economy. Tourism is among the most important industries in this region and has much potential for growth.

The Champlain Valley Heritage Partnership will bring together more than one hundred local groups working to preserve and promote our heritage. Up to $2 million a year will be made available from the National Park Service though the Lake Champlain Basin Program to support local efforts to preserve and interpret our heritage and present it to the world. Most of the funding will be given to small communities to help preserve their heritage and develop economic opportunities.

This project has taken many years for me to bring to the point of introducing legislation. This has been time well spent working at the grass-roots level to develop a framework to direct federal resources to where it will do the most good. I am confident that we have found the best model. This will be a true partnership that supports each member but does not impose any new Federal requirements.

The Champlain Valley National Heritage Partnership will preserve our historic resources, interpret and teach about the events that shaped our Nation and will be an engine for economic growth. I am hopeful that this bill soon become law.

Mr. LEAHY. Mr. President, I am very pleased to join with my Senate colleagues from Vermont and New York as we introduce the Lake Champlain Heritage Act of 2002. With this legislation, we will take an important step in recognizing the importance of the Lake Champlain Valley in the history of America.

I want to thank Senator JEFFORDS and his staff for all the work they have put into this effort. I know that many hours have gone into the research, discussion and editing to get where we are today. I also want to thank Senators CLINTON and SCHUMER who are our valuable New York partners in all things related to Lake Champlain.

Over the July 4th recess, I was able to participate in the Lake Champlain Maritime Museum's opening of a new exhibit featuring artifacts recovered from the 1776 Revolutionary War Battle of Valcour. It was just 1 year ago that Senator CLINTON and I were at the site of the Battle to take part in the recovery and beginning of the conservation process of those artifacts.

The Valcour Bay Research Project followed the 1997 discovery of the missing American gunboat from the Battle. I bring this up because our purpose today as we introduce this legislation underscores to the rest of our Nation a message we Vermonters and New Yorkers have long proclaimed: the role of Lake Champlain in the cause of American independence cannot be overlooked.

The evidence of the struggle for this strategic waterway from the days of Native American excursions, through the colonial rivalry between Britain and France, our War of Independence, until the end of the War of 1812, constantly surrounds those of us who make our homes in this Valley.

This act is intended to advance the cultural heritage goals of ''Opportunities for Action,'' the comprehensive plan developed under the Lake Champlain Special Designation Act by the Lake Champlain Basin Program with broad public input and support as well as with the involvement of local, State and Federal Governments.

We envision activities such as locally planned and managed heritage networks and programs, a management strategy for the Lake's underwater cultural resources and strengthening the links between cultural resources and economic development. This legislation will also help provide assistance as the 400th anniversary of Samuel De Champlain's arrival in the Valley is commemorated in 2009.

Today, we are taking a significant step in helping all Americans better appreciate the full history of the Lake Champlain Valley which holds such an extensive collection of historic sites and artifacts.

As Vermonters and New Yorkers the stewards of Lake Champlain, we have a serious responsibility to conserve this evidence for future generations. We believe that what we do here, how we manage the cultural heritage of the Valley, can contribute to the growing debate on how present generations can live and prosper on the same ground that we conserve as our natural and cultural heritage.

Our Vermont and New York Champlain Valley communities share this heritage and have helped us develop a vision to enhance the conservation, interpretation and enjoyment of our shared history and to make it more readily available to residents and visitors alike. We can help revitalize local economies and promote heritage tourism as we improve the stewardship of the Valley's cultural legacy by making additional resources available to communities and organizations through the Lake Champlain Basin Program.

I think it is most fitting that we have come here together to introduce this long-awaited bill, reasserting our partnership for Lake Champlain: Vermont and New York engaged in a cooperative effort to conserve, interpret, and honor our common heritage.

By Mr. BIDEN:

S. 2757. A bill to amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drugs under the medicare program; to the Committee on Finance.

Mr. BIDEN. Mr. President, today I am introducing a bill to add outpatient prescription drug coverage as a new and integral benefit under Part B of Medicare. Under this bill, like the rest of the services under Part B, Medicare will pick up 80 percent of the cost of prescription drugs. This would be the case until a beneficiary hits a $4000 annual out-of-pocket limit, at which point the government picks up 100 percent of drug costs. Moreover, beneficiaries will not have to pay increased monthly premiums or annual deductibles as a result of this new drug benefit.

Now, we have been discussing prescription drug coverage for seniors in this chamber for many years, and there have been numerous proposals brought forward. Some might ask, why do you feel the need to propose your own prescription drug plan; what is wrong with the many previous proposals.

Well, to my way of thinking, we have lost our focus on this issue. In developing a drug plan, we have concentrated too much on such things as budget allotments, philosophy of government, desires of committee chairs, election politics, and other related issues, while ignoring the one thing that really counts: what do the citizens of this country, the ones who are supposed to use this plan, really want? All of these prescription drug plans will be voluntary, and yet unless a plan is attractive enough to ensure the participation of close to 100 percent of those eligible, it probably won't work from an economic point of view. Those of us who were around in 1988 for the debates about catastrophic health care remember with great clarity the consequences of passing a health-related bill that the citizens don't want.

Frankly, I have some doubts about whether any of the prescription drug proposals to date provide what the citizens in Delaware or elsewhere really want. And I think I have a pretty good idea of what people want in a prescription drug plan, at least people in my home state of Delaware. I live in Delaware, and I commute back and forth on AMTRAK every day between Delaware and Washington DC. I have been a Senator for 30 years and people in Delaware know me well. They have no reluctance about walking up to me at the local diner, on the train, or at the drugstore, to give me a piece of their

minds. And here is what Delawareans want in a prescription drug bill.

They want something simple and easily understandable. They don't want a plan with a lot of fine print, exclusions, complicated payment formulas, gaps in coverage, lengthy paragraphs filled with whereases and wherefores. They don't want to be in a state of constant anxiety because they really don't know what they have signed up for and what they are covered for. They don't want to have to spend hours on the phone listening to music while waiting for an insurance company clerk to answer the phone and try to explain what the benefits are. They don't want to spend a whole day filling out paperwork to try to get reimbursed for their expenses when they could just as well be playing with their grandchildren. They don't want to be caught in the middle of a fight between their drug insurance plan and their Medicare over who is going to pay for what.

They want a plan that provides meaningful and substantial financial help towards the cost of their medications. For most people I talk to, a cut in prescription drug costs from $5000 per year down to $4700 per year is not very helpful; they are still faced with choosing between paying for medications and paying for rent. With the increasing costs of prescription drugs these days, this is a criterion that is just as important to the middle class as it is to those with low incomes.

They want a plan that is stable, reliable, and predictable. They don't want to sign up with an insurance company and then have the company pull out of the state the following year. They don't want the specifics of their benefits to be changing every year. They want to know what they are getting.

They want a guarantee that a plan will be available to them. They don't want a guarantee that a plan will be available only if an insurance company decides it will offer a plan or if an insurance company decides they are a good risk.

They want a plan that is uniform, not one whose benefits change drastically if they happen to move a few miles. Delaware is a small state, and people who live or work in Delaware move back and forth across state lines with great frequency.

My prescription drug bill is focused on what consumers want, and it fulfills all of these requirements. People are already very familiar with Medicare Part B, so the addition of a prescription drug benefit will not add any confusion. People know that Medicare is stable, reliable, predictable, and the same all over the country. People know that Medicare Part B covers a substantial 80 percent of their medical expense. We know that people like Medicare Part B, since 94 percent of those eligible have voluntarily signed up for it. The addition of a new prescription drug benefit to Part B, without any change in monthly premiums or deductibles, is almost certain to increase the voluntary participation rate close to 100 percent.

Can we afford such a bill? Absolutely. It's just a matter of priorities and choices. And these choices simply reflect our values. My values tell me that providing life-saving prescription drugs to the seniors and disabled is a higher priority than, say, making permanent a tax cut for the well-to-do that they probably don't need and have not really requested.

Many of my colleagues in the Senate, and a large number of their staff, have been working enormously hard to develop a Medicare prescription drug bill that satisfies everybody's concerns. However, I am reminded of the statement by the noted British engineer Sir Alec Issigonis, who commented that ''A camel is a horse designed by committee''. If the public is expecting a horse, we better not end up with a camel.

Our current situation here in Congress brings to mind a story related by a local TV weatherman here in Washington, DC. This weatherman works in a very high tech underground office with fancy color radars, computers, split-second communications devices, and state of the art graphics. Yet before each broadcast, the weatherman goes upstairs and looks out the window to make sure it is not raining. I would ask my colleagues, as they work through their cost estimates, economic projections, and so forth in developing a prescription drug plan, to walk upstairs and look out the window. Policy makers must not work in protective isolation, in a vacuum; they need a strong dose of reality to inform their deliberations.

I believe that my bill provides the kind of prescription drug plan that Medicare beneficiaries in Delaware, and around the country, really want. I encourage my colleagues to keep the wants of their constituents foremost as they move to craft a vitally-needed prescription drug bill for Medicare beneficiaries.

By Mr. DODD (for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. REED, Mr. BINGAMAN, Mrs. CLINTON, Mrs. MURRAY, and Mr. EDWARDS):

S. 2758. A bill entitled ''The Child Care and Development Block Grant Amendments Act''; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I am pleased to join with my colleagues Senator SNOWE, Senator JEFFORDS, Senator REED, Senator BINGAMAN, Senator CLINTON, Senator MURRAY, and Senator EDWARDS today in introducing the new Access to High Quality Child Care Act.

On April 11, I introduced, S. 2117, which represented a bipartisan partnership with the Senate Finance Committee and Senate Health, Education, Labor, and Pensions, HELP, Committee to both improve the quality of child care and expand the availability of child care. The bill that we are introducing today further strengthens and improves that legislation.

Compared to S. 2117, the new legislation we are introducing today: further strengthens the coordination among agencies and outreach about the availability of child care assistance, so that the child care agency and TANF agency coordinate in providing information to eligible parents about the availability of child care assistance; includes a new section to improve parent access to the process of obtaining child care subsidies; strengthens accountability for the use of quality funds by requiring States to set State child care quality goals, set quantifiable measures for each goal; and requires States to describe their progress in meeting each goal in an annual report; strengthens provisions to improve the quality and availability of child care for infants and toddlers, child care for disabled children, and child care for children who need care during nontraditional hours; allows States to operate an At Home Infant Care program to improve the quality of care for infants, currently successful in Montana and Minnesota; consolidates the general quality setaside and the child care workforce development setaside under S. 2117 into one 10 percent quality setaside to be used by States to improve the quality of care that children receive, regardless of setting; consolidates data collection under current law to make data collection and reporting requirements easier for States while retaining useful information for policymakers; deletes the section on school readiness incentive grants under S. 2117, instead, replacing these grants with the text of S. 2566, the Early Care and Education Act authorized separately under Title III of this new legislation; shifts the text of the Child Care Centers in Federal Facilities Act and the Technical and Financial Assistance Grants Act under S. 2117 to Title II of the new bill as separate authorizations; adds the text of the Book Stamps Act to Title II as a separate authorization; and, authorizes $1 billion in FY2003 and such sums as necessary in the out years 2004–2007.

In short, the Access to High Quality Child Care Act is about putting ''Development'' back into the Child Care and Development Block Grant.

The fact is that 78 percent of school-age parents are working today; 65 percent of parents with children under 6 are working today; and, over half of mothers with infants are in the workforce today.

That means about 14 million children, including 6 million infants and toddlers, under the age of 5 are in some type of child care arrangement. Many of them are in child care every week for many hours.

While their parents work, children are being cared for in a variety of settings. Some of them are very good, but sadly, some of them are not. What we know is that 46 percent of kindergarten

teachers report that half or more of their students enter kindergarten not ready to learn.

This new legislation that we are introducing today further strengthens our efforts to improve the quality of care to promote school readiness while expanding child care assistance to more working poor families.

We filed this legislation yesterday in the HELP Committee and will proceed to markup next Wednesday, July 24th. I urge my colleagues to join us in supporting this legislation that so many working families with children need.

I ask unanimous consent that summary of the legislation be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

THE 2002 ACCESS ACT—THE ACCESS TO HIGH QUALITY CHILD CARE ACT BRIEF SUMMARY

Background: The Access to High Quality Child Care is about putting ''Development'' back into the Child Care and Development Block Grant. About 14 million children, including 6 million infants and toddlers, under the age of 5 are in some type of child care arrangement. Many of them are in child care every week for many hours. The fact is that 78% of school-age parents are working today; 65% of parents with children under 6 are working today; and, over half of mothers with infants are in the workforce today. While these parents work, their children are being cared for in a variety of settings—some of which are very good, but sadly, some of them are not. What we know is that 46% of kindergarten teachers report that half or more of their students enter kindergarten not ready to learn. This reauthorization bill is geared toward improving the quality of care to promote school readiness while expanding child care assistance to more working poor families.

Key Provisions: The Child Care and Development Block Grant is designed to give parents maximum choice among child care providers. The bill retains parental choice, but provides states with a number of ways to help child care providers improve the quality of care that they provide. The 2002 Access Act will: Strengthen the coordination among agencies and outreach about the availability of child care assistance; Promote greater coordination among federal, state, and local care and early childhood development programs, including the transition from early care programs to elementary school; Set aside 10% of CCDBG funds to improve the quality of child care for any of the following activities—initiatives to improve recruitment, education, and retention of child care staff; initiatives to improve the quality and availability of care for infants and toddlers, children with disabilities, or care during nontraditional hours; resource and referral services; training and technical assistance; grants or loans to improve provider compliance with state or local law; support for states to monitor compliance or other activities deemed by the state to improve the quality of care, including the provision of emergency child care.

Improve the accountability of the use of quality funds by requiring states to set quality improvement goals that are measurable to ensure that states are making progress in improving the quality of child care. Set aside 5% of CCDBG funds to help states increase the reimbursement rate for child care providers to ensure that parents have real choices among quality providers. Under current law, CCDBG payment rates are supposed to be sufficient ''to ensure equal access for eligible children to comparable child care services in the state or substate area that are provided to children whose parents are not eligible to receive assistance''. But, current low state reimbursement rates do not offer parents comparable care for their children.

Allow states to operate an at-home infant care program to promote the quality of care for infants.

The children of working parents need quality child care if they are to enter school ready to learn. Yet, 30 states require no training in early childhood development before a teacher walks into a child care classroom. 42 states require no training in early childhood development before a family day care provider opens its home to unrelated children. The 2002 Access Act will: Require states to set training standards, just as they are required to do now for health and safety under current law. Such training would go beyond CPR and first aid to include training in the social, emotional, physical, and cognitive development of children.

Exempt relatives from the training requirements, but through the quality funding in CCDBG states could partner with colleges and R&Rs to provide training to relatives and informal caregivers on a voluntary basis. Initial evaluations in Connecticut of such efforts show that relatives and informal caregivers are voluntarily participating and are feeling better about themselves and their interactions with the children have improved.

Reduce administrative barriers and improve coordination among agencies so that low income working parents can more easily access the process for obtaining and retaining child care assistance.

SEPARATE AUTHORIZATIONS FOR QUALITY CHILD CARE INITIATIVES

Separate authorizations include the following measures: the Child Care Centers in Federal Facilities Act, the Technical and Financial Assistance Grants Act, the Book Stamps Act, and the Early Care & Education Act.

By Mr. HOLLINGS (for himself, Mr. LOTT, and Mr. BREAUX):

S. 2759. A bill to protect the health and safety of American consumers under the Federal Food, Drug, and Cosmetic Act from seafood contaminated by certain substances; to the Committee on Health, Education, Labor, and Pensions.

Mr. HOLLINGS. Mr. President, I rise today as Chairman of the Commerce, Science and Transportation Committee to introduce the Seafood Safety Enforcement Act of 2002. I am pleased to be joined by the Republican minority leader, Senator TRENT LOTT, and by Senator JOHN BREAUX, both distinguished members of the Commerce Committee. This Act would ensure that imports of seafood into the United States are meeting the same food safety standards imposed on seafood that originates from the United States.

Shrimp and other seafood harvested and processed in the United States is some of the best quality seafood in the world. I know how hard the shrimpers in my State of South Carolina work to bring good, wholesome products to our tables. To preserve the quality of seafood, the United States has established rigorous food standards to protect the health and well-being of American consumers. As part of that approach, we have banned the use of certain harmful substances in food-producing animals due to the extreme hazards they pose to human health. While these standards also apply to imported foods that cross our borders, these protections cannot be enforced without adequate inspection and testing.

Unfortunately, not all countries are applying the same rigorous standards that the United States demands for our consumers. In the last few months, one of the banned substances, namely the antibiotic chloramphenicol, was detected in shrimp and other food product imported from several countries to the United States, the European Union and Canada. Shockingly these substances have not been detected by the inspectors for the federal Food and Drug Administration, FDA, the agency responsible for protecting U.S. consumers from adulterated food imports. Rather, these substances were detected in the United States by independent testing done by State authorities in Louisiana.

While these products are prohibited by law, FDA testing has never detected such substances in food imports. We were alarmed to discover that FDA currently tests only 1 to 2 percent of all food imports for compliance with food safety standards. This failure to detect such substances may be due not only to inadequate frequency of testing, but also may be attributed to inadequate testing methods employed by the FDA. While the testing protocol used in Europe and Canada can detect such substances to 0.3 parts per billion ppb, FDA until very recently used a technique that only measures up to 3 ppb, and now is using a test that only detects to 1 ppb.

It is vital that we close this inspection gap at our borders and ensure the safety of our food supply, while not placing unreasonable burdens on the men and women who are tasked with this huge inspection job. This bill would ensure that U.S. consumers are protected from serious health risks associated with harmful substances, while allowing the continued flow of imports that are shown to be free of these harmful substances. It would require FDA to ensure that imports suspected of containing such substances are demonstrated to meet food safety standards. Such demonstration would be made by the importer or exporter, and subject to FDA approval.

Due to the health threats posed by such substances in our food supply, and the national interest of having a uniform inspection and testing standard, federal action is appropriate. This bill provides the safety and security we seek, while not placing unreasonable burdens on our federal food safety inspection system.

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. 2759

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 ''Seafood Safety Enforcement Act''.

SEC. 2. FINDINGS.

(1) Chloramphenicol, a potent antibiotic, can cause severe toxic effects in humans, including hypo-aplastic anemia, which is usually irreversible and fatal. The drug is administered to humans only in life-threatening situations when less toxic drugs are not effective.

(2) Because of these human health impacts, chloramphenicol and similar drugs are not approved for use in food-producing animals in the United States. However, other countries have been found to use these drugs in the aquaculture of shrimp and other seafood, including Thailand, Vietnam, and China.

(3) The majority of shrimp consumed by the United States is imported. The nation imports 400,000 metric tons of shrimp annually, and the percentage of shrimp imports rises each year. Thailand and Vietnam are the top two exporters of shrimp to the United States, and China is the fifth largest exporter of shrimp to the United States.

(4) Upon detection of chloramphenicol in certain shipments of seafood from China and other nations, in 2002 the European Union and Canada severely restricted imports of shrimp and other food from these nations.

(5) The United States Food and Drug Administration inspects only 2 percent of all seafood imports into the United States and utilizes a testing procedure that cannot detect the presence of chloramphenicol below 1 part per billion. The European Union and Canada use testing protocols that can detect such substances to 0.3 parts per billion.

(6) While Food and Drug Administration import testing did not detect chloramphenicol in shrimp imported from these nations in 2002, independent testing performed by the state of Louisiana detected chloramphenicol at a level of over 2 parts per billion in crawfish imported from China.

(7) Imports of seafood from nations that utilize substances banned in the United States pose potential threats to United States consumers. Denial of entry to contaminated shrimp and other products to the European Union and Canada will likely redirect imports to the United States of contaminated products turned away from these countries.

(8) Immediate and focused actions must be taken by the Federal government to improve enforcement of food import restrictions of seafood imports in order to protect United States consumers and ensure safety of the food supply.

SEC. 3. CONTAMINATED SEAFOOD.

Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by—

(1) striking all of the text in the third sentence of subsection (a) after ''section 505,'' and inserting ''or (4) such article is seafood that appears to bear or contain one or more substances listed in section 530.41(a) of title 21, Code of Federal Regulations, or (5) such article is seafood originating from an exporter or country that the Secretary has identified in guidance as a likely source of articles subject to refusal of admission under clause (4) of this sentence, then such article shall be refused admission, except as provided in subsection (c) of this section and, with respect to articles subject to clause (5) of this sentence, except as provided in subsection (b) of this section.'';

(2) redesignating subsections (b) through (n) as subsections (c) through (o), respectively; and

(3) inserting after subsection (a) the following:

''(b)(1) Notwithstanding clause (5) of the third sentence in subsection (a) of this section, the Secretary may permit individual shipments of seafood originating in a country or from an exporter listed in guidance to be admitted into the United States if evidence acceptable to the Secretary is presented that the seafood in that shipment does not bear or contain a substance listed in section 530.41(a) of title 21, Code of Federal Regulations.

''(2) The Secretary may remove a country or exporter listed in guidance under clause (5) of the third sentence of subsection (a) of this section only if the country or exporter has shown to the satisfaction of the Secretary that each substance at issue is no longer sold for use in, being used in, or being used in a manner that could contaminate food-producing animals in the country at issue.''.

SEC. 4. GUIDANCE FOR REFUSING ENTRY OF SEAFOOD FROM A COUNTRY OR EXPORTER.

(a) ISSUANCE OF GUIDANCE.—Upon a determination by the Secretary of Health and Human Services that, based on information acceptable to the Secretary, an exporter or country appears to be a source of articles subject to refusal under section 801(a)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)(4)), the Secretary shall issue guidance described in section 801(a)(5) of that Act.

(b) DETERMINATION CRITERIA.—In making the determination described in subsection (a), or any determination under section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)), the Secretary may consider—

(A) the detection of substances described in section 801(a)(4) of that Act by the Secretary;

(B) the detection of such substances by a person commissioned to carry out examinations and investigations under section 702(a) of that Act;

(C) findings from an inspection under section 704 of that Act;

(D) the detection by other importing countries of such substances in shipments of seafood that originate from such country or exporter; and

(E) other evidence or information as determined by the Secretary.

(c) ANNUAL REPORT.—The Secretary shall provide a report within 30 days after the end of each fiscal year to the Senate Committee on Health, Education, Labor, and Pensions and the House of Representatives Committee on Energy and Commerce setting forth the names of all countries and exporters for which the guidance described in subsection (a) was issued during that fiscal year.

(d) RULE OF CONSTRUCTION.—Nothing in this Act, and no amendment made by this Act, shall be construed to limit the existing authority of the Secretary of Health and Human Services or the Secretary of the Treasury to consider any information or to refuse admission of any article under section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)).

SEC. 5. ISSUANCE OF TOLERANCES.

If, after the date of enactment of this Act, the Secretary of Health and Human Services intends to issue a tolerance under section 512(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(b)) for any of the substances listed in section 530.41(a) of title 21, Code of Federal Regulations, then the Secretary shall notify the Senate Committee on Health, Education, Labor, and Pensions and the House of Representatives Committee on Energy and Commerce before issuing that tolerance. The Secretary shall include in the notification a draft of any changes in Federal statute law that may be necessary.

SEC. 6. CONFORMING AMENDMENTS.

Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381), as amended by subsection (a), is amended by—

(1) striking ''subsection (b)'' in subsection (d), as redesignated by section 2(2) of this Act, and inserting ''subsection (c)'';

(2) striking ''subsection (e)'' in paragraph (1) of subsection (g), as redesignated by section 2(2) of this Act, and inserting ''subsection (f)'';

(3) striking ''section 801(a)'' in paragraph (1)(A)(i) of subsection (h), as redesignated by section 2(2) of this Act, and inserting ''subsection (a) of this section'';

(4) striking ''section 801(a)'' in paragraph (1)(A)(ii) of subsection (h), as redesignated by section 2(2) of this Act, and inserting ''subsection (a) of this section'';

(5) striking ''section 801(d)(1);'' in paragraph (1)(A)(iii) of subsection (h), as redesignated by section 2(2) of this Act, and inserting ''subsection (e)(1) of this section;''.

(6) striking ''Subsection (b)'' in paragraph (2) of subsection (k), as redesignated by section 2(2) of this Act, and inserting ''Subsection (c)'';

(7) striking ''Subsection (b)'' in paragraph (1) of subsection (l), as redesignated by section 2(2) of this Act, and inserting ''Subsection (c)'';

(8) striking ''Subsection (b)'' in subsection (m), as redesignated by section 2(2) of this Act, and inserting ''Subsection (c)''; and

(9) striking ''Subsection (b)'' in paragraph (2)(B)(i) of subsection (n), as redesignated by section 2(2) of this Act, and inserting ''Subsection (c)''.

By Mr. SPECTER (for himself and Mr. HARKIN):

S.J. Res. 41. A joint resolution calling for Congress to consider and vote on a resolution for the use of force by the United States Armed Forces against Iraq before such force is deployed; to the Committee on Foreign Relations.

Mr. SPECTER. Mr. President, I sought recognition to introduce a joint resolution on behalf of Senator HARKIN and myself calling upon the Congress to consider, vote on, and enact a joint resolution authorizing the use of force by the U.S. Armed Forces against Iraq before such force is used.

This resolution takes no position as to whether the use of force should be authorized or it should not be authorized, but goes to the essential authority of the Congress under the Constitution to declare war.

The President's powers as Commander in Chief are reserved for an emergency where Congress does not have an opportunity to deliberate and decide. It is obvious that concerning the current situation with Iraq, there is ample time for a resolution of the issue by the Congress.

There have been repeated statements by the administration relating to military action against Saddam Hussein. It is known that Saddam has weapons of mass destruction, such as chemicals which he used against the Kurds, and there exists evidence of biological

weapons that he possesses. The best thinking is Saddam does not now have nuclear bombs but is trying to acquire them.

The President of the United States, in his State of the Union speech, identified Iraq, along with Iran and North Korea, as the ''axis of evil.'' Secretary of State Powell in congressional testimony then testified that the United States was not going to go to war against either Iran or North Korea, raising the inference that war against Iraq by negative implication was a distinct possibility.

There have been repeated requests for regime change by the administration. In lieu of the limited time, I will not enumerate them, although they are set forth in some detail in my prepared statement.

On February 13, 2002, I spoke on the floor calling for hearings by the Senate Foreign Relations Committee and/or the Senate Armed Services Committee, and by letters dated February 14, 2002, and March 12, 2002, wrote to the respective chairmen of those committees. I am glad to note that Senator BIDEN, chairman of the Foreign Relations Committee, has called for a September hearing on the Iraq issue.

The power of the Congress on the declaration of war has been eroded very materially, with the President taking unilateral action in Korea, Vietnam, Grenada, Lebanon, Panama, Somalia, and Kosovo. But in a situation where there is ample time for the Congress to deliberate and decide, the Congress should assert its constitutional authority.

Among the many issues regarding the separation of powers, none is more important than this basic power to declare war and the separate power which the President has as Commander in Chief which sometimes conflict, but not in the situation such as the one at hand where we have time to deliberate and decide.

Earlier this month, I conducted some 19 town meetings across my State of Pennsylvania and found a great deal of citizen concern. People are unaware of the details and would like to know more.

In my February 13, 2002 floor speech, I enumerated a number of issues which are worth repeating. First, hearings would identify with greater precision what Saddam has by way of weapons of mass destruction.

Secondly, we would get into the details as to what Saddam and Iraq have done by way of thwarting the United Nations from conducting inspections. Earlier this year, I met with Secretary General Kofi Annan to get a firsthand briefing and to press the U.N. to do everything it could to get those inspections.

Another issue which I think needs to be subjected to analysis and hearings and national debate is what the cost would be of toppling Saddam, including the cost in casualties.

Fourth, what will happen after a regime change? What will happen if, as and when Saddam goes?

There is also the critical issue as to what we may expect from Saddam by way of reprisal or by way of anticipatory action. We know that Saddam Hussein is ruthless. We have seen him use chemicals against his own people, the Kurds. We have his statement just yesterday on the 24th anniversary of the July revolution when Saddam came into power. It is a belligerent, bellicose statement.

I had an opportunity to meet with Saddam Hussein in January of 1990 at a meeting with Senator RICHARD SHELBY. There is no doubt in my mind, from that contact—a meeting of about an hour and a quarter—that we are dealing with someone who has a mindset and a determination, having invaded Kuwait, having acted against the Kurds, that should give us every reason to be concerned about what he may do in light of the administration's repeated statements about a regime change; a concern if there is action by the United States against Iraq that there may be retaliation against Israel or others in the Mideast.

Consideration by the Congress also would be very helpful in addressing the concerns which the international community has expressed on the unilateralism of President Bush and President Bush's administration. We have had instances of that: the International Criminal Court, Kyoto, the U.N.-Bosnia peacekeeping force, and others which I have enumerated in greater detail in the written statement which I will include at the conclusion of these remarks.

If there are Members of the Senate and House who come forward and support the President—people in this body with extensive experience in the field over many years, respected international reputations—I think that would give credence to a position that the President may wish to take and would allay some of the concerns internationally on unilateralism, and perhaps persuade some of our allies that this is the right course of conduct.

In considering what to do about Saddam, we have the example fresh in our mind of al-Qaeda and Osama bin Laden. We have learned that 20/20 hindsight always being very good that we should have acted against bin Laden before September 11. We had ample warning and ample cause to do so. Bin Laden was under indictment for killing Americans in Mogadishu in 1993. Bin Laden was under indictment for the East Africa Embassy bombings in 1998. We knew he was involved in the U.S.S. *Cole* terrorism. He had made pronouncements about a worldwide jihad. The United States and the United Nations made demands on the Taliban to turn over bin Laden, which were refused. So we had a right under international law to proceed against bin Laden.

There is obviously great concern about Saddam Hussein or what the future may hold if he goes unchecked. But these are all complicated issues. There ought to be full hearings. The American people ought to be informed. We have learned from the bitter experience of Vietnam what happens when there is military action where the American people are not supportive and the Congress is not supportive.

Obviously, in a representative democracy, the matter first comes to the Congress. There is the precedent of President George H.W. Bush in 1991, when the Congress authorized a resolution for the use of force. I know the Presiding Officer remembers it well, as do I. It was a historic debate, and has been so characterized by the media and other commentators. President Bush, in 1990, had originally said he did not need congressional authorization. Then Senator HARKIN took the floor on January 3, 1991, during a swearing-in ceremony, and procedurally the course that then followed, without going into great detail now, was that we had the debate on January 10, 11, and 12 and voted 52 to 47 in this body authorizing the use of force to repel Iraq from Kuwait. So that precedent is with us.

There is no doubt that Congress is reluctant to step into the breach and to take a position. I urged in 1998 that the Congress authorize the use of force before President Clinton moved in with the missile attacks against Iraq in December of 1998. My written statement goes into detail as to what I have done on this issue going back to 1983, when I conducted a debate with Senator Charles Percy on the question of Korea and Vietnam being a war, and the questioning of Justice Souter in 1990 on whether Korea was a war. There has been a reluctance on the part of Congress to step forward. If we do nothing and it all works out, everything is fine, the Congress is happy. If the President acts unilaterally and is wrong, he gets the blame and we do not get the blame.

I believe we have a responsibility to step forward. We have a responsibility institutionally under the Constitution to declare war, and we have a responsibility to acquaint the American people as to what is involved, and I think a responsibility to have this debate, to tell our European allies what our reasons are for what we may do.

If there is to be military action against Saddam and Iraq, there is no doubt it would be much stronger with a congressional resolution, which implicitly carries the support of the American people. I think the hearings which I have called for and the debate on the resolution will do a great deal to inform the American people and the people of the world as to what we are up to, and whatever justification it is we have.

I understand that my distinguished colleague, Senator HARKIN, will be a cosponsor of this resolution.

Repeated statements from the administration carry the strong suggestion that President Bush intends to take military action to change the regime of Saddam Hussein in Iraq. There

are good reasons to be concerned about Saddam Hussein's developing weapons of mass destruction. Iraq's exclusion of UN inspectors raises the inference he has something to hide.

On February 13, 2002, in a Senate floor statement, I urged that the Senate Armed Services and/or Senate Foreign Relations Committee hold hearings as much as possible in public with some necessarily in closed sessions, to determine:

(1) The specifics on Iraq's weapons of mass destruction;

(2) Precisely what happened on the United Nations efforts to conduct inspections in Iraq and Iraq's refusals;

(3) What type of a military action would be necessary to topple Saddam, including estimates of U.S. casualties;

(4) What is anticipated in a change in regime in Iraq including Saddam's prospective replacement.

CONGRESSIONAL RECORD, S730–731, February 13, 2002.

On April 4, 2002, I met with United Nations Secretary General Kofi Annan urging the UN to press Iraq to submit to wide-open, including surprise inspections, to determine the facts on Iraq's possession and efforts to create weapons of mass destruction. Meetings between UN officials and Iraqi representatives on May 1 and 3, 2002 produced no results. Subsequent meetings between UN officials and Iraqi representatives in early July produced no results.

A ranking U.S. intelligence official advised that wide-open and surprise inspections in Iraq could provide reasonable assurances as to what Iraq has by way of possessing and/or developing weapons of mass destruction.

Presidents have acted unilaterally in the past half century in initiating military actions in Korea, Vietnam, Grenada, Lebanon, Panama, Somalia and Kosovo. In some of those situations where there was not time for the Congress to deliberate and decide on a declaration of war or an authorization for the use of force, it was appropriate for the President to utilize his authority as Commander-in-Chief in an emergency. There is now ample time for the Congress to hold hearings, deliberate and take whatever action Congress deems appropriate regarding Iraq.

There is a need for the American public to understand the issues involved in the use of military force against Iraq. There has been some public discussion, but relatively little. Congressional hearings would stimulate a national dialogue on the nation's op-ed pages, radio and television talk shows and in town halls across the country. I am glad to see that Senator JOSEPH R. BIDEN, Chairman of the Foreign Relations Committee, has announced his committee will hold hearings on Iraq in September.

In 19 town meetings, which I conducted across the Commonwealth of Pennsylvania this month, I heard considerable public concern and confusion over the President's intentions as to Iraq. Public support, reflected through the elected members of the House and Senate, is indispensable to successfully carry out an extensive military action. The United States learned a better lesson in Vietnam that a war cannot be successfully fought without public and congressional support.

Consideration by the Congress on these key issues would provide a basis for international understanding of our position and perhaps even support in some quarters. There is a world view that President Bush too often acts unilaterally on critical international issues such as the International Criminal Court, the UN/Bosnia peacekeeping force, the Kyoto Protocol, ABM Treaty withdrawal, and the Biological Weapons Convention. If congressional consideration was followed by the authorization for the use of force supported by thoughtful and experienced members of the House and Senate, the international community might well be reassured that the U.S. military action was not the decision of just one man, even though he is the President of the United States.

There is solid precedent for President George W. Bush to request congressional authority for the use of force against Iraq, just as President George H.W. Bush did in January, 1991. On December 21, 1990, and as late as January 9, 1991, President Bush was quoted as saying a congressional authorization was not necessary. See Weekly Compilation of Presidential Documents, January 14, 1991. Vol. 27, No. 2, pp. 24–25. Many Senators, including Claiborne Pell of Rhode Island, RICHARD LUGAR of Indiana, TOM HARKIN of Iowa, EDWARD M. KENNEDY of Massachusetts, JOSEPH R. BIDEN, Jr. of Delaware, Brock Adams of Washington and I sought to force debate on a resolution that would require congressional authorization for the use of force against Iraq. CONGRESSIONAL RECORD, S 48, January 4, 1991; CONGRESSIONAL RECORD, S119–120, January 10, 1991; see also New York Times, October 18, 1990, page A1, ''Senators Demand Role in Approving Any Move on Iraq;'' Washington Post, January 4, 1991, page A19, ''Canceling Recess, Lawmakers Prepare to Debate War Powers.''

On January 3, 1991, the date that Senators who were elected and re-elected the previous November took the oath of office, Senator Harkin successfully sought Senate debate and a vote on a use-of-force resolution. Senate Majority Leader George Mitchell scheduled Senate floor action for consideration of a resolution for the use of force on January 10, 1991. Following a Senate debate which was characterized as ''historical'' by the Washington Post, the Senate authorized the use of force against Iraq by a vote of 52 to 47. CONGRESSIONAL RECORD, S1018–1019, January 12, 1991. Similarly, the House of Representatives passed such a resolution by a vote of 250 to 183. CONGRESSIONAL RECORD, H1139–1140, January 12, 1991.

With the repeated public commentary on the President's plans to use force against Iraq, there has been public concern about what Saddam Hussein might do in anticipation or retaliation. Saddam is well known for his ruthlessness and his disdain for life by use of chemicals against his own people, the Kurds. Saddam is widely reported to have stockpiles of biological weapons. In a struggle for his own survival, why should we expect Saddam Hussein to refrain from using every weapon at his disposal against an announced attacker? A lengthy article in the New York Times on July 6, 2002 concerning U.S. plans for widespread inoculation for smallpox carried the implicit suggestion of a concern for a bioterrorism attack.

Consideration by Congress on a resolution for the use of force against Saddam would not impact on any potential element of surprise because there is no element of surprise left. The news media has been full of notice to Saddam of potential U.S. plans such as: The New York Times February 16, 2002, edition which quoted Vice President CHENEY as saying, ''The President is determined to press on and stop Iraq . . . from continuing to develop weapons of mass destruction'' and intends to use ''the means at our disposal—including military, diplomatic and intelligence to address these concerns'';

The Los Angeles Times on May 5, 2002, reported that the defense Intelligence Agency has produced an operational support study on Iraq including maps and data on geography, roads, refineries, communication facilities, security organizations and military deployments;

The Washington Post reported on May 24, 2002, General Tommy R. Franks, Commander of the U.S. Central Command, has briefed the President concerning troop levels necessary to invade Iraq and oust Saddam Hussein;

The New York Times on July 5, 2002, reported on an American military document calling for air, land and sea based forces to attack Iraq and topple Saddam Hussein;

The New York Times on July 9, 2002, quoted President Bush as saying on Iraq: ''It's the stated policy of this government to have regime change and it hasn't changed. And we'll use all tools at our disposal to do so.''

In considering a pre-emptive strike against Iraq, we should consider—not that it is determinative—the consequences of not acting against al-Qaeda and Osama bin Laden before September 11, 2001. We had reason in that situation to anticipate a terrorist attack and we had rights under international law to move against bin Laden and al-Qaeda in a pre-emptive strike before September 11, 2001.

Prior to September 11, Osama bin Laden was under U.S. indictment for killing Americans in Mogadishu in 1993. He was further under U.S. indictment for the attacks against American embassies in 1998. He was known to have been involved in the terrorist attack of the USS *Cole*. Osama bin Laden

had spoken repeatedly and publicly about his intention to carry out a worldwide Jihad against the United States.

When the Taliban in control in Afghanistan refused to turn over bin Laden to the United States after demands by the United States and the United Nations, the United States had rights under international law to use military force against al-Qaeda and bin Laden.

With congressional hearings as a start, the American people should be informed about Iraq's threat and all our efforts to deal with this threat short of use of military force. We should do our utmost to organize an international coalition against Iraq, which President George Bush did in 1991, specifying as much of the evidence as possible in public congressional hearings in order to create American and worldwide public support for appropriate action. Such public hearings would be supplemented by classified information given to the leaders of the prospective coalition.

Article I, Section 8 of the United States Constitution provides that ''Congress has the authority to declare war.'' Article 2 Section 2 of the United States Constitution provides that the President ''shall be commander in chief of the army and navy of the United States. . . .''

In the past half century, there has been a consistent and considerable erosion of Congress' constitutional authority to declare war with a concomitant expansion of the President's powers as Commander-in-Chief. My concerns about the erosion of congressional authority to declare war first arose in 1951 when I was called to active duty in the United States Air Force after having received in R.O.T.C. commission as a second lieutenant upon graduation from the University of Pennsylvania. I was glad to serve state-side from July 29, 1951 to July 31, 1953 as a special agent in the Office of Special Investigations, noting that President Truman had acted on his authority as Commander-in-Chief to order a ''police action'' without congressional authorization.

Early in my Senate career, I participated extensively in floor debate on the War Powers Resolution concerning U.S. military action in Lebanon. On September 27, 1983, I questioned Senator Charles H. Percy, Chairman of the Foreign Relations Committee, as to whether Korea and Vietnam were wars. Senator Percy stated that both Korea and Vietnam were wars even though undeclared. CONGRESSIONAL RECORD, S. 12995, September 27, 1983.

In 1983, I prepared a legal document for a declaratory judgment action to take to the Supreme Court of the United States on the issue of the constitutionality of the War Powers Act and seeking a judicial determination of the respective authority of the President as Commander-in-Chief and the Congress to declare war. It was my thought that if the Congress and the President asked the Court to take jurisdiction and decide this issue, the Court might do so although even with such a joint request, the Supreme Court might be unwilling to be involved in the so-called ''political thicket''. The Reagan Administration was unwilling to join in such a request and congressional leaders were reluctant to do so although no final determination was made since the issue was rendered moot by the Reagan Administration's declination. Understandably, the parties preferred to leave the issue ambiguous with a resolution on a case-by-case basis in the political process without a finite judicial determination.

I pursued my inquiries by questioning Supreme Court nominees as to whether Korea was a war. In confirmation hearings for Justice David Souter on September 14, 1990, I questioned him as to whether Korea was a war, whether the Presidents exceeded their constitutional authority in military action in Korea and Vietnam and whether the War Powers Act was unconstitutional in violating presidential powers as Commander-in-Chief. Justice Souter declined to express an opinion stating, in effect, that there was no law to guide him in answering these questions. See Hearings Before the Committee on the Judiciary, United States Senate, 101st Cong., 2nd Sess., on the Nomination of David H. Souter to be Associate of the Supreme Court of the United States.

In the Fall of 1990 and in early January 1991, I joined other senators in successfully taking the position that the President needed congressional authorization for the use of military force against Iraq and the enforcement of UN Security Council Resolution 678. CONGRESSIONAL RECORD, S. 405–490, January 10, 1991.

I took up this question again on September 13, 1994, taking the position that the President did not have the constitutional authority to order an invasion of Haiti without prior congressional authorization. CONGRESSIONAL RECORD, S. 12760, September 13, 1994.

On June 5, 1995, I introduced S. Res. 128, which stated it was the sense of the Senate that no U.S. military personnel should be introduced into combat or potential combat situations in Bosnia without clearly defined objectives and sufficient resources to achieve those objectives. CONGRESSIONAL RECORD, S. 7703, June 5, 1995. That resolution noted that there was ample time for Congress to deliberate and decide that matter, stating that such a decision was a matter for the Congress and that there should be no further erosion of that authority by the Executive Branch.

On November 1, 1995, noting the military action in Somalia without congressional authority and the military action in Haiti without congressional authority, I urge the President to follow the precedent of the Gulf war and seek congressional approval for incursions into Bosnia since there was ample opportunity for Congress to consider and decide the issue. CONGRESSIONAL RECORD, S. 31102, November 1, 1995.

On September 17, 1996, I spoke on the Senate floor on the use of force with missile strikes against Iraq on September 3, 1996, noting that this was another example where the President did not seek congressional authorization or even consultation in advance of that military action. CONGRESSIONAL RECORD, S. 10624–10625, September 17, 1996.

When there was speculation about additional military action against Iraq in early 1998, I spoke on the Senate floor on February 12, 1998, noting that an air attack or a missile attack constituted acts of war which required congressional authority. CONGRESSIONAL RECORD, S. 791–792, February 12, 1998. The President then ordered missile strikes against Iraq in December 1998 without seeking congressional authority.

On February 23, 1999, during Senate debate on the President's use of force in Kosovo, I noted my concern that air strikes constituted acts of war which required authorization by Congress. CONGRESSIONAL RECORD, S. 1771–1773, February 23, 1999. I again noted the continuing erosion of constitutional authority and the need for Congress to debate, deliberate and decide these issues when there was ample time to do so. I noted the tendency on the part of Congress to sit back and avoid such tough decisions. If things go wrong, there is always the President to blame. If things go right, we have not impeded Presidential action.

On March 23, 1999, the Senate voted 58 to 41 to authorize air strikes in Kosovo after the President's request for such congressional action. CONGRESSIONAL RECORD, S. 3118, March 23, 1999. I voted in favor of air strikes even though I had concerns about the President's reliance on the ''humanitarian catastrophe'' which was a departure from recognized U.S. policy to use force where there was a vital U.S. national security interest. The House deadlocked 213 to 213 on the same vote to authorize force. CONGRESSIONAL RECORD, H. 2451–2452, April 28, 1999.

On May 24, 1999, I proposed an amendment to S. 1059—the Department of Defense Authorization bill—calling on the President to ''seek approval from Congress prior to the introduction of ground troops from the United States Armed Forces in connection with the present operations against the Federal Republic of Yugoslavia or funding for that operation will not be authorized.'' CONGRESSIONAL RECORD, S. 5809–5811, May 25, 1999.

While supporting air strikes proposed by the President against the former Yugloslavia, I opposed any open-ended authorization, such as S.J. Res. 20, which would have ''authorized [the President] to use all necessary force and other means in concert with

United States allies to accomplish the United States and North Atlantic Treaty Organization objectives in the Federal Republic of Yugoslavia, Serbia and Montenegro''. I thought the broad wording of that resolution constituted a blank check which was unwise. Instead, the President should seek specific congressional authority after specifying the objectives and the means for accomplishing those objectives.

There is an understandable reluctance on the part of Members of the House and Senate to challenge a President, especially a popular President, on his actions as Commander-in-Chief to protect U.S. national interests. The constitutional issues on separation of powers and the respective authority of the Congress vis-a-vis the President are obviously important. Of even greater importance, however, is the value of a united front with the President backed by congressional authorization and American public opinion on an issue where most, if not virtually all, of the international community is in opposition.

If the Congress sits back and does nothing and the President is right, then there is public approval. If the President turns out to be wrong, then it is his responsibility without blame being attached to the Congress. There is an added element that the President may, and probably does, know more than the Congress. Hearings, in closed session, could address that discrepancy in knowledge.

The current issue of Iraq is another chapter, albeit a very important chapter, in the ongoing effort to define congressional and Presidential authority on the critical constitutional doctrine of separation of powers. In the present case, there is ample time for Congress to deliberate and decide. With the stakes so high, Congress should assert its constitutional authority to make this critical decision.

AMENDMENTS SUBMITTED & PROPOSED

SA 4307. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table.

SA 4308. Mr. TORRICELLI (for himself, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 812, supra; which was ordered to lie on the table.

SA 4309. Mr. GRAHAM (for himself, Mr. MILLER, Mr. KENNEDY, and Mr. CORZINE) proposed an amendment to the bill S. 812, supra.

SA 4310. Mr. HATCH (for Mr. GRASSLEY (for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. BREAUX, Mr. HATCH, Ms. COLLINS, Ms. LANDRIEU, Mr. HUTCHINSON, and Mr. DOMENICI)) proposed an amendment to the bill S. 812, supra.

SA 4311. Mr. REID (for Mr. WYDEN (for himself and Mr. ALLEN)) proposed an amendment to the bill S. 2037, to mobilize technology and science experts to respond quickly to the threats posed by terrorist attacks and other emergencies, by providing for the establishment of a national emergency technology guard, a technology reliability advisory board, and a center for evaluating antiterrorism and disaster response technology within the National Institute of Standards and Technology.

TEXT OF AMENDMENTS

SA 4304. Mr. SMITH of New Hampshire (for himself, Mr. ALLARD, Mr. GRASSLEY, Mr. HATCH, Mr. BURNS, Mr. CRAIG, Mr. CRAPO, and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. MEDICARE PAYMENT FOR OUTPATIENT PRESCRIPTION DRUGS UNDER THE RX OPTION.

(a) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by redesignating part D as part E and by inserting after part C the following new part:

''PART E—VOLUNTARY MEDICARE PRESCRIPTION DRUG COVERAGE

''MEDICARE PRESCRIPTION DRUG PLAN

''SEC. 1860AA. (a) IN GENERAL.—Each Medicare Prescription Drug Plan eligible individual may elect coverage (beginning on January 1, 2003) under this part in lieu of any other prescription drug coverage program under this title by enrolling in the Rx Option in order to receive coverage for outpatient prescription drugs as described in section 1860BB and to pay a combined deductible under section 1860CC.

''(b) MEDICARE PRESCRIPTION DRUG PLAN ELIGIBLE INDIVIDUAL DEFINED.—In this part, the term 'Medicare Prescription Drug Plan eligible individual' means an individual who is—

''(1) eligible for benefits under part A and enrolled under part B;

''(2) not enrolled in a Medicare+Choice plan under part C; and

''(3) not eligible for medical assistance for outpatient prescription drugs under title XIX.

''RX OPTION

''SEC. 1860BB. (a) ENROLLMENT IN THE RX OPTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall establish a process for the enrollment of Medicare Prescription Drug Plan eligible individuals under the Rx Option that is based upon the process for enrollment in Medicare+Choice plans under part C of this title.

''(2) EXCEPTIONS.—

''(A) 2-YEAR OBLIGATION.—Except as provided in subparagraph (B), a Medicare Prescription Drug Plan eligible individual who elects the Rx Option shall be subject to the provisions of this part for a minimum period of 2 years, beginning with the first full month during which the individual is eligible for benefits under the Rx Option.

''(B) FREE LOOK PERIOD.—An individual who elects the Rx Option may disenroll from such Option no later than the last day of the first full month following the month in which such election was made.

''(3) ENROLLMENT IN MEDICARE SUPPLEMENTAL POLICIES.—An individual enrolled in the Rx Option may be enrolled only in a medicare supplemental policy subject to the special rules described in section 1882(v).

''(b) OUTPATIENT PRESCRIPTION DRUG BENEFITS.—

''(1) IN GENERAL.—Beginning in 2002, under the Rx Option, after the enrollee has met the combined deductible under section 1860C, the Secretary shall provide a benefit for outpatient prescription drugs through private entities under section 1860D equal to 50 percent of the lesser of—

''(A) the cost of outpatient prescription drugs for such year; or

''(B) $5000.

''(2) COST-OF-LIVING ADJUSTMENT.—In the case of any calendar year beginning after 2002, the dollar amount in paragraph (1)(B) shall be increased by an amount equal to—

''(A) such dollar amount; multiplied by

''(B) the percentage (if any) by which—

''(i) the prescription drug component of the Consumer Price Index for all urban consumers (all items city average) for the 12-month period ending with August of the preceding year; exceeds

''(ii) such prescription drug component of the Consumer Price Index for the 12-month period ending with August 2001.

''(3) ROUNDING.—If any increase determined under paragraph (2) is not a multiple of $1, such increase shall be rounded to the nearest multiple of $1.

''COMBINED DEDUCTIBLE

''SEC. 1860CC. (a) IN GENERAL.—Notwithstanding any provision of this title and beginning in 2002, a beneficiary electing the Rx Option shall be subject to a combined deductible that shall apply in lieu of the deductibles applied under sections 1813(a)(1) and 1833(b).

''(b) AMOUNT.—

''(1) IN GENERAL.—For purposes of subsection (a), the combined deductible is equal to $675.

''(2) COST-OF-LIVING ADJUSTMENT.—In the case of any calendar year after 2002, the dollar amount in paragraph (1) shall be increased by an amount equal to—

''(A) such dollar amount; multiplied by

''(B) the percentage (if any) by which—

''(i) the medical component of the Consumer Price Index for all urban consumers (all items city average) for the 12-month period ending with August of the preceding year; exceeds

''(ii) such medical component of the Consumer Price Index for the 12-month period ending with August 2001.

''(3) ROUNDING.—If any increase determined under paragraph (2) is not a multiple of $1, such increase shall be rounded to the nearest multiple of $1.

''(c) APPLICATION.—In applying the combined deductible described in subsection (a) such deductible shall apply to each expense incurred on a calendar year basis for each item or service covered under this title, and each expense paid on a calendar year basis for such an item or service shall be credited against such deductible.

''PARTNERSHIPS WITH PRIVATE ENTITIES TO OFFER THE RX OPTION

''SEC. 1860DD. (a) PARTNERSHIPS.—

''(1) IN GENERAL.—The Secretary shall contract with private entities for the provision of outpatient prescription drug benefits under the Rx Option.

''(2) PRIVATE ENTITIES.—The private entities described in paragraph (1) shall include insurers (including issuers of medicare supplemental policies under section 1882), pharmaceutical benefit managers, chain pharmacies, groups of independent pharmacies, and other private entities that the Secretary determines are appropriate.

''(3) AREAS.—The Secretary may award a contract to a private entity under this section on a local, regional, or national basis.

''(4) DRUG BENEFITS ONLY THROUGH PRIVATE ENTITIES.—Outpatient prescription drug benefits under the Rx Option shall be offered only through a contract with a private entity under this section.

''(b) SECRETARY REQUIRED TO CONTRACT WITH ANY WILLING QUALIFIED PRIVATE ENTITY.—The Secretary may not exclude a private entity from receiving a contract to provide outpatient prescription drug benefits under the Rx Option if the private entity meets all of the requirements established by the Secretary for providing such benefits.

''ELIGIBILITY FOR CATASTROPHIC COVERAGE

''SEC. 1860EE. Noting in this part shall be construed to prohibit an individual who elects coverage under the Rx Option from obtaining catastrophic coverage under any other program under this title.''.

(b) CONFORMING MEDIGAP CHANGES.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

''(v) SPECIAL RULES FOR MEDICARE PRESCRIPTION DRUG PLAN ENROLLEES.—

''(1) REVISION OF BENEFIT PACKAGES.—

''(A) IN GENERAL.—Notwithstanding subsection (p), the benefit packages established under such subsection (including the 2 plans described in paragraph (11)(A) of such subsection) shall be revised (in the manner described in subsection (p)(1)(E)) so that each of the benefit packages classified as 'A' through 'J' remain exactly the same, except that each benefit package shall include special rules that apply only to individuals enrolled in the Rx Option under section 1860B as follows:

''(i) COMBINED DEDUCTIBLE.—Each benefit package shall require the beneficiary of the policy to pay annual out-of-pocket expenses (other than premiums) in an amount equal to the amount of the combined deductible under section 1860C(b) before the policy begins payment of any benefits.

''(ii) PRESCRIPTION DRUG COVERAGE.—In the case of a benefit package classified as 'H', 'I', and 'J', such policy may not provide coverage for outpatient prescription drugs that duplicates the coverage for outpatient prescription drugs provided under the Rx Option under section 1860B(b).

''(B) ADJUSTED PREMIUM.—In the case of an individual enrolled in the Rx Option, the premium for the policy in which the individual is enrolled may be appropriately adjusted to reflect the special rules applicable to such individual under subparagraph (A).

''(2) RENEWABILITY AND CONTINUITY OF COVERAGE.—The revisions of benefit packages under paragraph (1) shall not affect—

''(A) the renewal of medicare supplemental policies under this section that are in existence on the effective date of such revisions; or

''(B) the continuity of coverage under such policies.''.

SA 4307. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON PAYMENTS TO PROVIDERS UNDER A FEDERAL HEALTH CARE PROGRAM.

(a) IN GENERAL.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128F the following new section:

''SEC. 1128G. LIMITATION ON PAYMENTS TO PROVIDERS UNDER A FEDERAL HEALTH CARE PROGRAM.

''(a) IN GENERAL.—No Federal funds shall be used to provide payments under a Federal health care program to any physician (as defined in section 1861(r)), practitioner (as described in section 1842(b)(18)(C)), or other individual who charges a membership fee or any other extraneous or incidental fee to a patient, or requires a patient to purchase an item or service, as a prerequisite for the provision of an item or service to the patient.

''(b) FEDERAL HEALTH CARE PROGRAM DEFINED.—In this section, the term 'Federal health care program' has the meaning given that term under section 1128B(f) except that, for purposes of this section, such term includes the health insurance program under chapter 89 of title 5, United States Code.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to payments made on or after the date of enactment of this Act.

SA 4308. Mr. TORRICELLI (for himself, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 812. to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—GIFT AND REBATE DISCLOSURE

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Gift and Rebate Disclosure Act of 2002''.

SEC. ___02. DISCLOSURE BY PRESCRIPTION DRUG MANUFACTURERS, PACKERS, AND DISTRIBUTORS OF CERTAIN GIFTS.

Section 503 of the Federal Food, Drug, and Cosmetics Act (21 U.S.C. 353) is amended by adding at the end the following:

''(h)(1) Each manufacturer, packer, or distributor of a drug subject to subsection (b)(1) shall disclose to the Commissioner—

''(A) not later than June 30, 2004, and each June 30 thereafter, the value, nature, and purpose of any—

''(i) gift provided during the preceding calendar year to any covered health entity by the manufacturer, packer, or distributor, or a representative thereof, in connection with detailing, promotional, or other marketing activities; and

''(ii) cash rebate, discount, or any other financial consideration provided during the preceding calendar year to any pharmaceutical benefit manager by the manufacturer, packer, or distributor, or a representative thereof, in connection with detailing, promotional, or other marketing activities; and

''(B) not later than the date that is 6 months after the date of enactment of this subsection and each June 30 thereafter, the name and address of the individual responsible for the compliance of the manufacturer, packer, or distributor with the provisions of this subsection.

''(2) Subject to paragraph (3), the Commissioner shall make all information disclosed to the Commissioner under paragraph (1) publicly available, including by posting such information on the Internet.

''(3) The Commissioner shall keep confidential any information disclosed to or otherwise obtained by the Commissioner under this subsection that relates to a trade secret referred to in section 1905 of title 18, United States Code. The Commissioner shall provide an opportunity in the disclosure form required under paragraph (4) for a manufacturer, packer, or distributor to identify any such information.

''(4) Each disclosure under this subsection shall be made in such form and manner as the Commissioner may require.

''(5) Each manufacturer, packer, and distributor described in paragraph (1) shall be subject to a civil monetary penalty of not more than $10,000 for each violation of this subsection. Each unlawful failure to disclose shall constitute a separate violation. The provisions of paragraphs (3), (4), and (5) of section 303(g) shall apply to such a violation in the same manner as such provisions apply to a violation of a requirement of this Act that relates to devices.

''(6) For purposes of this subsection:

''(A) The term 'covered health entity' includes any physician, pharmaceutical benefit manager, hospital, nursing home, pharmacist, health benefit plan administrator, or any other entity authorized to prescribe or dispense drugs that are subject to subsection (b)(1), in the District of Columbia or any State, commonwealth, possession, or territory of the United States.

''(B) The term 'gift' includes any gift, fee, payment, subsidy, or other economic benefit with a value of $50 or more, except that such term excludes the following:

''(i) Free samples of drugs subject to subsection (b)(1) intended to be distributed to patients.

''(ii) The payment of reasonable compensation and reimbursement of expenses in connection with any clinical trial conducted in connection with a valid scientific study designed to answer specific questions about drugs, devices, new therapies, or new ways of using known treatments, or in connection with a clinical trial involving the compassionate use of an experimental drug or device as permitted under regulations promulgated by the Food and Drug Administration.

''(iii) Any scholarship or other support for medical students, residents, or fellows selected by a national, regional, or specialty medical or other professional association to attend a significant educational, scientific, or policy-making conference of the association.''.

SEC. ___03. DISALLOWANCE OF DEDUCTION FOR PHYSICIAN GIFT EXPENSES OF PRESCRIPTION DRUG MANUFACTURERS.

(a) GENERAL RULE.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items not deductible) is amended by adding at the end the following new section:

''SEC. 280I. PHYSICIAN GIFT EXPENSES OF PRESCRIPTION DRUG MANUFACTURERS.

''(a) GENERAL RULE.—No deduction shall be allowed under this chapter for any physician gift expense paid or incurred by any prescription drug manufacturer.

''(b) PHYSICIAN GIFT EXPENSE.—For purposes of this section, the term 'physician gift expense' means any gift provided directly or indirectly to or for the benefit of a physician, including gifts of meals, sponsored teachings, symposia, and travel, but not including product samples.

''(c) PRESCRIPTION DRUG MANUFACTURER.—For purposes of this section, the term 'prescription drug manufacturer' means—

''(1) any person engaged in the trade or business of manufacturing or producing any prescription drug, and

''(2) any person who is a member of an affiliated group which includes a person described in paragraph (1).

For purposes of the preceding sentence, the term 'affiliated group' means any affiliated group as defined in section 1504 (determined without regard to paragraphs (3) and (4) of 1504(b)).''

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

''Sec. 280I. Physician gift expenses of prescription drug manufacturers.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2001.

SA 4309. Mr. GRAHAM (for himself, Mr. MILLER, Mr. KENNEDY and Mr. CORZINE) proposed an amendment to the bill S. 812. to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; as follows:

At the end, add the following:

TITLE II—MEDICARE OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM

SEC. 201. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Medicare Outpatient Prescription Drug Act of 2002''.

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 201. Short title; table of contents.
Sec. 202. Medicare outpatient prescription drug benefit program.

''PART D—OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM

''Sec. 1860. Definitions.
''Sec. 1860A. Establishment of outpatient prescription drug benefit program.
''Sec. 1860B. Enrollment under program.
''Sec. 1860C. Enrollment in a plan.
''Sec. 1860D. Providing information to beneficiaries.
''Sec. 1860E. Premiums.
''Sec. 1860F. Outpatient prescription drug benefits.
''Sec. 1860G. Entities eligible to provide outpatient drug benefit.
''Sec. 1860H. Minimum standards for eligible entities.
''Sec. 1860I. Payments.
''Sec. 1860J. Employer incentive program for employment-based retiree drug coverage.
''Sec. 1860K. Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund.
''Sec. 1860L. Medicare Prescription Drug Advisory Committee.''.
Sec. 203. Part D benefits under Medicare+Choice plans.
Sec. 204. Additional assistance for low-income beneficiaries.
Sec. 205. Medigap revisions.
Sec. 206. Comprehensive immunosuppressive drug coverage for transplant patients under part B.
Sec. 207. HHS study and report on uniform pharmacy benefit cards.
Sec. 208. GAO study and biennial reports on competition and savings.
Sec. 209. Expansion of membership and duties of Medicare Payment Advisory Commission (MedPAC).

SEC. 202. MEDICARE OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM.

(a) ESTABLISHMENT.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by redesignating part D as part E and by inserting after part C the following new part:

''PART D—OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM

''DEFINITIONS

''SEC. 1860. In this part:

''(1) COVERED OUTPATIENT DRUG.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'covered outpatient drug' means any of the following products:

''(i) A drug which may be dispensed only upon prescription, and—

''(I) which is approved for safety and effectiveness as a prescription drug under section 505 of the Federal Food, Drug, and Cosmetic Act;

''(II)(aa) which was commercially used or sold in the United States before the date of enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (bb) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

''(III)(aa) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (bb) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling.

''(ii) A biological product which—

''(I) may only be dispensed upon prescription;

''(II) is licensed under section 351 of the Public Health Service Act; and

''(III) is produced at an establishment licensed under such section to produce such product.

''(iii) Insulin approved under appropriate Federal law, including needles and syringes for the administration of such insulin.

''(iv) A prescribed drug or biological product that would meet the requirements of clause (i) or (ii) except that it is available over-the-counter in addition to being available upon prescription.

''(B) EXCLUSION.—The term 'covered outpatient drug' does not include any product—

''(i) except as provided in subparagraph (A)(iv), which may be distributed to individuals without a prescription;

''(ii) for which payment is available under part A or B or would be available under part B but for the application of a deductible under such part (unless payment for such product is not available because benefits under part A or B have been exhausted), determined, except as provided in subparagraph (C), without regard to whether the beneficiary involved is entitled to benefits under part A or enrolled under part B; or

''(iii) except for agents used to promote smoking cessation and agents used for the treatment of obesity, for which coverage may be excluded or restricted under section 1927(d)(2).

''(C) CLARIFICATION REGARDING IMMUNOSUPPRESSIVE DRUGS.—In the case of a beneficiary who is not eligible for any coverage under part B of drugs described in section 1861(s)(2)(J) because of the requirements under such section (and would not be so eligible if the individual were enrolled under such part), the term 'covered outpatient drug' shall include such drugs if the drugs would otherwise be described in subparagraph (A).

''(2) ELIGIBLE BENEFICIARY.—The term 'eligible beneficiary' means an individual that is entitled to benefits under part A or enrolled under part B.

''(3) ELIGIBLE ENTITY.—The term 'eligible entity' means any entity that the Secretary determines to be appropriate to provide eligible beneficiaries with covered outpatient drugs under a plan under this part, including—

''(A) a pharmacy benefit management company;

''(B) a retail pharmacy delivery system;

''(C) a health plan or insurer;

''(D) a State (through mechanisms established under a State plan under title XIX);

''(E) any other entity approved by the Secretary; or

''(F) any combination of the entities described in subparagraphs (A) through (E) if the Secretary determines that such combination—

''(i) increases the scope or efficiency of the provision of benefits under this part; and

''(ii) is not anticompetitive.

''(4) MEDICARE+CHOICE ORGANIZATION; MEDICARE+CHOICE PLAN.—The terms 'Medicare+Choice organization' and 'Medicare+Choice plan' have the meanings given such terms in subsections (a)(1) and (b)(1), respectively, of section 1859 (relating to definitions relating to Medicare+Choice organizations).

''(5) PRESCRIPTION DRUG ACCOUNT.—The term 'Prescription Drug Account' means the Prescription Drug Account (as established under section 1860K) in the Federal Supplementary Medical Insurance Trust Fund under section 1841.

''ESTABLISHMENT OF OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM

''SEC. 1860A. (a) PROVISION OF BENEFIT.—

''(1) IN GENERAL.—Beginning in 2005, the Secretary shall provide for and administer an outpatient prescription drug benefit program under which each eligible beneficiary enrolled under this part shall be provided with coverage of covered outpatient drugs as follows:

''(A) MEDICARE+CHOICE PLAN.—If the eligible beneficiary is eligible to enroll in a Medicare+Choice plan, the beneficiary—

''(i) may enroll in such a plan; and

''(ii) if so enrolled, shall obtain coverage of covered outpatient drugs through such plan.

''(B) MEDICARE PRESCRIPTION DRUG PLAN.—If the eligible beneficiary is not enrolled in a Medicare+Choice plan, the beneficiary shall obtain coverage of covered outpatient drugs through enrollment in a plan offered by an eligible entity with a contract under this part.

''(2) VOLUNTARY NATURE OF PROGRAM.—Nothing in this part shall be construed as requiring an eligible beneficiary to enroll in the program established under this part.

''(3) SCOPE OF BENEFITS.—The program established under this part shall provide for coverage of all therapeutic classes of covered outpatient drugs.

''(b) ACCESS TO ALTERNATIVE PRESCRIPTION DRUG COVERAGE.—In the case of an eligible beneficiary who has creditable prescription drug coverage (as defined in section 1860B(b)(1)(F)), such beneficiary—

''(1) may continue to receive such coverage and not enroll under this part; and

''(2) pursuant to section 1860B(b)(1)(C), is permitted to subsequently enroll under this part without any penalty and obtain coverage of covered outpatient drugs in the manner described in subsection (a) if the beneficiary involuntarily loses such coverage.

''(c) FINANCING.—The costs of providing benefits under this part shall be payable from the Prescription Drug Account.

''ENROLLMENT UNDER PROGRAM

''SEC. 1860B. (a) ESTABLISHMENT OF PROCESS.—

''(1) PROCESS SIMILAR TO ENROLLMENT UNDER PART B.—The Secretary shall establish a process through which an eligible beneficiary (including an eligible beneficiary enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization) may make an election to enroll under this part. Such process shall be similar to the process for enrollment in part B under section 1837, including the deeming provisions of such section.

''(2) REQUIREMENT OF ENROLLMENT.—An eligible beneficiary must enroll under this part in order to be eligible to receive covered outpatient drugs under this title.

''(b) SPECIAL ENROLLMENT PROCEDURES.—

''(1) LATE ENROLLMENT PENALTY.—

''(A) INCREASE IN PREMIUM.—Subject to the succeeding provisions of this paragraph, in the case of an eligible beneficiary whose coverage period under this part began pursuant to an enrollment after the beneficiary's initial enrollment period under part B (determined pursuant to section 1837(d)) and not pursuant to the open enrollment period described in paragraph (2), the Secretary shall establish procedures for increasing the amount of the monthly part D premium under section 1860E(a) applicable to such beneficiary by an amount that the Secretary determines is actuarily sound for each full 12-month period (in the same continuous period of eligibility) in which the eligible beneficiary could have been enrolled under this part but was not so enrolled.

''(B) PERIODS TAKEN INTO ACCOUNT.—For purposes of calculating any 12-month period under subparagraph (A), there shall be taken into account—

''(i) the months which elapsed between the close of the eligible beneficiary's initial enrollment period and the close of the enrollment period in which the beneficiary enrolled; and

''(ii) in the case of an eligible beneficiary who reenrolls under this part, the months which elapsed between the date of termination of a previous coverage period and the close of the enrollment period in which the beneficiary reenrolled.

''(C) PERIODS NOT TAKEN INTO ACCOUNT.—

''(i) IN GENERAL.—For purposes of calculating any 12-month period under subparagraph (A), subject to clause (ii), there shall not be taken into account months for which the eligible beneficiary can demonstrate that the beneficiary had creditable prescription drug coverage (as defined in subparagraph (F)).

''(ii) APPLICATION.—This subparagraph shall only apply with respect to a coverage period the enrollment for which occurs before the end of the 60-day period that begins on the first day of the month which includes—

''(I) in the case of a beneficiary with coverage described in clause (ii) of subparagraph (F), the date on which the plan terminates, ceases to provide, or reduces the value of the prescription drug coverage under such plan to below the actuarial value of the coverage provided under the program under this part; or

''(II) in the case of a beneficiary with coverage described in clause (i), (iii), or (iv) of subparagraph (F), the date on which the beneficiary loses eligibility for such coverage.

''(D) PERIODS TREATED SEPARATELY.—Any increase in an eligible beneficiary's monthly part D premium under subparagraph (A) with respect to a particular continuous period of eligibility shall not be applicable with respect to any other continuous period of eligibility which the beneficiary may have.

''(E) CONTINUOUS PERIOD OF ELIGIBILITY.—

''(i) IN GENERAL.—Subject to clause (ii), for purposes of this paragraph, an eligible beneficiary's 'continuous period of eligibility' is the period that begins with the first day on which the beneficiary is eligible to enroll under section 1836 and ends with the beneficiary's death.

''(ii) SEPARATE PERIOD.—Any period during all of which an eligible beneficiary satisfied paragraph (1) of section 1836 and which terminated in or before the month preceding the month in which the beneficiary attained age 65 shall be a separate 'continuous period of eligibility' with respect to the beneficiary (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this paragraph).

''(F) CREDITABLE PRESCRIPTION DRUG COVERAGE DEFINED.—For purposes of this part, the term 'creditable prescription drug coverage' means any of the following:

''(i) MEDICAID PRESCRIPTION DRUG COVERAGE.—Prescription drug coverage under a medicaid plan under title XIX, including through the Program of All-inclusive Care for the Elderly (PACE) under section 1934 and through a social health maintenance organization (referred to in section 4104(c) of the Balanced Budget Act of 1997), but only if the coverage provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Secretary) to the beneficiary equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient prescription drug benefit program under this part.

''(ii) PRESCRIPTION DRUG COVERAGE UNDER A GROUP HEALTH PLAN.—Prescription drug coverage under a group health plan, including a health benefits plan under the Federal Employees Health Benefit Program under chapter 89 of title 5, United States Code, and a qualified retiree prescription drug plan (as defined in section 1860J(e)(3)), but only if the coverage provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Secretary) to the beneficiary equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient prescription drug benefit program under this part.

''(iii) STATE PHARMACEUTICAL ASSISTANCE PROGRAM.—Coverage of prescription drugs under a State pharmaceutical assistance program, but only if the coverage provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Secretary) to the beneficiary equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient prescription drug benefit program under this part.

''(iv) VETERANS' COVERAGE OF PRESCRIPTION DRUGS.—Coverage of prescription drugs for veterans, and survivors and dependents of veterans, under chapter 17 of title 38, United States Code, but only if the coverage provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Secretary) to the beneficiary equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient prescription drug benefit program under this part.

''(2) OPEN ENROLLMENT PERIOD FOR CURRENT BENEFICIARIES IN WHICH LATE ENROLLMENT PROCEDURES DO NOT APPLY.—

''(A) IN GENERAL.—The Secretary shall establish an applicable period, which shall begin on the date on which the Secretary first begins to accept elections for enrollment under this part, during which any eligible beneficiary may enroll under this part without the application of the late enrollment procedures established under paragraph (1)(A).

''(B) OPEN ENROLLMENT PERIOD TO BEGIN PRIOR TO JANUARY 1, 2005.—The Secretary shall ensure that eligible beneficiaries are permitted to enroll under this part prior to January 1, 2005, in order to ensure that coverage under this part is effective as of such date.

''(3) SPECIAL ENROLLMENT PERIOD FOR BENEFICIARIES WHO INVOLUNTARILY LOSE CREDITABLE PRESCRIPTION DRUG COVERAGE.—The Secretary shall establish a special open enrollment period for an eligible beneficiary that loses creditable prescription drug coverage.

''(c) PERIOD OF COVERAGE.—

''(1) IN GENERAL.—Except as provided in paragraph (2) and subject to paragraph (3), an eligible beneficiary's coverage under the program under this part shall be effective for the period provided in section 1838, as if that section applied to the program under this part.

''(2) OPEN AND SPECIAL ENROLLMENT.—Subject to paragraph (3), an eligible beneficiary who enrolls under the program under this part pursuant to paragraph (2) or (3) of subsection (b) shall be entitled to the benefits under this part beginning on the first day of the month following the month in which such enrollment occurs.

''(3) LIMITATION.—Coverage under this part shall not begin prior to January 1, 2005.

''(d) TERMINATION.—

''(1) IN GENERAL.—The causes of termination specified in section 1838 shall apply to this part in the same manner as such causes apply to part B.

''(2) COVERAGE TERMINATED BY TERMINATION OF COVERAGE UNDER PARTS A AND B.—

''(A) IN GENERAL.—In addition to the causes of termination specified in paragraph (1), the Secretary shall terminate an individual's coverage under this part if the individual is no longer enrolled in either part A or B.

''(B) EFFECTIVE DATE.—The termination described in subparagraph (A) shall be effective on the effective date of termination of coverage under part A or (if later) under part B.

''(3) PROCEDURES REGARDING TERMINATION OF A BENEFICIARY UNDER A PLAN.—The Secretary shall establish procedures for determining the status of an eligible beneficiary's enrollment under this part if the beneficiary's enrollment in a plan offered by an eligible entity under this part is terminated by the entity for cause (pursuant to procedures established by the Secretary under section 1860C(a)(1)).

''ENROLLMENT IN A PLAN

''SEC. 1860C. (a) PROCESS.—

''(1) ESTABLISHMENT.—

''(A) ELECTION.—

''(i) IN GENERAL.—The Secretary shall establish a process through which an eligible beneficiary who is enrolled under this part but not enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization—

''(I) shall make an annual election to enroll in any plan offered by an eligible entity that has been awarded a contract under this part and serves the geographic area in which the beneficiary resides; and

''(II) may make an annual election to change the election under this clause.

''(ii) DEFAULT ENROLLMENT.—Such process shall include for the default enrollment in such a plan in the case of an eligible beneficiary who is enrolled under this part but who has failed to make an election of such a plan.

''(B) RULES.—In establishing the process under subparagraph (A), the Secretary shall—

''(i) use rules similar to the rules for enrollment, disenrollment, and termination of enrollment with a Medicare+Choice plan under section 1851, including—

''(I) the establishment of special election periods under subsection (e)(4) of such section; and

''(II) the application of the guaranteed issue and renewal provisions of subsection (g) of such section (other than paragraph (3)(C)(i), relating to default enrollment); and

''(ii) coordinate enrollments, disenrollments, and terminations of enrollment under part C with enrollments, disenrollments, and terminations of enrollment under this part.

''(2) FIRST ENROLLMENT PERIOD FOR PLAN ENROLLMENT.—The process developed under paragraph (1) shall—

''(A) ensure that eligible beneficiaries who choose to enroll under this part are permitted to enroll with an eligible entity prior to January 1, 2005, in order to ensure that coverage under this part is effective as of such date; and

''(B) be coordinated with the open enrollment period under section 1860B(b)(2)(A).

''(b) MEDICARE+CHOICE ENROLLEES.—

''(1) IN GENERAL.—An eligible beneficiary who is enrolled under this part and enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization shall receive coverage of covered outpatient drugs under this part through such plan.

''(2) RULES.—Enrollment in a Medicare+Choice plan is subject to the rules for enrollment in such a plan under section 1851.

''PROVIDING INFORMATION TO BENEFICIARIES

''SEC. 1860D. (a) ACTIVITIES.—

''(1) IN GENERAL.—The Secretary shall conduct activities that are designed to broadly disseminate information to eligible beneficiaries (and prospective eligible beneficiaries) regarding the coverage provided under this part.

''(2) SPECIAL RULE FOR FIRST ENROLLMENT UNDER THE PROGRAM.—To the extent practicable, the activities described in paragraph (1) shall ensure that eligible beneficiaries are provided with such information at least 30 days prior to the open enrollment period described in section 1860B(b)(2)(A).

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—The activities described in subsection (a) shall—

''(A) be similar to the activities performed by the Secretary under section 1851(d);

''(B) be coordinated with the activities performed by the Secretary under such section and under section 1804; and

''(C) provide for the dissemination of information comparing the plans offered by eligible entities under this part that are available to eligible beneficiaries residing in an area.

''(2) COMPARATIVE INFORMATION.—The comparative information described in paragraph (1)(C) shall include a comparison of the following:

''(A) BENEFITS.—The benefits provided under the plan, including the prices beneficiaries will be charged for covered outpatient drugs, any preferred pharmacy networks used by the eligible entity under the plan, and the formularies and appeals processes under the plan.

''(B) QUALITY AND PERFORMANCE.—To the extent available, the quality and performance of the eligible entity offering the plan.

''(C) BENEFICIARY COST-SHARING.—The cost-sharing required of eligible beneficiaries under the plan.

''(D) CONSUMER SATISFACTION SURVEYS.—To the extent available, the results of consumer satisfaction surveys regarding the plan and the eligible entity offering such plan.

''(E) ADDITIONAL INFORMATION.—Such additional information as the Secretary may prescribe.

''(3) INFORMATION STANDARDS.—The Secretary shall develop standards to ensure that the information provided to eligible beneficiaries under this part is complete, accurate, and uniform.

''(c) USE OF MEDICARE CONSUMER COALITIONS TO PROVIDE INFORMATION.—

''(1) IN GENERAL.—The Secretary may contract with Medicare Consumer Coalitions to conduct the informational activities under—

''(A) this section;

''(B) section 1851(d); and

''(C) section 1804.

''(2) SELECTION OF COALITIONS.—If the Secretary determines the use of Medicare Consumer Coalitions to be appropriate, the Secretary shall—

''(A) develop and disseminate, in such areas as the Secretary determines appropriate, a request for proposals for Medicare Consumer Coalitions to contract with the Secretary in order to conduct any of the informational activities described in paragraph (1); and

''(B) select a proposal of a Medicare Consumer Coalition to conduct the informational activities in each such area, with a preference for broad participation by organizations with experience in providing information to beneficiaries under this title.

''(3) PAYMENT TO MEDICARE CONSUMER COALITIONS.—The Secretary shall make payments to Medicare Consumer Coalitions contracting under this subsection in such amounts and in such manner as the Secretary determines appropriate.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to contract with Medicare Consumer Coalitions under this section.

''(5) MEDICARE CONSUMER COALITION DEFINED.—In this subsection, the term 'Medicare Consumer Coalition' means an entity that is a nonprofit organization operated under the direction of a board of directors that is primarily composed of beneficiaries under this title.

''PREMIUMS

''SEC. 1860E. (a) ANNUAL ESTABLISHMENT OF MONTHLY PART D PREMIUM RATES.—

''(1) IN GENERAL.—The Secretary shall, during September of each year (beginning in 2004), determine and promulgate a monthly part D premium rate for the succeeding year.

''(2) AMOUNT.—The Secretary shall determine the monthly part D premium rate for the succeeding year as follows:

''(A) PREMIUM FOR 2005.—The monthly part D premium rate for 2005 shall be $25.

''(B) INFLATION ADJUSTMENT OF PREMIUM FOR 2006 AND SUBSEQUENT YEARS.—

''(i) IN GENERAL.—Subject to clause (ii), in the case of any calendar year beginning after 2005, the monthly part D premium rate for the year shall be the amount described in subparagraph (A) increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the percentage (if any) by which the amount of the average annual per capita aggregate expenditures payable from the Prescription Drug Account for the year (as estimated under section 1860J(c)(2)(C)) exceeds the amount of such expenditures in 2005.

''(ii) ROUNDING.—If the monthly part D premium rate determined under clause (i) is not a multiple of $1, such rate shall be rounded to the nearest multiple of $1.

''(b) COLLECTION OF PART D PREMIUM.—The monthly part D premium applicable to an eligible beneficiary under this part (after application of any increase under section 1860B(b)(1)) shall be collected and credited to the Prescription Drug Account in the same manner as the monthly premium determined under section 1839 is collected and credited to the Federal Supplementary Medical Insurance Trust Fund under section 1840.

''OUTPATIENT PRESCRIPTION DRUG BENEFITS

''SEC. 1860F. (a) REQUIREMENT.—A plan offered by an eligible entity under this part shall provide eligible beneficiaries enrolled in such plan with—

''(1) coverage of covered outpatient drugs—

''(A) without the application of any deductible; and

''(B) with the cost-sharing described in subsection (b); and

''(2) access to negotiated prices for such drugs under subsection (c).

''(b) COST-SHARING.—

''(1) COPAYMENT STRUCTURE FOR DRUGS INCLUDED IN THE FORMULARY.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, in the case of a covered outpatient drug that is dispensed in a year to an eligible beneficiary and that is included in the formulary established by the eligible entity (pursuant to section 1860H(c)) for the plan, the beneficiary shall be responsible for a copayment for the drug in an amount equal to the following:

''(i) GENERIC DRUGS.—In the case of a generic covered outpatient drug, $10 for each prescription (as defined in subparagraph (D)) of such drug.

''(ii) PREFERRED BRAND NAME DRUGS.—In the case of a preferred brand name covered outpatient drug (including a drug treated as a preferred brand name drug under subparagraph (C)), $40 for each prescription (as so defined) of such drug.

''(B) REDUCTION BY ELIGIBLE ENTITY.—An eligible entity offering a plan under this part may reduce the applicable copayment amount that an eligible beneficiary enrolled in the plan is subject to under subparagraph (A) if the Secretary determines that such reduction—

''(i) is tied to the performance requirements described in section 1860I(b)(1)(C); and

''(ii) will not result in an increase in the expenditures made from the Prescription Drug Account.

''(C) TREATMENT OF MEDICALLY NECESSARY NONFORMULARY DRUGS.—The eligible entity shall treat a nonformulary drug as a preferred brand name drug under subparagraph (A)(ii) if such nonformulary drug is determined (pursuant to subparagraph (D) or (E) of section 1860H(a)(4)) to be medically necessary.

''(D) PRESCRIPTION DEFINED.—

''(i) IN GENERAL.—Subject to clause (ii), for purposes of subparagraph (A), the term 'prescription' means—

''(I) a 30-day supply for a maintenance drug; and

''(II) a supply necessary for the length of the course that is typical of current practice for a nonmaintenance drug.

''(ii) SPECIAL RULE FOR MAIL ORDER DRUGS.—In the case of drugs obtained by mail order, the term 'prescription' may be for a supply that is longer than the period specified in clause (i) or (ii) (as the case may be) if the Secretary determines that the longer supply will not result in an increase in the expenditures made from the Prescription Drug Account.

''(2) BENEFICIARY RESPONSIBLE FOR NEGOTIATED PRICE OF NONFORMULARY DRUGS.—In the case of a covered outpatient drug that is dispensed to an eligible beneficiary and that is not included in the formulary established by the eligible entity (pursuant to section 1860H(c)) for the plan (and not treated a preferred brand name drug under paragraph (1)(C)), the beneficiary shall be responsible for the negotiated price for the drug (as reported to the Secretary pursuant to section 1860H(a)(6)(A)).

''(3) COST-SHARING MAY NOT EXCEED NEGOTIATED PRICE.—

''(A) IN GENERAL.—If the amount of cost-sharing for a covered outpatient drug that

would otherwise be required under this subsection (but for this paragraph) is greater than the applicable amount, then the amount of such cost-sharing shall be reduced to an amount equal to such applicable amount.

''(B) APPLICABLE AMOUNT DEFINED.—For purposes of subparagraph (A), the term 'applicable amount' means an amount equal to—

''(i) in the case of a drug included in the formulary (generic drugs and preferred brand name drugs, including a drug treated as a preferred brand name drug under paragraph (1)(C)), the negotiated price for the drug (as reported to the Secretary pursuant to section 1860H(a)(6)(A)) less $5; and

''(ii) in the case of a nonformulary drug, the negotiated price for the drug (as so reported).

''(4) NO COST-SHARING ONCE EXPENSES EQUAL ANNUAL OUT-OF-POCKET LIMIT.—

''(A) IN GENERAL.—An eligible entity offering a plan under this part shall provide coverage of covered outpatient drugs without any cost-sharing if the individual has incurred costs (as described in subparagraph (C)) for covered outpatient drugs in a year equal to the annual out-of-pocket limit specified in subparagraph (B).

''(B) ANNUAL OUT-OF-POCKET LIMIT.—Subject to paragraph (5), for purposes of this part, the 'annual out-of-pocket limit' specified in this subparagraph is equal to $4,000.

''(C) APPLICATION.—In applying subparagraph (A)—

''(i) incurred costs shall only include costs incurred for the cost-sharing described in this subsection; but

''(ii) such costs shall be treated as incurred without regard to whether the individual or another person, including a State program or other third-party coverage, has paid for such costs.

''(5) INFLATION ADJUSTMENT FOR COPAYMENT AMOUNTS AND ANNUAL OUT-OF-POCKET LIMIT FOR 2006 AND SUBSEQUENT YEARS.—

''(A) IN GENERAL.—For any year after 2005—

''(i) the copayment amounts described in clauses (i) and (ii) of paragraph (1)(A) are equal to the copayment amounts determined under such paragraph (or this paragraph) for the previous year—

''(I) increased by the annual percentage increase described in subparagraph (B); and

''(II) further adjusted to reflect relative changes in the composition of drug spending among the copayment structure under paragraph (1) to ensure that the percentage of drug spending that beneficiaries enrolled under this part are required to pay in the year is the same (as estimated by the Secretary) as the percentage required in the previous year; and

''(ii) the annual out-of-pocket limit specified in paragraph (4)(B) is equal to the annual out-of-pocket limit determined under such paragraph (or this paragraph) for the previous year increased by the annual percentage increase described in subparagraph (C).

''(B) ANNUAL PERCENTAGE INCREASE SPECIFIED IN SUBPARAGRAPH (B).—The annual percentage increase specified in this subparagraph for a year is equal to the annual percentage increase in the prices of covered outpatient drugs (including both price inflation and price changes due to changes in therapeutic mix), as determined by the Secretary for the 12-month period ending in July of the previous year.

''(C) ANNUAL PERCENTAGE INCREASE SPECIFIED IN SUBPARAGRAPH (C).—The annual percentage increase specified in this subparagraph for a year is equal to the annual percentage increase in average per capita aggregate expenditures for covered outpatient drugs in the United States for medicare beneficiaries, as determined by the Secretary for the 12-month period ending in July of the previous year.

''(D) ROUNDING.—If any amount determined under subparagraph (A) is not a multiple of $1, such amount shall be rounded to the nearest multiple of $1.

''(c) ACCESS TO NEGOTIATED PRICES.—

''(1) ACCESS.—Under a plan offered by an eligible entity with a contract under this part, the eligible entity offering such plan shall provide eligible beneficiaries enrolled in such plan with access to negotiated prices (including applicable discounts) used for payment for covered outpatient drugs, regardless of the fact that only partial benefits may be payable under the coverage with respect to such drugs because of the application of the cost-sharing under subsection (b).

''(2) MEDICAID RELATED PROVISIONS.—Insofar as a State elects to provide medical assistance under title XIX for a drug based on the prices negotiated under a plan under this part, the requirements of section 1927 shall not apply to such drugs. The prices negotiated under a plan under this part with respect to covered outpatient drugs, under a Medicare+Choice plan with respect to such drugs, or under a qualified retiree prescription drug plan (as defined in section 1860J(e)(3)) with respect to such drugs, on behalf of eligible beneficiaries, shall (notwithstanding any other provision of law) not be taken into account for the purposes of establishing the best price under section 1927(c)(1)(C).

''ENTITIES ELIGIBLE TO PROVIDE OUTPATIENT DRUG BENEFIT

''SEC. 1860G. (a) ESTABLISHMENT OF PANELS OF PLANS AVAILABLE IN AN AREA.—

''(1) IN GENERAL.—The Secretary shall establish procedures under which the Secretary—

''(A) accepts bids submitted by eligible entities for the plans which such entities intend to offer in an area established under subsection (b); and

''(B) awards contracts to such entities to provide such plans to eligible beneficiaries in the area.

''(2) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))) shall be used to enter into contracts under this part.

''(b) AREA FOR CONTRACTS.—

''(1) REGIONAL BASIS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and subject to paragraph (2), the contract entered into between the Secretary and an eligible entity with respect to a plan shall require the eligible entity to provide coverage of covered outpatient drugs under the plan in a region determined by the Secretary under paragraph (2).

''(B) PARTIAL REGIONAL BASIS.—

''(i) IN GENERAL.—If determined appropriate by the Secretary, the Secretary may permit the coverage described in subparagraph (A) to be provided in a partial region determined appropriate by the Secretary.

''(ii) REQUIREMENTS.—If the Secretary permits coverage pursuant to clause (i), the Secretary shall ensure that the partial region in which coverage is provided is—

''(I) at least the size of the commercial service area of the eligible entity for that area; and

''(II) not smaller than a State.

''(2) DETERMINATION.—

''(A) IN GENERAL.—In determining regions for contracts under this part, the Secretary shall—

''(i) take into account the number of eligible beneficiaries in an area in order to encourage participation by eligible entities; and

''(ii) ensure that there are at least 10 different regions in the United States.

''(B) NO ADMINISTRATIVE OR JUDICIAL REVIEW.—The determination of coverage areas under this part shall not be subject to administrative or judicial review.

''(c) SUBMISSION OF BIDS.—

''(1) SUBMISSION.—

''(A) IN GENERAL.—Subject to subparagraph (B), each eligible entity desiring to offer a plan under this part in an area shall submit a bid with respect to such plan to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''(B) BID THAT COVERS MULTIPLE AREAS.—The Secretary shall permit an eligible entity to submit a single bid for multiple areas if the bid is applicable to all such areas.

''(2) REQUIRED INFORMATION.—The bids described in paragraph (1) shall include—

''(A) a proposal for the estimated prices of covered outpatient drugs and the projected annual increases in such prices, including differentials between formulary and nonformulary prices, if applicable;

''(B) a statement regarding the amount that the entity will charge the Secretary for managing, administering, and delivering the benefits under the contract;

''(C) a statement regarding whether the entity will reduce the applicable cost-sharing amount pursuant to section 1860F(b)(1)(B) and if so, the amount of such reduction and how such reduction is tied to the performance requirements described in section 1860I(b)(1)(C);

''(D) a detailed description of the performance requirements for which the payments to the entity will be subject to risk pursuant to section 1860I(b)(1)(C);

''(E) a detailed description of access to pharmacy services provided under the plan;

''(F) with respect to the formulary used by the entity, a detailed description of the procedures and standards the entity will use for—

''(i) adding new drugs to a therapeutic class within the formulary; and

''(ii) determining when and how often the formulary should be modified;

''(G) a detailed description of any ownership or shared financial interests with other entities involved in the delivery of the benefit as proposed under the plan;

''(H) a detailed description of the entity's estimated marketing and advertising expenditures related to enrolling eligible beneficiaries under the plan and retaining such enrollment; and

''(I) such other information that the Secretary determines is necessary in order to carry out this part, including information relating to the bidding process under this part.

''(d) ACCESS TO BENEFITS IN CERTAIN AREAS.—

''(1) AREAS NOT COVERED BY CONTRACTS.—The Secretary shall develop procedures for the provision of covered outpatient drugs under this part to each eligible beneficiary enrolled under this part that resides in an area that is not covered by any contract under this part.

''(2) BENEFICIARIES RESIDING IN DIFFERENT LOCATIONS.—The Secretary shall develop procedures to ensure that each eligible beneficiary enrolled under this part that resides in different areas in a year is provided the benefits under this part throughout the entire year.

''(e) AWARDING OF CONTRACTS.—

''(1) NUMBER OF CONTRACTS.—The Secretary shall, consistent with the requirements of this part and the goal of containing costs under this title, award in a competitive manner at least 2 contracts to offer a plan in an area, unless only 1 bidding entity (and the

plan offered by the entity) meets the minimum standards specified under this part and by the Secretary.

''(2) DETERMINATION.—In determining which of the eligible entities that submitted bids that meet the minimum standards specified under this part and by the Secretary to award a contract, the Secretary shall consider the comparative merits of each bid, as determined on the basis of the past performance of the entity and other relevant factors, with respect to—

''(A) how well the entity (and the plan offered by the entity) meet such minimum standards;

''(B) the amount that the entity will charge the Secretary for managing, administering, and delivering the benefits under the contract;

''(C) the performance requirements for which the payments to the entity will be subject to risk pursuant to section 1860I(b)(1)(C);

''(D) the proposed negotiated prices of covered outpatient drugs and annual increases in such prices;

''(E) the factors described in section 1860D(b)(2);

''(F) prior experience of the entity in managing, administering, and delivering a prescription drug benefit program;

''(G) effectiveness of the entity and plan in containing costs through pricing incentives and utilization management; and

''(H) such other factors as the Secretary deems necessary to evaluate the merits of each bid.

''(3) EXCEPTION TO CONFLICT OF INTEREST RULES.—In awarding contracts under this part, the Secretary may waive conflict of interest laws generally applicable to Federal acquisitions (subject to such safeguards as the Secretary may find necessary to impose) in circumstances where the Secretary finds that such waiver—

''(A) is not inconsistent with the—

''(i) purposes of the programs under this title; or

''(ii) best interests of beneficiaries enrolled under this part; and

''(B) permits a sufficient level of competition for such contracts, promotes efficiency of benefits administration, or otherwise serves the objectives of the program under this part.

''(4) NO ADMINISTRATIVE OR JUDICIAL REVIEW.—The determination of the Secretary to award or not award a contract to an eligible entity with respect to a plan under this part shall not be subject to administrative or judicial review.

''(f) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—The provisions of section 1851(h) shall apply to marketing material and application forms under this part in the same manner as such provisions apply to marketing material and application forms under part C.

''(g) DURATION OF CONTRACTS.—Each contract awarded under this part shall be for a term of at least 2 years but not more than 5 years, as determined by the Secretary.

''MINIMUM STANDARDS FOR ELIGIBLE ENTITIES

''SEC. 1860H. (a) IN GENERAL.—The Secretary shall not award a contract to an eligible entity under this part unless the Secretary finds that the eligible entity agrees to comply with such terms and conditions as the Secretary shall specify, including the following:

''(1) QUALITY AND FINANCIAL STANDARDS.—The eligible entity meets the quality and financial standards specified by the Secretary.

''(2) PROCEDURES TO ENSURE PROPER UTILIZATION, COMPLIANCE, AND AVOIDANCE OF ADVERSE DRUG REACTIONS.—

''(A) IN GENERAL.—The eligible entity has in place drug utilization review procedures to ensure—

''(i) the appropriate utilization by eligible beneficiaries enrolled in the plan covered by the contract of the benefits to be provided under the plan;

''(ii) the avoidance of adverse drug reactions among such beneficiaries, including problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse and misuse; and

''(iii) the reasonable application of peer-reviewed medical literature pertaining to improvements in pharmaceutical safety and appropriate use of drugs.

''(B) AUTHORITY TO USE CERTAIN COMPENDIA AND LITERATURE.—The eligible entity may use the compendia and literature referred to in clauses (i) and (ii), respectively, of section 1927(g)(1)(B) as a source for the utilization review under subparagraph (A).

''(3) ELECTRONIC PRESCRIPTION PROGRAM.—

''(A) IN GENERAL.—The eligible entity has in place, for years beginning with 2006, an electronic prescription drug program that includes at least the following components, consistent with national standards established under subparagraph (B):

''(i) ELECTRONIC TRANSMITTAL OF PRESCRIPTIONS.—Prescriptions are only received electronically, except in emergency cases and other exceptional circumstances recognized by the Secretary.

''(ii) PROVISION OF INFORMATION TO PRESCRIBING HEALTH CARE PROFESSIONAL.—The program provides, upon transmittal of a prescription by a prescribing health care professional, for transmittal by the pharmacist to the professional of information that includes—

''(I) information (to the extent available and feasible) on the drugs being prescribed for that patient and other information relating to the medical history or condition of the patient that may be relevant to the appropriate prescription for that patient;

''(II) cost-effective alternatives (if any) for the use of the drug prescribed; and

''(III) information on the drugs included in the applicable formulary.

To the extent feasible, such program shall permit the prescribing health care professional to provide (and be provided) related information on an interactive, real-time basis.

''(B) STANDARDS.—

''(i) DEVELOPMENT.—The Secretary shall provide for the development of national standards relating to the electronic prescription drug program described in subparagraph (A). Such standards shall be compatible with standards established under part C of title XI.

''(ii) ADVISORY TASK FORCE.—In developing such standards, the Secretary shall establish a task force that includes representatives of physicians, hospitals, pharmacists, and technology experts and representatives of the Departments of Veterans Affairs and Defense and other appropriate Federal agencies to provide recommendations to the Secretary on such standards, including recommendations relating to the following:

''(I) The range of available computerized prescribing software and hardware and their costs to develop and implement.

''(II) The extent to which such systems reduce medication errors and can be readily implemented by physicians and hospitals.

''(III) Efforts to develop a common software platform for computerized prescribing.

''(IV) The cost of implementing such systems in the range of hospital and physician office settings, including hardware, software, and training costs.

''(V) Implementation issues as they relate to part C of title XI, and current Federal and State prescribing laws and regulations and their impact on implementation of computerized prescribing.

''(iii) DEADLINES.—

''(I) The Secretary shall constitute the task force under clause (ii) by not later than April 1, 2003.

''(II) Such task force shall submit recommendations to Secretary by not later than January 1, 2004.

''(III) The Secretary shall develop and promulgate the national standards referred to in clause (ii) by not later than January 1, 2005.

''(C) WAIVER OF APPLICATION FOR CERTAIN RURAL PROVIDERS.—If the Secretary determines that it is unduly burdensome on providers in rural areas to comply with the requirements under this paragraph, the Secretary may waive such requirements for such providers.

''(D) REFERENCE TO AVAILABILITY OF GRANT FUNDS.—Grant funds are authorized under section 399O of the Public Health Service Act to provide assistance to health care providers in implementing electronic prescription drug programs.

''(4) PATIENT PROTECTIONS.—

''(A) ACCESS.—

''(i) IN GENERAL.—The eligible entity ensures that the covered outpatient drugs are accessible and convenient to eligible beneficiaries enrolled in the plan covered by the contract, including by offering the services 24 hours a day and 7 days a week for emergencies.

''(ii) AGREEMENTS WITH PHARMACIES.—The eligible entity shall enter into a participation agreement with any pharmacy that meets the requirements of subsection (d) to dispense covered prescription drugs to eligible beneficiaries under this part. Such agreements shall include the payment of a reasonable dispensing fee for covered outpatient drugs dispensed to a beneficiary under the agreement.

''(iii) PREFERRED PHARMACY NETWORKS.—If the eligible entity utilizes a preferred pharmacy network, the network complies with the standards under subsection (e).

''(B) ENSURING THAT BENEFICIARIES ARE NOT OVERCHARGED.—The eligible entity has procedures in place to ensure that each pharmacy with a participation agreement under this part with the entity complies with the requirements under subsection (d)(1)(C) (relating to adherence to negotiated prices).

''(C) CONTINUITY OF CARE.—

''(i) IN GENERAL.—The eligible entity ensures that, in the case of an eligible beneficiary who loses coverage under this part with such entity under circumstances that would permit a special election period (as established by the Secretary under section 1860C(a)(1)), the entity will continue to provide coverage under this part to such beneficiary until the beneficiary enrolls and receives such coverage with another eligible entity under this part or, if eligible, with a Medicare+Choice organization.

''(ii) LIMITED PERIOD.—In no event shall an eligible entity be required to provide the extended coverage required under clause (i) beyond the date which is 30 days after the coverage with such entity would have terminated but for this subparagraph.

''(D) PROCEDURES REGARDING THE DETERMINATION OF DRUGS THAT ARE MEDICALLY NECESSARY.—

''(i) IN GENERAL.—The eligible entity has in place procedures on a case-by-case basis to treat a nonformulary drug as a preferred brand name drug under this part if the nonformulary drug is determined—

''(I) to be not as effective for the enrollee in preventing or slowing the deterioration of, or improving or maintaining, the health of the enrollee; or

''(II) to have a significant adverse effect on the enrollee.

''(ii) REQUIREMENT.—The procedures under clause (i) shall require that determinations under such clause are based on professional medical judgment, the medical condition of the enrollee, and other medical evidence.

''(E) PROCEDURES REGARDING APPEAL RIGHTS WITH RESPECT TO DENIALS OF CARE.—The eligible entity has in place procedures to ensure—

''(i) a timely internal review for resolution of denials of coverage (in whole or in part and including those regarding the coverage of nonformulary drugs as preferred brand name drugs) in accordance with the medical exigencies of the case and a timely resolution of complaints, by enrollees in the plan, or by providers, pharmacists, and other individuals acting on behalf of each such enrollee (with the enrollee's consent) in accordance with requirements (as established by the Secretary) that are comparable to such requirements for Medicare+Choice organizations under part C (and are not less favorable to the enrollee than such requirements under such part as in effect on the date of enactment of the Medicare Outpatient Prescription Drug Act of 2002);

''(ii) that the entity complies in a timely manner with requirements established by the Secretary that (I) provide for an external review by an independent entity selected by the Secretary of denials of coverage described in clause (i) not resolved in the favor of the beneficiary (or other complainant) under the process described in such clause, and (II) are comparable to the external review requirements established for Medicare+Choice organizations under part C (and are not less favorable to the enrollee than such requirements under such part as in effect on the date of enactment of the Medicare Outpatient Prescription Drug Act of 2002); and

''(iii) that enrollees are provided with information regarding the appeals procedures under this part at the time of enrollment with the entity and upon request thereafter.

''(F) PROCEDURES REGARDING PATIENT CONFIDENTIALITY.—Insofar as an eligible entity maintains individually identifiable medical records or other health information regarding eligible beneficiaries enrolled in the plan that is covered by the contract, the entity has in place procedures to—

''(i) safeguard the privacy of any individually identifiable beneficiary information in a manner consistent with the Federal regulations (concerning the privacy of individually identifiable health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033);

''(ii) maintain such records and information in a manner that is accurate and timely;

''(iii) ensure timely access by such beneficiaries to such records and information; and

''(iv) otherwise comply with applicable laws relating to patient confidentiality.

''(G) PROCEDURES REGARDING TRANSFER OF MEDICAL RECORDS.—

''(i) IN GENERAL.—The eligible entity has in place procedures for the timely transfer of records and information described in subparagraph (F) (with respect to a beneficiary who loses coverage under this part with the entity and enrolls with another entity (including a Medicare+Choice organization) under this part) to such other entity.

''(ii) PATIENT CONFIDENTIALITY.—The procedures described in clause (i) shall comply with the patient confidentiality procedures described in subparagraph (F).

''(H) PROCEDURES REGARDING MEDICAL ERRORS.—The eligible entity has in place procedures for—

''(i) working with the Secretary to deter medical errors related to the provision of covered outpatient drugs; and

''(ii) ensuring that pharmacies with a contract with the entity have in place procedures to deter medical errors related to the provision of covered outpatient drugs.

''(5) PROCEDURES TO CONTROL FRAUD, ABUSE, AND WASTE.—

''(A) IN GENERAL.—The eligible entity has in place procedures to control fraud, abuse, and waste.

''(B) APPLICABILITY OF FRAUD AND ABUSE PROVISIONS.—The provisions of section 1128 through 1128C (relating to fraud and abuse) apply to eligible entities with contracts under this part.

''(6) REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—The eligible entity provides the Secretary with reports containing information regarding the following:

''(i) The negotiated prices that the eligible entity is paying for covered outpatient drugs.

''(ii) The prices that eligible beneficiaries enrolled in the plan that is covered by the contract will be charged for covered outpatient drugs.

''(iii) The management costs of providing such benefits.

''(iv) Utilization of such benefits.

''(v) Marketing and advertising expenditures related to enrolling and retaining eligible beneficiaries.

''(B) TIMEFRAME FOR SUBMITTING REPORTS.—

''(i) IN GENERAL.—The eligible entity shall submit a report described in subparagraph (A) to the Secretary within 3 months after the end of each 12-month period in which the eligible entity has a contract under this part. Such report shall contain information concerning the benefits provided during such 12-month period.

''(ii) LAST YEAR OF CONTRACT.—In the case of the last year of a contract under this part, the Secretary may require that a report described in subparagraph (A) be submitted 3 months prior to the end of the contract. Such report shall contain information concerning the benefits provided between the period covered by the most recent report under this subparagraph and the date that a report is submitted under this clause.

''(C) CONFIDENTIALITY OF INFORMATION.—

''(i) IN GENERAL.—Notwithstanding any other provision of law and subject to clause (ii), information disclosed by an eligible entity pursuant to subparagraph (A) (except for information described in clause (ii) of such subparagraph) is confidential and shall only be used by the Secretary for the purposes of, and to the extent necessary, to carry out this part.

''(ii) UTILIZATION DATA.—Subject to patient confidentiality laws, the Secretary shall make information disclosed by an eligible entity pursuant to subparagraph (A)(iv) (regarding utilization data) available for research purposes. The Secretary may charge a reasonable fee for making such information available.

''(7) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—The eligible entity complies with the requirements described in section 1860G(f).

''(8) RECORDS AND AUDITS.—The eligible entity maintains adequate records related to the administration of the benefits under this part and affords the Secretary access to such records for auditing purposes.

''(b) SPECIAL RULES REGARDING COST-EFFECTIVE PROVISION OF BENEFITS.—

''(1) IN GENERAL.—In providing the benefits under a contract under this part, an eligible entity shall—

''(A) employ mechanisms to provide the benefits economically, such as through the use of—

''(i) alternative methods of distribution;

''(ii) preferred pharmacy networks (pursuant to subsection (e)); and

''(iii) generic drug substitution;

''(B) use mechanisms to encourage eligible beneficiaries to select cost-effective drugs or less costly means of receiving drugs, such as through the use of—

''(i) pharmacy incentive programs;

''(ii) therapeutic interchange programs; and

''(iii) disease management programs;

''(C) encourage pharmacy providers to—

''(i) inform beneficiaries of the differentials in price between generic and brand name drug equivalents; and

''(ii) provide medication therapy management programs in order to enhance beneficiaries' understanding of the appropriate use of medications and to reduce the risk of potential adverse events associated with medications; and

''(D) develop and implement a formulary in accordance with subsection (c).

''(2) RESTRICTION.—If an eligible entity uses alternative methods of distribution pursuant to paragraph (1)(A)(i), the entity may not require that a beneficiary use such methods in order to obtain covered outpatient drugs.

''(c) REQUIREMENTS FOR FORMULARIES.—

''(1) STANDARDS.—

''(A) IN GENERAL.—The formulary developed and implemented by the eligible entity shall comply with standards established by the Secretary in consultation with the Medicare Prescription Drug Advisory Committee established under section 1860L.

''(B) NO NATIONAL FORMULARY OR REQUIREMENT TO EXCLUDE SPECIFIC DRUGS.—

''(i) SECRETARY MAY NOT ESTABLISH A NATIONAL FORMULARY.—The Secretary may not establish a national formulary.

''(ii) NO REQUIREMENT TO EXCLUDE SPECIFIC DRUGS.—The standards established by the Secretary pursuant to subparagraph (A) may not require that an eligible entity exclude a specific covered outpatient drug from the formulary developed and implemented by the entity.

''(2) REQUIREMENTS FOR STANDARDS.—The standards established under paragraph (1) shall require that the eligible entity—

''(A) use a pharmacy and therapeutic committee (that meets the standards for a pharmacy and therapeutic committee established by the Secretary in consultation with such Medicare Prescription Drug Advisory Committee) to develop and implement the formulary;

''(B) include—

''(i) all generic covered outpatient drugs in the formulary; and

''(ii) at least 1 but no more than 2 (unless the Secretary determines that such limitation is determined to be clinically inappropriate for a given therapeutic class) brand name covered outpatient drugs from each therapeutic class (as defined by the Secretary in consultation with such Medicare Prescription Drug Advisory Committee) as a preferred brand name drug in the formulary;

''(C) develop procedures for the modification of the formulary, including for the addition of new drugs to an existing therapeutic class;

''(D) pursuant to section 1860F(b)(1)(C), provide for coverage of nonformulary drugs at the preferred brand name drug rate when determined under subparagraph (D) or (E) of subsection (a)(3) to be medically necessary;

''(E) disclose to current and prospective beneficiaries and to providers in the service area the nature of the formulary restrictions, including information regarding the drugs included in the formulary and any difference in the cost-sharing for—

''(i) drugs included in the formulary; and

''(ii) for drugs not included in the formulary; and

''(F) provide a reasonable amount of notice to beneficiaries enrolled in the plan that is covered by the contract under this part of any change in the formulary.

''(3) CONSTRUCTION.—Nothing in this part shall be construed as precluding an eligible entity from—

''(A) educating prescribing providers, pharmacists, and beneficiaries about the medical and cost benefits of drugs included in the formulary (including generic drugs); or

''(B) requesting prescribing providers to consider a drug included in the formulary prior to dispensing of a drug not so included, as long as such a request does not unduly delay the provision of the drug.

''(d) TERMS OF PARTICIPATION AGREEMENT WITH PHARMACIES.—

''(1) IN GENERAL.—A participation agreement between an eligible entity and a pharmacy under this part (pursuant to subsection (a)(3)(A)(ii)) shall include the following terms and conditions:

''(A) APPLICABLE REQUIREMENTS.—The pharmacy shall meet (and throughout the contract period continue to meet) all applicable Federal requirements and State and local licensing requirements.

''(B) ACCESS AND QUALITY STANDARDS.—The pharmacy shall comply with such standards as the Secretary (and the eligible entity) shall establish concerning the quality of, and enrolled beneficiaries' access to, pharmacy services under this part. Such standards shall require the pharmacy—

''(i) not to refuse to dispense covered outpatient drugs to any eligible beneficiary enrolled under this part;

''(ii) to keep patient records (including records on expenses) for all covered outpatient drugs dispensed to such enrolled beneficiaries;

''(iii) to submit information (in a manner specified by the Secretary to be necessary to administer this part) on all purchases of such drugs dispensed to such enrolled beneficiaries; and

''(iv) to comply with periodic audits to assure compliance with the requirements of this part and the accuracy of information submitted.

''(C) ENSURING THAT BENEFICIARIES ARE NOT OVERCHARGED.—

''(i) ADHERENCE TO NEGOTIATED PRICES.—The total charge for each covered outpatient drug dispensed by the pharmacy to a beneficiary enrolled in the plan, without regard to whether the individual is financially responsible for any or all of such charge, shall not exceed the negotiated price for the drug (as reported to the Secretary pursuant to subsection (a)(5)(A)).

''(ii) ADHERENCE TO BENEFICIARY OBLIGATION.—The pharmacy may not charge (or collect from) such beneficiary an amount that exceed's the cost-sharing that the beneficiary is responsible for under this part (as determined under section 1860F(b) using the negotiated price of the drug).

''(D) ADDITIONAL REQUIREMENTS.—The pharmacy shall meet such additional contract requirements as the eligible entity specifies under this section.

''(2) APPLICABILITY OF FRAUD AND ABUSE PROVISIONS.—The provisions of section 1128 through 1128C (relating to fraud and abuse) apply to pharmacies participating in the program under this part.

''(e) PREFERRED PHARMACY NETWORKS.—

''(1) IN GENERAL.—If an eligible entity uses a preferred pharmacy network to deliver benefits under this part, such network shall meet minimum access standards established by the Secretary.

''(2) STANDARDS.—In establishing standards under paragraph (1), the Secretary shall take into account reasonable distances to pharmacy services in both urban and rural areas.

''PAYMENTS

''SEC. 1860I. (a) PROCEDURES FOR PAYMENTS TO ELIGIBLE ENTITIES.—The Secretary shall establish procedures for making payments to each eligible entity with a contract under this part for the management, administration, and delivery of the benefits under this part.

''(b) REQUIREMENTS FOR PROCEDURES.—

''(1) IN GENERAL.—The procedures established under subsection (a) shall provide for the following:

''(A) MANAGEMENT PAYMENT.—Payment for the management, administration, and delivery of the benefits under this part.

''(B) REIMBURSEMENT FOR NEGOTIATED COSTS OF DRUGS PROVIDED.—Payments for the negotiated costs of covered outpatient drugs provided to eligible beneficiaries enrolled under this part and in a plan offered by the eligible entity, reduced by any applicable cost-sharing under section 1860F(b).

''(C) RISK REQUIREMENT TO ENSURE PURSUIT OF PERFORMANCE REQUIREMENTS.—An adjustment of a percentage (as determined under paragraph (2)) of the payments made to an entity under subparagraph (A) to ensure that the entity, in managing, administering, and delivering the benefits under this part, pursues performance requirements established by the Secretary, including the following:

''(i) CONTROL OF MEDICARE AND BENEFICIARY COSTS.—The entity contains costs to the Prescription Drug Account and to eligible beneficiaries enrolled under this part and in the plan offered by the entity, as measured by generic substitution rates, price discounts, and other factors determined appropriate by the Secretary that do not reduce the access of such beneficiaries to medically necessary covered outpatient drugs.

''(ii) QUALITY CLINICAL CARE.—The entity provides such beneficiaries with quality clinical care, as measured by such factors as—

''(I) the level of adverse drug reactions and medical errors among such beneficiaries; and

''(II) providing specific clinical suggestions to improve health and patient and prescriber education as appropriate.

''(iii) QUALITY SERVICE.—The entity provides such beneficiaries with quality services, as measured by such factors as sustained pharmacy network access, timeliness and accuracy of service delivery in claims processing and card production, pharmacy and member service support access, response time in mail delivery service, and timely action with regard to appeals and current beneficiary service surveys.

''(2) PERCENTAGE OF PAYMENT TIED TO RISK.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall determine the percentage (which may be up to 100 percent) of the payments made to an entity under subparagraph (A) that will be tied to the performance requirements described in paragraph (1)(C).

''(B) LIMITATION ON RISK TO ENSURE PROGRAM STABILITY.—In order to provide for program stability, the Secretary may not establish a percentage to be adjusted under this subsection at a level that jeopardizes the ability of an eligible entity to administer and deliver the benefits under this part or administer and deliver such benefits in a quality manner.

''(3) RISK ADJUSTMENT OF PAYMENTS BASED ON ENROLLEES IN PLAN.—To the extent that an eligible entity is at risk under this subsection, the procedures established under subsection (a) may include a methodology for risk adjusting the payments made to such entity based on the differences in actuarial risk of different enrollees being served if the Secretary determines such adjustments to be necessary and appropriate.

''(4) PASS-THROUGH OF REBATES, DISCOUNTS, AND PRICE CONCESSIONS OBTAINED BY THE ELIGIBLE ENTITY.—The Secretary shall establish procedures for reducing the amount of payments to an eligible entity under subsection (a) to take into account any rebates, discounts, or price concessions obtained by the entity from manufacturers of covered outpatient drugs, unless the Secretary determines that such procedures are not in the best interests of the medicare program or eligible beneficiaries.

''(c) PAYMENTS TO MEDICARE+CHOICE ORGANIZATIONS.—For provisions related to payments to Medicare+Choice organizations for the administration and delivery of benefits under this part to eligible beneficiaries enrolled in a Medicare+Choice plan offered by the organization, see section 1853(c)(8).

''(d) SECONDARY PAYER PROVISIONS.—The provisions of section 1862(b) shall apply to the benefits provided under this part.

''EMPLOYER INCENTIVE PROGRAM FOR EMPLOYMENT-BASED RETIREE DRUG COVERAGE

''SEC. 1860J. (a) PROGRAM AUTHORITY.—The Secretary is authorized to develop and implement a program under this section to be known as the 'Employer Incentive Program' that encourages employers and other sponsors of employment-based health care coverage to provide adequate prescription drug benefits to retired individuals by subsidizing, in part, the sponsor's cost of providing coverage under qualifying plans.

''(b) SPONSOR REQUIREMENTS.—In order to be eligible to receive an incentive payment under this section with respect to coverage of an individual under a qualified retiree prescription drug plan (as defined in subsection (e)(3)), a sponsor shall meet the following requirements:

''(1) ASSURANCES.—The sponsor shall—

''(A) annually attest, and provide such assurances as the Secretary may require, that the coverage offered by the sponsor is a qualified retiree prescription drug plan, and will remain such a plan for the duration of the sponsor's participation in the program under this section; and

''(B) guarantee that it will give notice to the Secretary and covered retirees—

''(i) at least 120 days before terminating its plan; and

''(ii) immediately upon determining that the actuarial value of the prescription drug benefit under the plan falls below the actuarial value of the outpatient prescription drug benefit under this part.

''(2) BENEFICIARY INFORMATION.—The sponsor shall report to the Secretary, for each calendar quarter for which it seeks an incentive payment under this section, the names and social security numbers of all retirees (and their spouses and dependents) covered under such plan during such quarter and the dates (if less than the full quarter) during which each such individual was covered.

''(3) AUDITS.—The sponsor and the employment-based retiree health coverage plan seeking incentive payments under this section shall agree to maintain, and to afford the Secretary access to, such records as the Secretary may require for purposes of audits and other oversight activities necessary to ensure the adequacy of prescription drug coverage, the accuracy of incentive payments made, and such other matters as may be appropriate.

''(4) OTHER REQUIREMENTS.—The sponsor shall provide such other information, and

comply with such other requirements, as the Secretary may find necessary to administer the program under this section.

''(c) INCENTIVE PAYMENTS.—

''(1) IN GENERAL.—A sponsor that meets the requirements of subsection (b) with respect to a quarter in a calendar year shall be entitled to have payment made by the Secretary on a quarterly basis (to the sponsor or, at the sponsor's direction, to the appropriate employment-based health plan) of an incentive payment, in the amount determined in paragraph (2), for each retired individual (or spouse or dependent) who—

''(A) was covered under the sponsor's qualified retiree prescription drug plan during such quarter; and

''(B) was eligible for, but was not enrolled in, the outpatient prescription drug benefit program under this part.

''(2) AMOUNT OF PAYMENT.—

''(A) IN GENERAL.—The amount of the payment for a quarter shall be, for each individual described in paragraph (1), ⅔ of the sum of the monthly Government contribution amounts (computed under subparagraph (B)) for each of the 3 months in the quarter.

''(B) COMPUTATION OF MONTHLY GOVERNMENT CONTRIBUTION AMOUNT.—For purposes of subparagraph (A), the monthly Government contribution amount for a month in a year is equal to the amount by which—

''(i) 1/12 of the amount estimated under subparagraph (C) for the year involved; exceeds

''(ii) the monthly Part D premium under section 1860E(a) (determined without regard to any increase under section 1860B(b)(1)) for the month involved.

''(C) ESTIMATE OF AVERAGE ANNUAL PER CAPITA AGGREGATE EXPENDITURES.—

''(i) IN GENERAL.—The Secretary shall for each year after 2004 estimate for that year an amount equal to average annual per capita aggregate expenditures payable from the Prescription Drug Account for that year.

''(ii) TIMEFRAME FOR ESTIMATION.—The Secretary shall make the estimate described in clause (i) for a year before the beginning of that year.

''(3) PAYMENT DATE.—The payment under this section with respect to a calendar quarter shall be payable as of the end of the next succeeding calendar quarter.

''(d) CIVIL MONEY PENALTIES.—A sponsor, health plan, or other entity that the Secretary determines has, directly or through its agent, provided information in connection with a request for an incentive payment under this section that the entity knew or should have known to be false shall be subject to a civil monetary penalty in an amount up to 3 times the total incentive amounts under subsection (c) that were paid (or would have been payable) on the basis of such information.

''(e) DEFINITIONS.—In this section:

''(1) EMPLOYMENT-BASED RETIREE HEALTH COVERAGE.—The term 'employment-based retiree health coverage' means health insurance or other coverage, whether provided by voluntary insurance coverage or pursuant to statutory or contractual obligation, of health care costs for retired individuals (or for such individuals and their spouses and dependents) based on their status as former employees or labor union members.

''(2) EMPLOYER.—The term 'employer' has the meaning given the term in section 3(5) of the Employee Retirement Income Security Act of 1974 (except that such term shall include only employers of 2 or more employees).

''(3) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN.—The term 'qualified retiree prescription drug plan' means health insurance coverage included in employment-based retiree health coverage that—

''(A) provides coverage of the cost of prescription drugs with an actuarial value (as defined by the Secretary) to each retired beneficiary that equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient prescription drug benefit program under this part; and

''(B) does not deny, limit, or condition the coverage or provision of prescription drug benefits for retired individuals based on age or any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

''(4) SPONSOR.—The term 'sponsor' has the meaning given the term 'plan sponsor' in section 3(16)(B) of the Employer Retirement Income Security Act of 1974.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the program under this section.

''PRESCRIPTION DRUG ACCOUNT IN THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

''SEC. 1860K. (a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is created within the Federal Supplementary Medical Insurance Trust Fund established by section 1841 an account to be known as the 'Prescription Drug Account' (in this section referred to as the 'Account').

''(2) FUNDS.—The Account shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, the account as provided in this part.

''(3) SEPARATE FROM REST OF TRUST FUND.—Funds provided under this part to the Account shall be kept separate from all other funds within the Federal Supplementary Medical Insurance Trust Fund.

''(b) PAYMENTS FROM ACCOUNT.—

''(1) IN GENERAL.—The Managing Trustee shall pay from time to time from the Account such amounts as the Secretary certifies are necessary to make payments to operate the program under this part, including payments to eligible entities under section 1860I, payments to Medicare+Choice organizations under section 1853(c)(8), and payments with respect to administrative expenses under this part in accordance with section 201(g).

''(2) TREATMENT IN RELATION TO PART B PREMIUM.—Amounts payable from the Account shall not be taken into account in computing actuarial rates or premium amounts under section 1839.

''(c) APPROPRIATIONS TO COVER BENEFITS AND ADMINISTRATIVE COSTS.—

''(1) IN GENERAL.—Subject to paragraph (2), there are appropriated to the Account in a fiscal year, out of any moneys in the Treasury not otherwise appropriated, an amount equal to the amount by which the benefits and administrative costs of providing the benefits under this part in the year exceed the premiums collected under section 1860E(b) for the year.

''(2) LIMITATION.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no obligations shall be incurred, no amounts shall be appropriated, and no amounts expended, for expenses incurred for providing coverage of covered outpatient drugs after December 31, 2010.

''(B) EXPENSES FOR COVERAGE PRIOR TO 2011.—The Secretary shall make payments on or after January 1, 2011, for expenses incurred to the extent such expenses were incurred for providing coverage of covered outpatient drugs prior to such date.

''(C) LEGISLATION ENACTED THAT PROVIDES SAVINGS.—Amounts shall continue to be appropriated, and the Secretary shall continue to incur obligations and expend amounts, for expenses incurred for providing coverage of covered outpatient drugs after December 31, 2010, if legislation is enacted prior to January 1, 2011, which states that savings have been achieved equal to or greater than the difference between the full cost of the Medicare Outpatient Prescription Drug Act of 2002 over the period beginning October 1, 2004, and ending September 30, 2012, and the full cost of such Act over such period if this paragraph had not been included in such Act.

''MEDICARE PRESCRIPTION DRUG ADVISORY COMMITTEE

''SEC. 1860L. (a) ESTABLISHMENT OF COMMITTEE.—There is established a Medicare Prescription Drug Advisory Committee (in this section referred to as the 'Committee').

''(b) FUNCTIONS OF COMMITTEE.—On and after January 1, 2004, the Committee shall advise the Secretary on policies related to—

''(1) the development of guidelines for the implementation and administration of the outpatient prescription drug benefit program under this part; and

''(2) the development of—

''(A) standards for a pharmacy and therapeutics committee required of eligible entities under section 1860H(c)(2)(A);

''(B) standards required under subparagraphs (D) and (E) of section 1860H(a)(4) for determining if a drug is medically necessary;

''(C) standards for—

''(i) establishing therapeutic classes;

''(ii) adding new therapeutic classes to a formulary; and

''(iii) defining maintenance and nonmaintenance drugs and determining the length of the course that is typical of current practice for nonmaintenance drugs for purposes of applying section 1860F(b)(1);

''(D) procedures to evaluate the bids submitted by eligible entities under this part; and

''(E) procedures to ensure that eligible entities with a contract under this part are in compliance with the requirements under this part.

''(c) STRUCTURE AND MEMBERSHIP OF THE COMMITTEE.—

''(1) STRUCTURE.—The Committee shall be composed of 19 members who shall be appointed by the Secretary.

''(2) MEMBERSHIP.—

''(A) IN GENERAL.—The members of the Committee shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education, experience, attainments, and understanding of pharmaceutical cost control and quality enhancement, exceptionally qualified to perform the duties of members of the Committee.

''(B) SPECIFIC MEMBERS.—Of the members appointed under paragraph (1)—

''(i) five shall be chosen to represent physicians, 2 of whom shall be geriatricians;

''(ii) two shall be chosen to represent nurse practitioners;

''(iii) four shall be chosen to represent pharmacists;

''(iv) one shall be chosen to represent the Centers for Medicare & Medicaid Services;

''(v) four shall be chosen to represent actuaries, pharmacoeconomists, researchers, and other appropriate experts;

''(vi) one shall be chosen to represent emerging drug technologies;

''(vii) one shall be closed to represent the Food and Drug Administration; and

''(viii) one shall be chosen to represent individuals enrolled under this part.

''(d) TERMS OF APPOINTMENT.—Each member of the Committee shall serve for a term

determined appropriate by the Secretary. The terms of service of the members initially appointed shall begin on March 1, 2003.

''(e) CHAIRPERSON.—The Secretary shall designate a member of the Committee as Chairperson. The term as Chairperson shall be for a 1-year period.

''(f) COMMITTEE PERSONNEL MATTERS.—

''(1) MEMBERS.—

''(A) COMPENSATION.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee. All members of the Committee who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

''(B) TRAVEL EXPENSES.—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

''(2) STAFF.—The Committee may appoint such personnel as the Committee considers appropriate.

''(g) OPERATION OF THE COMMITTEE.—

''(1) MEETINGS.—The Committee shall meet at the call of the Chairperson (after consultation with the other members of the Committee) not less often than quarterly to consider a specific agenda of issues, as determined by the Chairperson after such consultation.

''(2) QUORUM.—Ten members of the Committee shall constitute a quorum for purposes of conducting business.

''(h) FEDERAL ADVISORY COMMITTEE ACT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

''(i) TRANSFER OF PERSONNEL, RESOURCES, AND ASSETS.—For purposes of carrying out its duties, the Secretary and the Committee may provide for the transfer to the Committee of such civil service personnel in the employ of the Department of Health and Human Services (including the Centers for Medicare & Medicaid Services), and such resources and assets of the Department used in carrying out this title, as the Committee requires.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.''.

(b) EXCLUSIONS FROM COVERAGE.—

(1) APPLICATION TO PART D.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended in the matter preceding paragraph (1) by striking ''part A or part B'' and inserting ''part A, B, or D''.

(2) PRESCRIPTION DRUGS NOT EXCLUDED FROM COVERAGE IF REASONABLE AND NECESSARY.—Section 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)) is amended—

(A) in subparagraph (H), by striking ''and'' at the end;

(B) in subparagraph (I), by striking the semicolon at the end and inserting '', and''; and

(C) by adding at the end the following new subparagraph:

''(J) in the case of prescription drugs covered under part D, which are not reasonable and necessary to prevent or slow the deterioration of, or improve or maintain, the health of eligible beneficiaries;''.

(c) CONFORMING AMENDMENTS TO FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND.—Section 1841 of the Social Security Act (42 U.S.C. 1395t) is amended—

(1) in the last sentence of subsection (a)—

(A) by striking ''and'' before ''such amounts''; and

(B) by inserting before the period the following: '', and such amounts as may be deposited in, or appropriated to, the Prescription Drug Account established by section 1860K'';

(2) in subsection (g), by inserting after ''by this part,'' the following: ''the payments provided for under part D (in which case the payments shall be made from the Prescription Drug Account in the Trust Fund),'';

(3) in subsection (h), by inserting after ''1840(d)'' the following: ''and section 1860E(b) (in which case the payments shall be made from the Prescription Drug Account in the Trust Fund)''; and

(4) in subsection (i), by inserting after ''section 1840(b)(1)'' the following: '', section 1860E(b) (in which case the payments shall be made from the Prescription Drug Account in the Trust Fund),''.

(d) CONFORMING REFERENCES TO PREVIOUS PART D.—

(1) IN GENERAL.—Any reference in law (in effect before the date of enactment of this Act) to part D of title XVIII of the Social Security Act is deemed a reference to part E of such title (as in effect after such date).

(2) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this title.

SEC. 203. PART D BENEFITS UNDER MEDICARE+CHOICE PLANS.

(a) ELIGIBILITY, ELECTION, AND ENROLLMENT.—Section 1851 of the Social Security Act (42 U.S.C. 1395w–21) is amended—

(1) in subsection (a)(1)(A), by striking ''parts A and B'' and inserting ''parts A, B, and D''; and

(2) in subsection (i)(1), by striking ''parts A and B'' and inserting ''parts A, B, and D''.

(b) VOLUNTARY BENEFICIARY ENROLLMENT FOR DRUG COVERAGE.—Section 1852(a)(1)(A) of the Social Security Act (42 U.S.C. 1395w–22(a)(1)(A)) is amended by inserting ''(and under part D to individuals also enrolled under that part)'' after ''parts A and B''.

(c) ACCESS TO SERVICES.—Section 1852(d)(1) of the Social Security Act (42 U.S.C. 1395w–22(d)(1)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(F) in the case of covered outpatient drugs (as defined in section 1860(1)) provided to individuals enrolled under part D, the organization complies with the access requirements applicable under part D.''.

(d) PAYMENTS TO ORGANIZATIONS FOR PART D BENEFITS.—

(1) IN GENERAL.—Section 1853(a)(1)(A) of the Social Security Act (42 U.S.C. 1395w–23(a)(1)(A)) is amended—

(A) by inserting ''determined separately for the benefits under parts A and B and under part D (for individuals enrolled under that part)'' after ''as calculated under subsection (c)'';

(B) by striking ''that area, adjusted for such risk factors'' and inserting ''that area. In the case of payment for the benefits under parts A and B, such payment shall be adjusted for such risk factors as''; and

(C) by inserting before the last sentence the following: ''In the case of the payments under subsection (c)(8) for the provision of coverage of covered outpatient drugs to individuals enrolled under part D, such payment shall be adjusted for the risk factors of each enrollee as the Secretary determines to be feasible and appropriate to ensure actuarial equivalence.''.

(2) AMOUNT.—Section 1853(c) of the Social Security Act (42 U.S.C. 1395w–23(c)) is amended—

(A) in paragraph (1), in the matter preceding subparagraph (A), by inserting ''for benefits under parts A and B'' after ''capitation rate''; and

(B) by adding at the end the following new paragraph:

''(8) CAPITATION RATE FOR PART D BENEFITS.—

''(A) IN GENERAL.—In the case of a Medicare+Choice plan that provides coverage of covered outpatient drugs to an individual enrolled under part D, the capitation rate for such coverage shall be the amount described in subparagraph (B). Such payments shall be made in the same manner and at the same time as the payments to the Medicare+Choice organization offering the plan for benefits under parts A and B are otherwise made, but such payments shall be payable from the Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund under section 1841.

''(B) AMOUNT.—The amount described in this paragraph is an amount equal to 1/12 of the average annual per capita aggregate expenditures payable from the Prescription Drug Account for the year (as estimated under section 1860J(c)(2)(C)).''.

(e) LIMITATION ON ENROLLEE LIABILITY.—Section 1854(e) of the Social Security Act (42 U.S.C. 1395w–24(e)) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR PART D BENEFITS.—With respect to outpatient prescription drug benefits under part D, a Medicare+Choice organization may not require that an enrollee pay any deductible or pay a cost-sharing amount that exceeds the amount of cost-sharing applicable for such benefits for an eligible beneficiary under part D.''.

(f) REQUIREMENT FOR ADDITIONAL BENEFITS.—Section 1854(f)(1) of the Social Security Act (42 U.S.C. 1395w–24(f)(1)) is amended by adding at the end the following new sentence: ''Such determination shall be made separately for the benefits under parts A and B and for prescription drug benefits under part D.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services provided under a Medicare+Choice plan on or after January 1, 2005.

SEC. 204. ADDITIONAL ASSISTANCE FOR LOW-INCOME BENEFICIARIES.

(a) INCLUSION IN MEDICARE COST-SHARING.—Section 1905(p)(3) of the Social Security Act (42 U.S.C. 1396d(p)(3)) is amended—

(1) in subparagraph (A)—

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

(B) in clause (ii), by inserting ''and'' at the end; and

(C) by adding at the end the following new clause:

''(iii) premiums under section 1860E(a).''; and

(2) in subparagraph (B), by inserting ''and cost-sharing described in section 1860F(b)'' after ''section 1813''.

(b) EXPANSION OF MEDICAL ASSISTANCE.—Section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) is amended—

(1) in clause (iii)—

(A) by striking ''section 1905(p)(3)(A)(ii)'' and inserting ''clauses (ii) and (iii) of section

1905(p)(3)(A) and for medicare cost-sharing described in section 1905(p)(3)(B) (but only insofar as it relates to benefits provided under part D of title XVIII),''; and

(B) by striking ''and'' at the end;

(2) by redesignating clause (iv) as clause (vi); and

(3) by inserting after clause (iii) the following new clauses:

''(iv) for making medical assistance available for medicare cost-sharing described in section 1905(p)(3)(A)(iii) and for medicare cost-sharing described in section 1905(p)(3)(B) (but only insofar as it relates to benefits provided under part D of title XVIII) for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds 120 percent but does not exceed 135 percent of such official poverty line for a family of the size involved;

''(v) for making medical assistance available for medicare cost-sharing described in section 1905(p)(3)(A)(iii) on a linear sliding scale based on the income of such individuals for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds 135 percent but does not exceed 150 percent of such official poverty line for a family of the size involved; and''.

(c) NONAPPLICABILITY OF RESOURCE REQUIREMENTS TO MEDICARE PART D COST-SHARING.—Section 1905(p)(1) of the Social Security Act (42 U.S.C. 1396d(p)(1)) is amended by adding at the end the following flush sentence:

''In determining if an individual is a qualified medicare beneficiary under this paragraph, subparagraph (C) shall not be applied for purposes of providing the individual with medicare cost-sharing described in section 1905(p)(3)(A)(iii) or for medicare cost-sharing described in section 1905(p)(3)(B) (but only insofar as it relates to benefits provided under part D of title XVIII).''.

(d) NONAPPLICABILITY OF PAYMENT DIFFERENTIAL REQUIREMENTS TO MEDICARE PART D COST-SHARING.—Section 1902(n)(2) of the Social Security Act (42 U.S.C. 1396a(n)(2)) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to the cost-sharing described in section 1860F(b).''.

(e) 100 PERCENT FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) by striking ''and'' before ''(4)''; and

(2) by inserting before the period at the end the following: '', and (5) the Federal medical assistance percentage shall be 100 percent with respect to medical assistance provided under clauses (iv) and (v) of section 1902(a)(10)(E)''.

(f) TREATMENT OF TERRITORIES.—Section 1108(g) of the Social Security Act (42 U.S.C. 1308(g)) is amended by adding at the end the following new paragraph:

''(3) Notwithstanding the preceding provisions of this subsection, with respect to fiscal year 2005 and any fiscal year thereafter, the amount otherwise determined under this subsection (and subsection (f)) for the fiscal year for a Commonwealth or territory shall be increased by the ratio (as estimated by the Secretary) of—

''(A) the aggregate amount of payments made to the 50 States and the District of Columbia for the fiscal year under title XIX that are attributable to making medical assistance available for individuals described in clauses (i), (iii), (iv), and (v) of section 1902(a)(10)(E) for payment of medicare cost-sharing described in section 1905(p)(3)(A)(iii) and for medicare cost-sharing described in section 1905(p)(3)(B) (but only insofar as it relates to benefits provided under part D of title XVIII); to

''(B) the aggregate amount of total payments made to such States and District for the fiscal year under such title.''.

(g) AMENDMENT TO BEST PRICE.—Section 1927(c)(1)(C)(i) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(C)(i)) is amended—

(1) by striking ''and'' at the end of subclause (III);

(2) by striking the period at the end of subclause (IV) and inserting ''; and''; and

(3) by adding at the end the following new subclause:

''(V) any prices charged which are negotiated under a plan under part D of title XVIII with respect to covered outpatient drugs, under a Medicare+Choice plan under part C of such title with respect to such drugs, or by a qualified retiree prescription drug plan (as defined in section 1860J(e)(3)) with respect to such drugs, on behalf of eligible beneficiaries (as defined in section 1860(2).''.

(h) CONFORMING AMENDMENTS.—Section 1933 of the Social Security Act (42 U.S.C. 1396u–3) is amended—

(1) in subsection (a), by striking ''section 1902(a)(10)(E)(iv)'' and inserting ''section 1902(a)(10)(E)(vi)'';

(2) in subsection (c)(2)(A)—

(A) in clause (i), by striking ''section 1902(a)(10)(E)(iv)(I)'' and inserting ''section 1902(a)(10)(E)(vi)(I)''; and

(B) in clause (ii), by striking ''section 1902(a)(10)(E)(iv)(II)'' and inserting ''section 1902(a)(10)(E)(vi)(II)'';

(3) in subsection (d), by striking ''section 1902(a)(10)(E)(iv)'' and inserting ''section 1902(a)(10)(E)(vi)''; and

(4) in subsection (e), by striking ''section 1902(a)(10)(E)(iv)'' and inserting ''section 1902(a)(10)(E)(vi)''.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply for medical assistance provided under section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) on and after January 1, 2005.

SEC. 205. MEDIGAP REVISIONS.

Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

''(v) MODERNIZED BENEFIT PACKAGES FOR MEDICARE SUPPLEMENTAL POLICIES.—

''(1) REVISION OF BENEFIT PACKAGES.—

''(A) IN GENERAL.—Notwithstanding subsection (p), the benefit packages classified as 'H', 'I', and 'J' under the standards established by subsection (p)(2) (including the benefit package classified as 'J' with a high deductible feature, as described in subsection (p)(11)) shall be revised so that—

''(i) the coverage of outpatient prescription drugs available under such benefit packages is replaced with coverage of outpatient prescription drugs that complements but does not duplicate the coverage of outpatient prescription drugs that is otherwise available under this title;

''(ii) the revised benefit packages provide a range of coverage options for outpatient prescription drugs for beneficiaries, but do not provide coverage for more than 90 percent of the cost-sharing amount applicable to an individual under section 1860F(b);

''(iii) uniform language and definitions are used with respect to such revised benefits;

''(iv) uniform format is used in the policy with respect to such revised benefits;

''(v) such revised standards meet any additional requirements imposed by the amendments made by the Medicare Outpatient Prescription Drug Act of 2002; and

''(vi) except as revised under the preceding clauses or as provided under subsection (p)(1)(E), the benefit packages are identical to the benefit packages that were available on the date of enactment of the Medicare Outpatient Prescription Drug Act of 2002.

''(B) MANNER OF REVISION.—The benefit packages revised under this section shall be revised in the manner described in subparagraph (E) of subsection (p)(1), except that for purposes of subparagraph (C) of such subsection, the standards established under this subsection shall take effect not later than January 1, 2005.

''(2) CONSTRUCTION OF BENEFITS IN OTHER MEDICARE SUPPLEMENTAL POLICIES.—Nothing in the benefit packages classified as 'A' through 'G' under the standards established by subsection (p)(2) (including the benefit package classified as 'F' with a high deductible feature, as described in subsection (p)(11)) shall be construed as providing coverage for benefits for which payment may be made under part D.

''(3) GUARANTEED ISSUANCE AND RENEWAL OF REVISED POLICIES.—The provisions of subsections (q) and (s), including provisions of subsection (s)(3) (relating to special enrollment periods in cases of termination or disenrollment), shall apply to medicare supplemental policies revised under this subsection in the same manner as such provisions apply to medicare supplemental policies issued under the standards established under subsection (p).

''(4) OPPORTUNITY OF CURRENT POLICYHOLDERS TO PURCHASE REVISED POLICIES.—

''(A) IN GENERAL.—No medicare supplemental policy of an issuer with a benefit package that is revised under paragraph (1) shall be deemed to meet the standards in subsection (c) unless the issuer—

''(i) provides written notice during the 60-day period immediately preceding the period established for the open enrollment period established under section 1860B(b)(2)(A), to each individual who is a policyholder or certificate holder of a medicare supplemental policy issued by that issuer (at the most recent available address of that individual) of the offer described in clause (ii) and of the fact that such individual will no longer be covered under such policy as of January 1, 2005; and

''(ii) offers the policyholder or certificate holder under the terms described in subparagraph (B), during at least the period established under section 1860B(b)(2)(A), a medicare supplemental policy with the benefit package that the Secretary determines is most comparable to the policy in which the individual is enrolled with coverage effective as of the date on which the individual is first entitled to benefits under part D.

''(B) TERMS OF OFFER DESCRIBED.—The terms described in this subparagraph are terms which do not—

''(i) deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (A)(ii) that is offered and is available for issuance to new enrollees by such issuer;

''(ii) discriminate in the pricing of such policy because of health status, claims experience, receipt of health care, or medical condition; or

''(iii) impose an exclusion of benefits based on a preexisting condition under such policy.

''(5) ELIMINATION OF OBSOLETE POLICIES WITH NO GRANDFATHERING.—No person may sell, issue, or renew a medicare supplemental policy with a benefit package that is classified as 'H', 'I', or 'J' (or with a benefit package classified as 'J' with a high deductible feature) that has not been revised under this subsection on or after January 1, 2005.

''(6) PENALTIES.—Each penalty under this section shall apply with respect to policies revised under this subsection as if such policies were issued under the standards established under subsection (p), including the

penalties under subsections (a), (d), (p)(8), (p)(9), (q)(5), (r)(6)(A), (s)(4), and (t)(2)(D).''.

SEC. 206. COMPREHENSIVE IMMUNOSUPPRESSIVE DRUG COVERAGE FOR TRANSPLANT PATIENTS UNDER PART B.

(a) IN GENERAL.—Section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395x(s)(2)(J)), as amended by section 113(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–473), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by striking '', to an individual who receives'' and all that follows before the semicolon at the end and inserting ''to an individual who has received an organ transplant''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs furnished on or after the date of enactment of this Act.

SEC. 207. HHS STUDY AND REPORT ON UNIFORM PHARMACY BENEFIT CARDS.

(a) STUDIES.—The Secretary of Health and Human Services shall conduct a study to determine the feasibility and advisability of establishing a uniform format for pharmacy benefit cards provided to beneficiaries by eligible entities under the outpatient prescription drug benefit program under part D of title XVIII of the Social Security Act (as added by section 202).

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the results of the study conducted under subsection (a) together with any recommendations for legislation that the Secretary determines to be appropriate as a result of such study.

SEC. 208. GAO STUDY AND BIENNIAL REPORTS ON COMPETITION AND SAVINGS.

(a) ONGOING STUDY.—The Comptroller General of the United States shall conduct an ongoing study and analysis of the outpatient prescription drug benefit program under part D of title XVIII of the Social Security Act (as added by section 202), including an analysis of—

(1) the extent to which the competitive bidding process under such program fosters maximum competition and efficiency; and

(2) the savings to the medicare program resulting from such outpatient prescription drug benefit program, including the reduction in the number or length of hospital visits.

(b) INITIAL REPORT ON COMPETITIVE BIDDING PROCESS.—Not later than 9 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the results of the portion of the study conducted pursuant to subsection (a)(1).

(c) BIENNIAL REPORTS.—Not later than January 1, 2006, and biennially thereafter, the Comptroller General of the United States shall submit to Congress a report on the results of the study conducted under subsection (a) together with such recommendations for legislation and administrative action as the Comptroller General determines appropriate.

SEC. 209. EXPANSION OF MEMBERSHIP AND DUTIES OF MEDICARE PAYMENT ADVISORY COMMISSION (MEDPAC).

(a) EXPANSION OF MEMBERSHIP.—

(1) IN GENERAL.—Section 1805(c) of the Social Security Act (42 U.S.C. 1395b–6(c)) is amended—

(A) in paragraph (1), by striking ''17'' and inserting ''19''; and

(B) in paragraph (2)(B), by inserting ''experts in the area of pharmacology and prescription drug benefit programs,'' after ''other health professionals,''.

(2) INITIAL TERMS OF ADDITIONAL MEMBERS.—

(A) IN GENERAL.—For purposes of staggering the initial terms of members of the Medicare Payment Advisory Commission under section 1805(c)(3) of the Social Security Act (42 U.S.C. 1395b–6(c)(3)), the initial terms of the 2 additional members of the Commission provided for by the amendment under paragraph (1)(A) are as follows:

(i) One member shall be appointed for 1 year.

(ii) One member shall be appointed for 2 years.

(B) COMMENCEMENT OF TERMS.—Such terms shall begin on January 1, 2004.

(b) EXPANSION OF DUTIES.—Section 1805(b)(2) of the Social Security Act (42 U.S.C. 1395b–6(b)(2)) is amended by adding at the end the following new subparagraph:

''(D) PRESCRIPTION MEDICINE BENEFIT PROGRAM.—Specifically, the Commission shall review, with respect to the outpatient prescription drug benefit program under part D, the impact of such program on—

''(i) the pharmaceutical market, including costs and pricing of pharmaceuticals, beneficiary access to such pharmaceuticals, and trends in research and development;

''(ii) franchise, independent, and rural pharmacies; and

''(iii) beneficiary access to outpatient prescription drugs, including an assessment of out-of-pocket spending, generic and brand name drug utilization, and pharmacists' services.''.

SA 4310. Mr. HATCH (for Mr. GRASSLEY (for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. BREAUX, Mr. HATCH, Ms. COLLINS, Ms. LANDRIEU, Mr. HUTCHINSON, and Mr. DOMENICI)) proposed an amendment to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; as follows:

At the end, add the following:

DIVISION ____—21ST CENTURY MEDICARE ACT

SEC. 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES TO BIPA; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''21st Century Medicare Act''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment 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 that section or other provision of the Social Security Act.

(c) BIPA; SECRETARY.—In this Act:

(1) BIPA.—The term ''BIPA'' means the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(d) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; amendments to Social Security Act; references to BIPA; table of contents.

TITLE I—MEDICARE VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM

Sec. 101. Medicare voluntary prescription drug delivery program.

''PART D—VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM

''Sec. 1860D. Definitions; treatment of references to provisions in Medicare+Choice program.

''Subpart 1—Establishment of Voluntary Prescription Drug Delivery Program

''Sec. 1860D–1. Establishment of voluntary prescription drug delivery program.

''Sec. 1860D–2. Enrollment under program.

''Sec. 1860D–3. Election of a Medicare Prescription Drug plan.

''Sec. 1860D–4. Providing information to beneficiaries.

''Sec. 1860D–5. Beneficiary protections.

''Sec. 1860D–6. Prescription drug benefits.

''Sec. 1860D–7. Requirements for entities offering Medicare Prescription Drug plans; establishment of standards.

''Subpart 2—Prescription Drug Delivery System

''Sec. 1860D–10. Establishment of service areas.

''Sec. 1860D–11. Publication of risk adjusters.

''Sec. 1860D–12. Submission of bids for proposed Medicare Prescription Drug plans.

''Sec. 1860D–13. Approval of proposed Medicare Prescription Drug plans.

''Sec. 1860D–14. Computation of monthly standard coverage premiums.

''Sec. 1860D–15. Computation of monthly national average premium.

''Sec. 1860D–16. Payments to eligible entities offering Medicare Prescription Drug plans.

''Sec. 1860D–17. Computation of beneficiary obligation.

''Sec. 1860D–18. Collection of beneficiary obligation.

''Sec. 1860D–19. Premium and cost-sharing subsidies for low-income individuals.

''Sec. 1860D–20. Reinsurance payments for qualified prescription drug coverage.

''Subpart 3—Medicare Competitive Agency; Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund

''Sec. 1860D–25. Establishment of Medicare Competitive Agency.

''Sec. 1860D–26. Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund.''.

Sec. 102. Study and report on permitting part B only individuals to enroll in medicare voluntary prescription drug delivery program.

Sec. 103. Additional requirements for annual financial report and oversight on medicare program.

Sec. 104. Reference to medigap provisions.

Sec. 105. Medicaid amendments.

Sec. 106. Expansion of membership and duties of Medicare Payment Advisory Commission (MedPAC).

Sec. 107. Miscellaneous administrative provisions.

TITLE II—OPTION FOR ENHANCED MEDICARE BENEFITS

Sec. 201. Option for enhanced medicare benefits.

''PART E—ENHANCED MEDICARE BENEFITS

''Sec. 1860E–1. Entitlement to elect to receive enhanced medicare benefits.

''Sec. 1860E–2. Scope of enhanced medicare benefits.

''Sec. 1860E–3. Payment of benefits.

''Sec. 1860E–4. Eligible beneficiaries; election of enhanced medicare benefits; termination of election.

''Sec. 1860E–5. Premium adjustments; late election penalty.''.
Sec. 202. Rules relating to medigap policies that provide prescription drug coverage; establishment of enhanced medicare fee-for-service medigap policies.
TITLE III—MEDICARE+CHOICE COMPETITION
Sec. 301. Annual calculation of benchmark amounts based on floor rates and local fee-for-service rates.
Sec. 302. Application of comprehensive risk adjustment methodology.
Sec. 303. Annual announcement of benchmark amounts and other payment factors.
Sec. 304. Submission of bids by Medicare+Choice organizations.
Sec. 305. Adjustment of plan bids; comparison of adjusted bid to benchmark; payment amount.
Sec. 306. Determination of premium reductions, reduced cost-sharing, additional benefits, and beneficiary premiums.
Sec. 307. Eligibility, election, and enrollment in competitive Medicare+Choice plans.
Sec. 308. Benefits and beneficiary protections under competitive Medicare+Choice plans.
Sec. 309. Payments to Medicare+Choice organizations for enhanced medicare benefits under part E based on risk-adjusted bids.
Sec. 310. Separate payments to Medicare+Choice organizations for part D benefits.
Sec. 311. Administration by the Medicare Competitive Agency.
Sec. 312. Continued calculation of annual Medicare+Choice capitation rates.
Sec. 313. Five-year extension of medicare cost contracts.
Sec. 314. Effective date.

TITLE I—MEDICARE VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM

SEC. 101. MEDICARE VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM.

(a) ESTABLISHMENT.—Title XVIII (42 U.S.C. 1395 et seq.) is amended by redesignating part D as part F and by inserting after part C the following new part:

''PART D—VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM

''DEFINITIONS; TREATMENT OF REFERENCES TO PROVISIONS IN MEDICARE+CHOICE PROGRAM

''SEC. 1860D. (a) DEFINITIONS.—In this part:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Medicare Competitive Agency as established under section 1860D–25.

''(2) COVERED DRUG.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'covered drug' means—

''(i) a drug that may be dispensed only upon a prescription and that is described in clause (i) or (ii) of subparagraph (A) of section 1927(k)(2); or

''(ii) a biological product or insulin described in subparagraph (B) or (C) of such section;

and such term includes a vaccine licensed under section 351 of the Public Health Service Act and any use of a covered outpatient drug for a medically accepted indication (as defined in section 1927(k)(6)).

''(B) EXCLUSIONS.—

''(i) IN GENERAL.—The term 'covered drug' does not include drugs or classes of drugs, or their medical uses, which may be excluded from coverage or otherwise restricted under section 1927(d)(2), other than subparagraph (E) thereof (relating to smoking cessation agents), or under section 1927(d)(3).

''(ii) AVOIDANCE OF DUPLICATE COVERAGE.—A drug prescribed for an individual that would otherwise be a covered drug under this part shall not be so considered if payment for such drug is available under part A or B (or under part E for an eligible beneficiary who elects to receive enhanced medicare benefits under that part), but shall be so considered if such payment is not available because benefits under part A or B (or part E, as applicable) have been exhausted.

''(3) ELIGIBLE BENEFICIARY.—The term 'eligible beneficiary' means an individual that is entitled to benefits under part A and enrolled under part B.

''(4) ELIGIBLE ENTITY.—The term 'eligible entity' means any risk-bearing entity that the Administrator determines to be appropriate to provide eligible beneficiaries with the benefits under a Medicare Prescription Drug plan, including—

''(A) a pharmaceutical benefit management company;

''(B) a wholesale or retail pharmacist delivery system;

''(C) an insurer (including an insurer that offers medicare supplemental policies under section 1882);

''(D) another entity; or

''(E) any combination of the entities described in subparagraphs (A) through (D).

''(5) INITIAL COVERAGE LIMIT.—The term 'initial coverage limit' means the limit as established under section 1860D–6(c)(3), or, in the case of coverage that is not standard coverage, the comparable limit (if any) established under the coverage.

''(6) MEDICARE+CHOICE ORGANIZATION; MEDICARE+CHOICE PLAN.—The terms 'Medicare+Choice organization' and 'Medicare+Choice plan' have the meanings given such terms in subsections (a)(1) and (b)(1), respectively, of section 1859 (relating to definitions relating to Medicare+Choice organizations).

''(7) MEDICARE PRESCRIPTION DRUG PLAN.—The term 'Medicare Prescription Drug plan' means prescription drug coverage that is offered under a policy, contract, or plan—

''(A) by an eligible entity pursuant to, and in accordance with, a contract between the Administrator and the entity under section 1860D–7(b); and

''(B) that has been approved under section 1860D–13.

''(8) PRESCRIPTION DRUG ACCOUNT.—The term 'Prescription Drug Account' means the Prescription Drug Account (as established under section 1860D–26) in the Federal Supplementary Medical Insurance Trust Fund under section 1841.

''(9) QUALIFIED PRESCRIPTION DRUG COVERAGE.—The term 'qualified prescription drug coverage' means the coverage described in section 1860D–6(a)(1).

''(10) STANDARD COVERAGE.—The term 'standard coverage' means the coverage described in section 1860D–6(c).

''(b) APPLICATION OF MEDICARE+CHOICE PROVISIONS UNDER THIS PART.—For purposes of applying provisions of part C under this part with respect to a Medicare Prescription Drug plan and an eligible entity, unless otherwise provided in this part such provisions shall be applied as if—

''(1) any reference to a Medicare+Choice plan included a reference to a Medicare Prescription Drug plan;

''(2) any reference to a provider-sponsored organization included a reference to an eligible entity;

''(3) any reference to a contract under section 1857 included a reference to a contract under section 1860D–7(b); and

''(4) any reference to part C included a reference to this part.

''Subpart 1—Establishment of Voluntary Prescription Drug Delivery Program

''ESTABLISHMENT OF VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM

''SEC. 1860D–1. (a) PROVISION OF BENEFIT.—

''(1) IN GENERAL.—The Administrator shall provide for and administer a voluntary prescription drug delivery program under which each eligible beneficiary enrolled under this part shall be provided with access to qualified prescription drug coverage as follows:

''(A) MEDICARE+CHOICE PLAN.—An eligible beneficiary who is enrolled under this part and enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization shall receive coverage of benefits under this part through such plan if such plan provides qualified prescription drug coverage.

''(B) MEDICARE PRESCRIPTION DRUG PLAN.—An eligible beneficiary who is enrolled under this part but is not enrolled in a Medicare+Choice plan that provides qualified prescription drug coverage shall receive coverage of benefits under this part through enrollment in a Medicare Prescription Drug plan that is offered in the geographic area in which the beneficiary resides.

''(2) VOLUNTARY NATURE OF PROGRAM.—Nothing in this part shall be construed as requiring an eligible beneficiary to enroll in the program under this part.

''(3) SCOPE OF BENEFITS.—The program established under this part shall provide for coverage of all therapeutic classes of covered drugs.

''(4) PROGRAM TO BEGIN IN 2005.—The Administrator shall establish the program under this part in a manner so that benefits are first provided for months beginning with January 2005.

''(b) ACCESS TO ALTERNATIVE PRESCRIPTION DRUG COVERAGE.—In the case of an eligible beneficiary who has creditable prescription drug coverage (as defined in section 1860D–2(b)(1)(F)), such beneficiary—

''(1) may continue to receive such coverage and not enroll under this part; and

''(2) pursuant to section 1860D–2(b)(1)(C), is permitted to subsequently enroll under this part without any penalty and obtain access to qualified prescription drug coverage in the manner described in subsection (a) if the beneficiary involuntarily loses such coverage.

''(c) FINANCING.—The costs of providing benefits under this part shall be payable from the Prescription Drug Account.

''ENROLLMENT UNDER PROGRAM

''SEC. 1860D–2. (a) ESTABLISHMENT OF ENROLLMENT PROCESS.—

''(1) PROCESS SIMILAR TO PART B ENROLLMENT.—The Administrator shall establish a process through which an eligible beneficiary (including an eligible beneficiary enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization) may make an election to enroll under this part. Such process shall be similar to the process for enrollment in part B under section 1837, including the deeming provisions of such section.

''(2) CONDITION OF ENROLLMENT.—An eligible beneficiary must be enrolled under this part in order to be eligible to receive access to qualified prescription drug coverage.

''(b) SPECIAL ENROLLMENT PROCEDURES.—

''(1) LATE ENROLLMENT PENALTY.—

''(A) INCREASE IN PREMIUM.—Subject to the succeeding provisions of this paragraph, in the case of an eligible beneficiary whose coverage period under this part began pursuant to an enrollment after the beneficiary's initial enrollment period under part B (determined pursuant to section 1837(d)) and not pursuant to the open enrollment period described in paragraph (2), the Administrator shall establish procedures for increasing the amount of the monthly beneficiary obligation under section 1860D–17 applicable to

such beneficiary by an amount that the Administrator determines is actuarially sound for each full 12-month period (in the same continuous period of eligibility) in which the eligible beneficiary could have been enrolled under this part but was not so enrolled.

''(B) PERIODS TAKEN INTO ACCOUNT.—For purposes of calculating any 12-month period under subparagraph (A), there shall be taken into account—

''(i) the months which elapsed between the close of the eligible beneficiary's initial enrollment period and the close of the enrollment period in which the beneficiary enrolled; and

''(ii) in the case of an eligible beneficiary who reenrolls under this part, the months which elapsed between the date of termination of a previous coverage period and the close of the enrollment period in which the beneficiary reenrolled.

''(C) PERIODS NOT TAKEN INTO ACCOUNT.—

''(i) IN GENERAL.—For purposes of calculating any 12-month period under subparagraph (A), subject to clauses (ii) and (iii), there shall not be taken into account months for which the eligible beneficiary can demonstrate that the beneficiary had creditable prescription drug coverage (as defined in subparagraph (F)).

''(ii) BENEFICIARY MUST INVOLUNTARILY LOSE COVERAGE.—Clause (i) shall only apply with respect to coverage—

''(I) in the case of coverage described in clause (ii) of subparagraph (F), if the plan terminates, ceases to provide, or reduces the value of the prescription drug coverage under such plan to below the actuarial value of standard coverage (as determined under section 1860D–6(f));

''(II) in the case of coverage described in clause (i), (iii), or (iv) of subparagraph (F), if the beneficiary loses eligibility for such coverage; or

''(III) in the case of a beneficiary with coverage described in clause (v) of subparagraph (F), if the issuer of the policy terminates coverage under the policy.

''(iii) PARTIAL CREDIT FOR CERTAIN MEDIGAP COVERAGE.—In the case of a beneficiary that had creditable prescription drug coverage described in subparagraph (F)(v) that does not provide coverage of the cost of prescription drugs the actuarial value of which (as defined by the Administrator) to the beneficiary equals or exceeds the actuarial value of standard coverage (as determined under section 1860D–6(f)), the Administrator shall determine a percentage of the period in which the beneficiary had such creditable prescription drug coverage that will be taken into account under subparagraph (B) (and not considered to be such creditable prescription drug coverage under clause (i)).

''(D) PERIODS TREATED SEPARATELY.—Any increase in an eligible beneficiary's monthly beneficiary obligation under subparagraph (A) with respect to a particular continuous period of eligibility shall not be applicable with respect to any other continuous period of eligibility which the beneficiary may have.

''(E) CONTINUOUS PERIOD OF ELIGIBILITY.—

''(i) IN GENERAL.—Subject to clause (ii), for purposes of this paragraph, an eligible beneficiary's 'continuous period of eligibility' is the period that begins with the first day on which the beneficiary is eligible to enroll under section 1836 and ends with the beneficiary's death.

''(ii) SEPARATE PERIOD.—Any period during all of which an eligible beneficiary satisfied paragraph (1) of section 1836 and which terminated in or before the month preceding the month in which the beneficiary attained age 65 shall be a separate 'continuous period of eligibility' with respect to the beneficiary (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this paragraph).

''(F) CREDITABLE PRESCRIPTION DRUG COVERAGE DEFINED.—For purposes of this part, the term 'creditable prescription drug coverage' means any of the following:

''(i) MEDICAID PRESCRIPTION DRUG COVERAGE.—Prescription drug coverage under a medicaid plan under title XIX, including through the Program of All-inclusive Care for the Elderly (PACE) under section 1934, through a social health maintenance organization (referred to in section 4104(c) of the Balanced Budget Act of 1997), and through a Medicare+Choice project that demonstrates the application of capitation payment rates for frail elderly medicare beneficiaries through the use of a interdisciplinary team and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved, but only if the coverage provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Administrator) to the beneficiary equals or exceeds the actuarial value of standard coverage (as determined under section 1860D–6(f)).

''(ii) PRESCRIPTION DRUG COVERAGE UNDER A GROUP HEALTH PLAN.—Any outpatient prescription drug coverage under a group health plan, including a health benefits plan under the Federal Employees Health Benefit Program under chapter 89 of title 5, United States Code, and a qualified retiree prescription drug plan (as defined in section 1860D–20(f)(1)), but only if the coverage provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Administrator) to the beneficiary equals or exceeds the actuarial value of standard coverage (as determined under section 1860D–6(f)).

''(iii) STATE PHARMACEUTICAL ASSISTANCE PROGRAM.—Coverage of prescription drugs under a State pharmaceutical assistance program, but only if the coverage provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Administrator) to the beneficiary equals or exceeds the actuarial value of standard coverage (as determined under section 1860D–6(f)).

''(iv) VETERANS' COVERAGE OF PRESCRIPTION DRUGS.—Coverage of prescription drugs for veterans, and survivors and dependents of veterans, under chapter 17 of title 38, United States Code, but only if the coverage provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Administrator) to the beneficiary equals or exceeds the actuarial value of standard coverage (as determined under section 1860D–6(f)).

''(v) PRESCRIPTION DRUG COVERAGE UNDER MEDIGAP POLICIES.—Subject to subparagraph (C)(iii), coverage under a medicare supplemental policy under section 1882 that provides benefits for prescription drugs (whether or not such coverage conforms to the standards for packages of benefits under section 1882(p)(1)).

''(2) OPEN ENROLLMENT PERIOD FOR CURRENT BENEFICIARIES IN WHICH LATE ENROLLMENT PROCEDURES DO NOT APPLY.—In the case of an individual who is an eligible beneficiary as of January 1, 2005, the Administrator shall establish procedures under which such beneficiary may enroll under this part during the open enrollment period without the application of the late enrollment procedures established under paragraph (1)(A). For purposes of the preceding sentence, the open enrollment period shall be the 7-month period that begins on April 1, 2004, and ends on November 30, 2004.

''(3) SPECIAL ENROLLMENT PERIOD FOR BENEFICIARIES WHO INVOLUNTARILY LOSE CREDITABLE PRESCRIPTION DRUG COVERAGE.—

''(A) ESTABLISHMENT.—The Administrator shall establish a special open enrollment period (as described in subparagraph (B)) for an eligible beneficiary that loses creditable prescription drug coverage.

''(B) SPECIAL OPEN ENROLLMENT PERIOD.—The special open enrollment period described in this subparagraph is the 63-day period that begins—

''(i) in the case of a beneficiary with coverage described in clause (ii) of paragraph (1)(F), the date on which the plan terminates, ceases to provide, or substantially reduces (as defined by the Administrator) the value of the prescription drug coverage under such plan;

''(ii) in the case of a beneficiary with coverage described in clause (i), (iii), or (iv) of paragraph (1)(F), the date on which the beneficiary loses eligibility for such coverage; or

''(iii) in the case of a beneficiary with coverage described in clause (v) of paragraph (1)(F), the date on which the issuer of the policy terminates coverage under the policy.

''(c) PERIOD OF COVERAGE.—

''(1) IN GENERAL.—Except as provided in paragraph (2) and subject to paragraph (3), an eligible beneficiary's coverage under the program under this part shall be effective for the period provided in section 1838, as if that section applied to the program under this part.

''(2) OPEN AND SPECIAL ENROLLMENT.—

''(A) OPEN ENROLLMENT.—An eligible beneficiary who enrolls under the program under this part pursuant to subsection (b)(2) shall be entitled to the benefits under this part beginning on January 1, 2005.

''(B) SPECIAL ENROLLMENT.—Subject to paragraph (3), an eligible beneficiary who enrolls under the program under this part pursuant to subsection (b)(3) shall be entitled to the benefits under this part beginning on the first day of the month following the month in which such enrollment occurs.

''(3) LIMITATION.—Coverage under this part shall not begin prior to January 1, 2005.

''(d) TERMINATION.—

''(1) IN GENERAL.—The causes of termination specified in section 1838 shall apply to this part in the same manner as such causes apply to part B.

''(2) COVERAGE TERMINATED BY TERMINATION OF COVERAGE UNDER PARTS A OR B.—

''(A) IN GENERAL.—In addition to the causes of termination specified in paragraph (1), the Administrator shall terminate an individual's coverage under this part if the individual is no longer enrolled in both parts A and B.

''(B) EFFECTIVE DATE.—The termination described in subparagraph (A) shall be effective on the effective date of termination of coverage under part A or (if earlier) under part B.

''(3) PROCEDURES REGARDING TERMINATION OF A BENEFICIARY UNDER A PLAN.—The Administrator shall establish procedures for determining the status of an eligible beneficiary's enrollment under this part if the beneficiary's enrollment in a Medicare Prescription Drug plan offered by an eligible entity under this part is terminated by the entity for cause (pursuant to procedures established by the Administrator under section 1860D–3(a)(1)).

''ELECTION OF A MEDICARE PRESCRIPTION DRUG PLAN

''SEC. 1860D–3. (a) IN GENERAL.—

''(1) PROCESS.—

''(A) ELECTION.—

''(i) IN GENERAL.—The Administrator shall establish a process through which an eligible beneficiary who is enrolled under this part but not enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization that provides qualified prescription drug coverage—

''(I) shall make an election to enroll in any Medicare Prescription Drug plan that is offered by an eligible entity and that serves the geographic area in which the beneficiary resides; and

''(II) may make an annual election to change the election under this clause.

''(ii) CLARIFICATION REGARDING ENROLLMENT.—The process established under clause (i) shall include, in the case of an eligible beneficiary who is enrolled under this part but who has failed to make an election of a Medicare Prescription Drug plan in an area, for the enrollment in the Medicare Prescription Drug plan with the lowest monthly premium that is available in the area.

''(B) REQUIREMENTS FOR PROCESS.—In establishing the process under subparagraph (A), the Administrator shall—

''(i) use rules similar to the rules for enrollment, disenrollment, and termination of enrollment with a Medicare+Choice plan under section 1851, including—

''(I) the establishment of special election periods under subsection (e)(4) of such section; and

''(II) the application of the guaranteed issue and renewal provisions of section 1851(g) (other than clause (i) and the second sentence of clause (ii) of paragraph (3)(C), relating to default enrollment); and

''(ii) coordinate enrollments, disenrollments, and terminations of enrollment under part C with enrollments, disenrollments, and terminations of enrollment under this part.

''(2) FIRST ENROLLMENT PERIOD FOR PLAN ENROLLMENT.—The process developed under paragraph (1) shall ensure that eligible beneficiaries who enroll under this part during the open enrollment period under section 1860D–2(b)(2) are permitted to elect an eligible entity prior to January 1, 2005, in order to ensure that coverage under this part is effective as of such date.

''(b) ENROLLMENT IN A MEDICARE+CHOICE PLAN.—

''(1) IN GENERAL.—An eligible beneficiary who is enrolled under this part and enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization that provides qualified prescription drug coverage shall receive access to such coverage under this part through such plan.

''(2) RULES.—Enrollment in a Medicare+Choice plan is subject to the rules for enrollment in such plan under section 1851.

''PROVIDING INFORMATION TO BENEFICIARIES

''SEC. 1860D–4. (a) ACTIVITIES.—

''(1) IN GENERAL.—The Administrator shall conduct activities that are designed to broadly disseminate information to eligible beneficiaries (and prospective eligible beneficiaries) regarding the coverage provided under this part.

''(2) SPECIAL RULE FOR FIRST ENROLLMENT UNDER THE PROGRAM.—The activities described in paragraph (1) shall ensure that eligible beneficiaries are provided with such information at least 30 days prior to the first enrollment period described in section 1860D–3(a)(2).

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—The activities described in subsection (a) shall—

''(A) be similar to the activities performed by the Administrator under section 1851(d);

''(B) be coordinated with the activities performed by—

''(i) the Administrator under such section; and

''(ii) the Secretary under section 1804; and

''(C) provide for the dissemination of information comparing the plans offered by eligible entities under this part that are available to eligible beneficiaries residing in an area.

''(2) COMPARATIVE INFORMATION.—The comparative information described in paragraph (1)(C) shall include a comparison of the following:

''(A) BENEFITS.—The benefits provided under the plan and the formularies and appeals processes under the plan.

''(B) QUALITY AND PERFORMANCE.—To the extent available, the quality and performance of the eligible entity offering the plan.

''(C) BENEFICIARY COST-SHARING.—The cost-sharing required of eligible beneficiaries under the plan.

''(D) CONSUMER SATISFACTION SURVEYS.—To the extent available, the results of consumer satisfaction surveys regarding the plan and the eligible entity offering such plan.

''(E) ADDITIONAL INFORMATION.—Such additional information as the Administrator may prescribe.

''BENEFICIARY PROTECTIONS

''SEC. 1860D–5. (a) DISSEMINATION OF INFORMATION.—

''(1) GENERAL INFORMATION.—An eligible entity offering a Medicare Prescription Drug plan shall disclose, in a clear, accurate, and standardized form to each enrollee at the time of enrollment and at least annually thereafter, the information described in section 1852(c)(1) relating to such plan. Such information includes the following:

''(A) Access to covered drugs, including access through pharmacy networks.

''(B) How any formulary used by the entity functions.

''(C) Copayments, coinsurance, and deductible requirements.

''(D) Grievance and appeals procedures.

''(2) DISCLOSURE UPON REQUEST OF GENERAL COVERAGE, UTILIZATION, AND GRIEVANCE INFORMATION.—Upon request of an individual eligible to enroll in a Medicare Prescription Drug plan, the eligible entity offering such plan shall provide the information described in section 1852(c)(2) to such individual.

''(3) RESPONSE TO BENEFICIARY QUESTIONS.—An eligible entity offering a Medicare Prescription Drug plan shall have a mechanism for providing specific information to enrollees upon request, including information on the coverage of specific drugs and changes in its formulary on a timely basis.

''(4) CLAIMS INFORMATION.—An eligible entity offering a Medicare Prescription Drug plan must furnish to enrolled individuals in a form easily understandable to such individuals an explanation of benefits (in accordance with section 1806(a) or in a comparable manner) and a notice of the benefits in relation to initial coverage limit and annual out-of-pocket limit for the current year, whenever prescription drug benefits are provided under this part (except that such notice need not be provided more often than monthly).

''(5) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—The provisions of section 1851(h) shall apply to marketing material and application forms under this part in the same manner as such provisions apply to marketing material and application forms under part C.

''(b) ACCESS TO COVERED DRUGS.—

''(1) ACCESS TO NEGOTIATED PRICES FOR PRESCRIPTION DRUGS.—An eligible entity offering a Medicare Prescription Drug plan shall issue such a card (or other technology) that may be used by an enrolled beneficiary to assure access to negotiated prices under section 1860D–6(e) for the purchase of prescription drugs for which coverage is not otherwise provided under the Medicare Prescription Drug plan.

''(2) ASSURING PHARMACY ACCESS.—

''(A) IN GENERAL.—An eligible entity offering a Medicare Prescription Drug plan shall secure the participation in its network of a sufficient number of pharmacies that dispense (other than by mail order) drugs directly to patients to ensure convenient access (as determined by the Administrator and including adequate emergency access) for enrolled beneficiaries, in accordance with standards established under section 1860D–7(f) that ensure such convenient access. Such standards shall take into account reasonable distances to pharmacy services in both urban and rural areas.

''(B) USE OF POINT-OF-SERVICE SYSTEM.—An eligible entity offering a Medicare Prescription Drug plan shall establish an optional point-of-service method of operation under which—

''(i) the plan provides access to any or all pharmacies that are not participating pharmacies in its network; and

''(ii) the plan may charge beneficiaries through adjustments in copayments any additional costs associated with the point-of-service option.

The additional copayments so charged shall not count toward the application of section 1860D–6(c).

''(3) REQUIREMENTS ON DEVELOPMENT AND APPLICATION OF FORMULARIES.—If an eligible entity offering a Medicare Prescription Drug plan uses a formulary, the following requirements must be met:

''(A) PHARMACY AND THERAPEUTIC (P&T) COMMITTEE.—The eligible entity must establish a pharmacy and therapeutic committee that develops and reviews the formulary. Such committee shall include at least one practicing physician and at least one practicing pharmacist both with expertise in the care of elderly or disabled persons and a majority of its members shall consist of individuals who are a practicing physician or a practicing pharmacist (or both).

''(B) FORMULARY DEVELOPMENT.—In developing and reviewing the formulary, the committee shall base clinical decisions on the strength of scientific evidence and standards of practice, including assessing peer-reviewed medical literature, such as randomized clinical trials, pharmacoeconomic studies, outcomes research data, and such other information as the committee determines to be appropriate.

''(C) INCLUSION OF DRUGS IN ALL THERAPEUTIC CATEGORIES.—The formulary must include drugs within each therapeutic category and class of covered outpatient drugs (although not necessarily for all drugs within such categories and classes).

''(D) PROVIDER EDUCATION.—The committee shall establish policies and procedures to educate and inform health care providers concerning the formulary.

''(E) NOTICE BEFORE REMOVING DRUGS FROM FORMULARY.—Any removal of a drug from a formulary shall take effect only after appropriate notice is made available to beneficiaries and physicians.

''(F) APPEALS AND EXCEPTIONS TO APPLICATION.—The eligible entity must have, as part of the appeals process under subsection (e)(3), a process for timely appeals for denials of coverage based on such application of the formulary.

''(c) COST AND UTILIZATION MANAGEMENT; QUALITY ASSURANCE; MEDICATION THERAPY MANAGEMENT PROGRAM.—

''(1) IN GENERAL.—An eligible entity shall have in place the following with respect to covered drugs:

''(A) A cost-effective drug utilization management program, including incentives to reduce costs when appropriate.

''(B) Quality assurance measures to reduce medical errors and adverse drug interactions, which—

''(i) shall include a medication therapy management program described in paragraph (2); and

''(ii) may include beneficiary education programs, counseling, medication refill reminders, and special packaging.

''(C) A program to control fraud, abuse, and waste.

''(2) MEDICATION THERAPY MANAGEMENT PROGRAM.—

''(A) IN GENERAL.—A medication therapy management program described in this paragraph is a program of drug therapy management and medication administration that is designed to assure, with respect to beneficiaries with chronic diseases (such as diabetes, asthma, hypertension, and congestive heart failure) or multiple prescriptions, that covered outpatient drugs under the prescription drug plan are appropriately used to achieve therapeutic goals and reduce the risk of adverse events, including adverse drug interactions.

''(B) ELEMENTS.—Such program may include—

''(i) enhanced beneficiary understanding of such appropriate use through beneficiary education, counseling, and other appropriate means;

''(ii) increased beneficiary adherence with prescription medication regimens through medication refill reminders, special packaging, and other appropriate means; and

''(iii) detection of patterns of overuse and underuse of prescription drugs.

''(C) DEVELOPMENT OF PROGRAM IN COOPERATION WITH LICENSED PHARMACISTS.—The program shall be developed in cooperation with licensed and practicing pharmacists and physicians.

''(D) CONSIDERATIONS IN PHARMACY FEES.—The eligible entity offering a Medicare Prescription Drug plan shall take into account, in establishing fees for pharmacists and others providing services under the medication therapy management program, the resources and time used in implementing the program.

''(3) PUBLIC DISCLOSURE OF PHARMACEUTICAL PRICES FOR EQUIVALENT DRUGS.—The eligible entity offering a Medicare Prescription Drug plan shall provide that each pharmacy or other dispenser that arranges for the dispensing of a covered drug shall inform the beneficiary at the time of purchase of the drug of any differential between the price of the prescribed drug to the enrollee and the price of the lowest cost generic drug covered under the plan that is therapeutically equivalent and bioequivalent.

''(d) GRIEVANCE MECHANISM.—An eligible entity shall provide meaningful procedures for hearing and resolving grievances between the eligible entity (including any entity or individual through which the eligible entity provides covered benefits) and enrollees in a Medicare Prescription Drug plan offered by the eligible entity in accordance with section 1852(f).

''(e) COVERAGE DETERMINATIONS, RECONSIDERATIONS, AND APPEALS.—

''(1) IN GENERAL.—An eligible entity shall meet the requirements of section 1852(g) with respect to covered benefits under the Medicare Prescription Drug plan it offers under this part in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

''(2) REQUEST FOR REVIEW OF TIERED FORMULARY DETERMINATIONS.—In the case of a Medicare Prescription Drug plan offered by an eligible entity that provides for tiered cost-sharing for covered drugs included within a formulary and provides lower cost-sharing for preferred drugs included within the formulary, an individual who is enrolled in the plan may request coverage of a nonpreferred drug under the terms applicable for preferred drugs if the prescribing physician determines that the preferred drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

''(3) APPEALS OF FORMULARY DETERMINATIONS.—

''(A) IN GENERAL.—Subject to subparagraph (B), consistent with the requirements of section 1852(g), an eligible entity shall establish a process for individuals to appeal formulary determinations.

''(B) FORMULARY DETERMINATIONS.—An individual who is enrolled in a Medicare Prescription Drug plan offered by an eligible entity may appeal to obtain coverage for a covered drug that is not on a formulary of the eligible entity if the prescribing physician determines that the formulary drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

''(f) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—An eligible entity shall meet the requirements of section 1852(h) with respect to enrollees under this part in the same manner as such requirements apply to a Medicare+Choice organization with respect to enrollees under part C.

''(g) UNIFORM PREMIUM.—An eligible entity shall ensure that the monthly premium for a Medicare Prescription Drug plan charged under this part is the same for all eligible beneficiaries enrolled in the plan.

''PRESCRIPTION DRUG BENEFITS

''SEC. 1860D–6. (a) REQUIREMENTS.—

''(1) IN GENERAL.—For purposes of this part and part C, the term 'qualified prescription drug coverage' means either of the following:

''(A) STANDARD COVERAGE WITH ACCESS TO NEGOTIATED PRICES.—Standard coverage (as defined in subsection (c)) and access to negotiated prices under subsection (e).

''(B) ACTUARIALLY EQUIVALENT COVERAGE WITH ACCESS TO NEGOTIATED PRICES.—Coverage of covered drugs which meets the alternative coverage requirements of subsection (d) and access to negotiated prices under subsection (e), but only if it is approved by the Administrator, as provided under subsection (d).

''(2) PERMITTING ADDITIONAL PRESCRIPTION DRUG COVERAGE.—

''(A) IN GENERAL.—Subject to subparagraph (B) and section 1860D–13(c)(2), nothing in this part shall be construed as preventing qualified prescription drug coverage from including coverage of covered drugs that exceeds the coverage required under paragraph (1).

''(B) REQUIREMENT.—An eligible entity may not offer a Medicare Prescription Drug plan that provides additional benefits pursuant to subparagraph (A) in an area unless the eligible entity offering such plan also offers a Medicare Prescription Drug plan in the area that only provides the coverage of prescription drugs that is required under subsection (a)(1).

''(3) COST CONTROL MECHANISMS.—In providing qualified prescription drug coverage, the entity offering the Medicare Prescription Drug plan or the Medicare+Choice plan may use cost control mechanisms that are customarily used in employer-sponsored health care plans that offer coverage for prescription drugs, including the use of formularies, tiered copayments, selective contracting with providers of prescription drugs, and mail order pharmacies.

''(b) APPLICATION OF SECONDARY PAYOR PROVISIONS.—The provisions of section 1852(a)(4) shall apply under this part in the same manner as they apply under part C.

''(c) STANDARD COVERAGE.—For purposes of this part and part C, the term 'standard coverage' means coverage of covered drugs that meets the following requirements:

''(1) DEDUCTIBLE.—

''(A) IN GENERAL.—The coverage has an annual deductible—

''(i) for 2005, that is equal to $250; or

''(ii) for a subsequent year, that is equal to the amount specified under this paragraph for the previous year increased by the percentage specified in paragraph (5) for the year involved.

''(B) ROUNDING.—Any amount determined under subparagraph (A)(ii) that is not a multiple of $1 shall be rounded to the nearest multiple of $1.

''(2) LIMITS ON COST-SHARING.—The coverage has cost-sharing (for costs above the annual deductible specified in paragraph (1) and up to the initial coverage limit under paragraph (3)) that is equal to 50 percent or that is actuarially consistent (using processes established under subsection (f)) with an average expected payment of 50 percent of such costs.

''(3) INITIAL COVERAGE LIMIT.—

''(A) IN GENERAL.—Subject to paragraph (4), the coverage has an initial coverage limit on the maximum costs that may be recognized for payment purposes (above the annual deductible)—

''(i) for 2005, that is equal to $3,450; or

''(ii) for a subsequent year, that is equal to the amount specified in this paragraph for the previous year, increased by the annual percentage increase described in paragraph (5) for the year involved.

''(B) ROUNDING.—Any amount determined under subparagraph (A)(ii) that is not a multiple of $1 shall be rounded to the nearest multiple of $1.

''(4) LIMITATION ON OUT-OF-POCKET EXPENDITURES BY BENEFICIARY.—

''(A) IN GENERAL.—Notwithstanding paragraph (3), the coverage provides benefits with cost-sharing that is equal to 10 percent after the individual has incurred costs (as described in subparagraph (C)) for covered drugs in a year equal to the annual out-of-pocket limit specified in subparagraph (B).

''(B) ANNUAL OUT-OF-POCKET LIMIT.—

''(i) IN GENERAL.—For purposes of this part, the 'annual out-of-pocket limit' specified in this subparagraph—

''(I) for 2005, is equal to $3,700; or

''(II) for a subsequent year, is equal to the amount specified in the subparagraph for the previous year, increased by the annual percentage increase described in paragraph (5) for the year involved.

''(ii) ROUNDING.—Any amount determined under clause (i)(II) that is not a multiple of $1 shall be rounded to the nearest multiple of $1.

''(C) APPLICATION.—In applying subparagraph (A)—

''(i) incurred costs shall only include costs incurred for the annual deductible (described in paragraph (1)), cost-sharing (described in paragraph (2)), and amounts for which benefits are not provided because of the application of the initial coverage limit described in paragraph (3); and

''(ii) such costs shall be treated as incurred only if they are paid by the individual (or by another individual, such as a family member, on behalf of the individual), under section 1860D–19, or under title XIX and the individual (or other individual) is not reimbursed through insurance or otherwise, a group health plan, or other third-party payment arrangement for such costs.

''(5) ANNUAL PERCENTAGE INCREASE.—For purposes of this part, the annual percentage increase specified in this paragraph for a year is equal to the annual percentage increase in average per capita aggregate expenditures for covered drugs in the United States for beneficiaries under this title, as determined by the Administrator for the 12-month period ending in July of the previous year.

''(d) ALTERNATIVE COVERAGE REQUIREMENTS.—A Medicare Prescription Drug plan

or Medicare+Choice plan may provide a different prescription drug benefit design from the standard coverage described in subsection (c) so long as the Administrator determines (based on an actuarial analysis by the Administrator) that the following requirements are met and the plan applies for, and receives, the approval of the Administrator for such benefit design:

''(1) ASSURING AT LEAST ACTUARIALLY EQUIVALENT COVERAGE.—

''(A) ASSURING EQUIVALENT VALUE OF TOTAL COVERAGE.—The actuarial value of the total coverage (as determined under subsection (f)) is at least equal to the actuarial value (as so determined) of standard coverage.

''(B) ASSURING EQUIVALENT UNSUBSIDIZED VALUE OF COVERAGE.—The unsubsidized value of the coverage is at least equal to the unsubsidized value of standard coverage. For purposes of this subparagraph, the unsubsidized value of coverage is the amount by which the actuarial value of the coverage (as determined under subsection (f)) exceeds the actuarial value of the amounts associated with the application of section 1860D–17(c) and reinsurance payments under section 1860D–20 with respect to such coverage.

''(C) ASSURING STANDARD PAYMENT FOR COSTS AT INITIAL COVERAGE LIMIT.—The coverage is designed, based upon an actuarially representative pattern of utilization (as determined under subsection (f)), to provide for the payment, with respect to costs incurred that are equal to the sum of the deductible under subsection (c)(1) and the initial coverage limit under subsection (c)(3), of an amount equal to at least such initial coverage limit multiplied by the percentage specified in subsection (c)(2).

Benefits other than qualified prescription drug coverage shall not be taken into account for purposes of this paragraph.

''(2) LIMITATION ON OUT-OF-POCKET EXPENDITURES BY BENEFICIARIES.—The coverage provides the limitation on out-of-pocket expenditures by beneficiaries described in subsection (c)(4).

''(e) ACCESS TO NEGOTIATED PRICES.—

''(1) ACCESS.—

''(A) IN GENERAL.—Under qualified prescription drug coverage offered by an eligible entity or a Medicare+Choice organization, the entity or organization shall provide beneficiaries with access to negotiated prices (including applicable discounts) used for payment for covered drugs, regardless of the fact that no benefits may be payable under the coverage with respect to such drugs because of the application of the deductible, any cost-sharing, or an initial coverage limit (described in subsection (c)(3)).

''(B) MEDICAID RELATED PROVISIONS.—Insofar as a State elects to provide medical assistance under title XIX for a drug based on the prices negotiated under a Medicare Prescription Drug plan under this part, the requirements of section 1927 shall not apply to such drugs. The prices negotiated under a Medicare Prescription Drug plan with respect to covered drugs, under a Medicare+Choice plan with respect to such drugs, or under a qualified retiree prescription drug plan (as defined in section 1860D–20(f)(1)) with respect to such drugs, on behalf of eligible beneficiaries, shall (notwithstanding any other provision of law) not be taken into account for the purposes of establishing the best price under section 1927(c)(1)(C).

''(2) CARDS OR OTHER TECHNOLOGY.—In providing the access under paragraph (1), the eligible entity or Medicare+Choice organization shall issue a card or use other technology pursuant to section 1860D–5(b)(1).

''(f) ACTUARIAL VALUATION; DETERMINATION OF ANNUAL PERCENTAGE INCREASES.—

''(1) PROCESSES.—For purposes of this section, the Administrator shall establish processes and methods—

''(A) for determining the actuarial valuation of prescription drug coverage, including—

''(i) an actuarial valuation of standard coverage and of the reinsurance payments under section 1860D–20;

''(ii) the use of generally accepted actuarial principles and methodologies; and

''(iii) applying the same methodology for determinations of alternative coverage under subsection (d) as is used with respect to determinations of standard coverage under subsection (c); and

''(B) for determining annual percentage increases described in subsection (c)(5).

''(2) USE OF OUTSIDE ACTUARIES.—Under the processes under paragraph (1)(A), eligible entities and Medicare+Choice organizations may use actuarial opinions certified by independent, qualified actuaries to establish actuarial values, but the Administrator shall determine whether such actuarial values meet the requirements under subsection (c)(1).

''REQUIREMENTS FOR ENTITIES OFFERING MEDICARE PRESCRIPTION DRUG PLANS; ESTABLISHMENT OF STANDARDS

''SEC. 1860D–7. (a) GENERAL REQUIREMENTS.—An eligible entity offering a Medicare Prescription Drug plan shall meet the following requirements:

''(1) LICENSURE.—Subject to subsection (c), the entity is organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a Medicare Prescription Drug plan.

''(2) ASSUMPTION OF FINANCIAL RISK.—

''(A) IN GENERAL.—Subject to subparagraph (B) and section 1860D–20, the entity assumes financial risk on a prospective basis for the benefits that it offers under a Medicare Prescription Drug plan and that is not covered under such section or section 1860D–16.

''(B) REINSURANCE PERMITTED.—The entity may obtain insurance or make other arrangements for the cost of coverage provided to any enrolled member under this part.

''(3) SOLVENCY FOR UNLICENSED ENTITIES.—In the case of an eligible entity that is not described in paragraph (1) and for which a waiver has been approved under subsection (c), such entity shall meet solvency standards established by the Administrator under subsection (d).

''(b) CONTRACT REQUIREMENTS.—The Administrator shall not permit an eligible beneficiary to elect a Medicare Prescription Drug plan offered by an eligible entity under this part, and the entity shall not be eligible for payments under section 1860D–16 or 1860D–20, unless the Administrator has entered into a contract under this subsection with the entity with respect to the offering of such plan. Such a contract with an entity may cover more than 1 Medicare Prescription Drug plan. Such contract shall provide that the entity agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

''(c) WAIVER OF CERTAIN REQUIREMENTS IN ORDER TO ENSURE BENEFICIARY CHOICE.—

''(1) IN GENERAL.—In the case of an eligible entity that seeks to offer a Medicare Prescription Drug plan in a State, the Administrator shall waive the requirement of subsection (a)(1) that the entity be licensed in that State if the Administrator determines, based on the application and other evidence presented to the Administrator, that any of the grounds for approval of the application described in paragraph (2) have been met.

''(2) GROUNDS FOR APPROVAL.—The grounds for approval under this paragraph are the grounds for approval described in subparagraphs (B), (C), and (D) of section 1855(a)(2), and also include the application by a State of any grounds other than those required under Federal law.

''(3) APPLICATION OF WAIVER PROCEDURES.—With respect to an application for a waiver (or a waiver granted) under this subsection, the provisions of subparagraphs (E), (F), and (G) of section 1855(a)(2) shall apply.

''(4) REFERENCES TO CERTAIN PROVISIONS.—For purposes of this subsection, in applying the provisions of section 1855(a)(2) under this subsection to Medicare Prescription Drug plans and eligible entities—

''(A) any reference to a waiver application under section 1855 shall be treated as a reference to a waiver application under paragraph (1); and

''(B) any reference to solvency standards were treated as a reference to solvency standards established under subsection (d).

''(d) SOLVENCY STANDARDS FOR NON-LICENSED ENTITIES.—

''(1) ESTABLISHMENT AND PUBLICATION.—The Administrator, in consultation with the National Association of Insurance Commissioners, shall establish and publish, by not later than January 1, 2004, financial solvency and capital adequacy standards for entities described in paragraph (2).

''(2) COMPLIANCE WITH STANDARDS.—An eligible entity that is not licensed by a State under subsection (a)(1) and for which a waiver application has been approved under subsection (c) shall meet solvency and capital adequacy standards established under paragraph (1). The Administrator shall establish certification procedures for such eligible entities with respect to such solvency standards in the manner described in section 1855(c)(2).

''(e) LICENSURE DOES NOT SUBSTITUTE FOR OR CONSTITUTE CERTIFICATION.—The fact that an entity is licensed in accordance with subsection (a)(1) or has a waiver application approved under subsection (c) does not deem the eligible entity to meet other requirements imposed under this part for an eligible entity.

''(f) OTHER STANDARDS.—The Administrator shall establish by regulation other standards (not described in subsection (d)) for eligible entities and Medicare Prescription Drug plans consistent with, and to carry out, this part. The Administrator shall publish such regulations by January 1, 2004.

''(g) PERIODIC REVIEW AND REVISION OF STANDARDS.—The Administrator shall periodically review the standards established under this section and, based on such review, may revise such standards if the Administrator determines such revision to be appropriate.

''(h) RELATION TO STATE LAWS.—

''(1) IN GENERAL.—The standards established under this part shall supersede any State law or regulation (including standards described in paragraph (2)) with respect to Medicare Prescription Drug plans which are offered by eligible entities under this part—

''(A) to the extent such law or regulation is inconsistent with such standards; and

''(B) in the same manner as such laws and regulations are superseded under section 1856(b)(3).

''(2) STANDARDS SPECIFICALLY SUPERSEDED.—State standards relating to the following are superseded under this section:

''(A) Benefit requirements.

''(B) Requirements relating to inclusion or treatment of providers.

''(C) Coverage determinations (including related appeals and grievance processes).

''(3) PROHIBITION OF STATE IMPOSITION OF PREMIUM TAXES.—No State may impose a premium tax or similar tax with respect to—

''(A) premiums paid to the Administrator for Medicare Prescription Drug plans under this part; or

''(B) any payments made by the Administrator under this part to an eligible entity offering such a plan.

''Subpart 2—Prescription Drug Delivery System

''ESTABLISHMENT OF SERVICE AREAS

''SEC. 1860D–10. (a) ESTABLISHMENT.—

''(1) INITIAL ESTABLISHMENT.—Not later than April 15, 2004, the Administrator shall establish and publish the service areas in which Medicare Prescription Drug plans may offer benefits under this part.

''(2) PERIODIC REVIEW AND REVISION OF SERVICE AREAS.—The Administrator shall periodically review the service areas applicable under this section and, based on such review, may revise such service areas if the Administrator determines such revision to be appropriate.

''(b) REQUIREMENTS FOR ESTABLISHMENT OF SERVICE AREAS.—

''(1) IN GENERAL.—The Administrator shall establish the service areas under subsection (a) in a manner that—

''(A) maximizes the availability of Medicare Prescription Drug plans to eligible beneficiaries; and

''(B) minimizes the ability of eligible entities offering such plans to favorably select eligible beneficiaries.

''(2) SERVICE AREA MAY NOT BE SMALLER THAN A STATE.—A service area established under subsection (a) may not be smaller than a State.

''PUBLICATION OF RISK ADJUSTERS

''SEC. 1860D–11. (a) PUBLICATION.—Not later than April 15 of each year (beginning in 2004), the Administrator shall publish the risk adjusters established under subsection (b) to be used in computing—

''(1) under section 1860D–16(a) the amount of payment to Medicare Prescription Drug plans in the subsequent year; and

''(2) under section 1853(k)(2) the amount of payment to Medicare+Choice organizations that offer qualified prescription drug coverage in the subsequent year.

''(b) ESTABLISHMENT OF RISK ADJUSTERS.—

''(1) IN GENERAL.—Subject to paragraph (2), the Administrator shall establish an appropriate methodology for adjusting the amount of payment to Medicare Prescription Drug plans computed under section 1860D–16(a) to take into account, in a budget neutral manner, variation in costs based on the differences in actuarial risk of different enrollees being served.

''(2) CONSIDERATIONS.—In establishing the methodology under paragraph (1), the Administrator may take into account the similar methodologies used under section 1853(a)(3) to adjust payments to Medicare+Choice organizations (with respect to enhanced medicare benefits under part E).

''SUBMISSION OF BIDS FOR PROPOSED MEDICARE PRESCRIPTION DRUG PLANS

''SEC. 1860D–12. (a) IN GENERAL.—Each eligible entity that intends to offer a Medicare Prescription Drug plan in a year (beginning with 2005) shall submit to the Administrator, at such time and in such manner as the Administrator may specify, such information as the Administrator may require, including the information described in subsection (b).

''(b) INFORMATION DESCRIBED.—The information described in this subsection includes information on each of the following:

''(1) A description of the benefits under the plan (as required under section 1860D–6).

''(2) Information on the actuarial value of the qualified prescription drug coverage.

''(3) Information on the monthly premium to be charged for all benefits, including an actuarial certification of—

''(A) the actuarial basis for such premium; and

''(B) the portion of such premium attributable to benefits in excess of standard coverage; and

''(C) the reduction in such bid and premium resulting from the payments associated with section 1860D–16(c) and payments provided under section 1860D–20.

''(4) The service area for the plan.

''(5) Such other information as the Administrator may require to carry out this part.

''(c) OPTIONS REGARDING SERVICE AREAS.—

''(1) IN GENERAL.—The service area of a Medicare Prescription Drug plan shall be either—

''(A) the entire area of 1 of the service areas established by the Administrator under section 1860D–10; or

''(B) the entire area covered by the medicare program.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed as prohibiting an eligible entity from submitting separate bids in multiple service areas as long as each bid is for a single service area.

''APPROVAL OF PROPOSED MEDICARE PRESCRIPTION DRUG PLANS

''SEC. 1860D–13. (a) IN GENERAL.—The Administrator shall review the information filed under section 1860D–12 and shall approve or disapprove the Medicare Prescription Drug plan. The Administrator may not approve a plan if—

''(1) the plan and the entity offering the plan comply with the requirements under this part; and

''(2) the premium accurately reflects both (A) the actuarial value of the benefits provided, and (B) the payments associated with the application of 186D–16(c) and the payments under section 1860D–20 for the standard benefit.

''(b) NEGOTIATION.—In exercising the authority under subsection (a), the Administrator shall have the same authority to negotiate the terms and conditions of the premiums submitted and other terms and conditions of proposed plans as the Director of the Office of Personnel Management has with respect to health benefits plans under chapter 89 of title 5, United States Code.

''(c) SPECIAL RULES FOR APPROVAL.—The Administrator may approve a Medicare Prescription Drug plan submitted under section 1860D–12 only if the benefits under such plan—

''(1) include the required benefits under section 1860D–6(a)(1); and

''(2) are not designed in such a manner that the Administrator finds is likely to result in favorable selection of eligible beneficiaries.

''(d) ASSURING ACCESS.—

''(1) NUMBER OF CONTRACTS.—The Administrator shall, consistent with the requirements of this part and the goal of containing costs under this title, approve at least 2 contracts to offer a Medicare Prescription Drug plan in an area.

''(2) GUARANTEEING ACCESS TO COVERAGE.—In order to assure access under paragraph (1) in an area and consistent with paragraph (3), the Administrator may provide financial incentives (including partial underwriting of risk) for an eligible entity to offer a Medicare Prescription Drug plan in that area, but only so long as (and to the extent) necessary to assure the access guaranteed under paragraph (1) in that area.

''(3) LIMITATION ON AUTHORITY.—In exercising authority under this subsection, the Administrator—

''(A) shall not provide for the full underwriting of financial risk for any eligible entity;

''(B) shall not provide for any underwriting of financial risk for a public eligible entity with respect to the offering of a nationwide prescription drug plan; and

''(C) shall seek to maximize the assumption of financial risk by an eligible entity.

''(4) REPORTS.—The Administrator shall, in each annual report to Congress under section 1860D–25(c)(1)(D), include information on the exercise of authority under this subsection. The Administrator also shall include such recommendations as may be appropriate to limit the exercise of such authority, including minimizing the assumption of financial risk.

''(e) ANNUAL CONTRACTS.—A contract approved under this part shall be for a 1-year period.

''COMPUTATION OF MONTHLY STANDARD COVERAGE PREMIUMS

''SEC. 1860D–14. (a) IN GENERAL.—For each year (beginning with 2005), the Administrator shall compute a monthly standard coverage premium for each Medicare Prescription Drug plan approved under section 1860D–13.

''(b) REQUIREMENTS.—The monthly standard coverage premium for a Medicare Prescription Drug plan for a year shall be equal to—

''(1) in the case of a plan offered by an eligible entity that provides standard coverage or an actuarially equivalent coverage and does not provide additional prescription drug coverage pursuant to section 1860D–6(a)(2), the monthly premium approved for the plan under section 1860D–13 for the year; and

''(2) in the case of a plan offered by an eligible entity that provides additional prescription drug coverage pursuant to section 1860D–6(a)(2)—

''(A) an amount that reflects only the actuarial value of the standard coverage offered under the plan; or

''(B) if determined appropriate by the Administrator, the monthly premium approved under section 1860D–13 for the year for the Medicare Prescription Drug plan that (as required under subparagraph (B) of such section)—

''(i) is offered by such entity in the same area as the plan; and

''(ii) does not provide additional prescription drug coverage pursuant to such section.

''COMPUTATION OF MONTHLY NATIONAL AVERAGE PREMIUM

''SEC. 1860D–15. (a) COMPUTATION.—

''(1) IN GENERAL.—For each year (beginning with 2005) the Administrator shall compute a monthly national average premium equal to the average of the monthly standard coverage premium for each Medicare Prescription Drug plan (as computed under section 1860D–14).

''(2) WEIGHTED AVERAGE.—The monthly national average premium computed under paragraph (1) shall be a weighted average, with the weight for each plan being equal to the average number of beneficiaries enrolled under such plan in the previous year.

''(b) SPECIAL RULE FOR 2005.—For purposes of applying this section for 2005, the Administrator shall establish procedures for determining the weighted average under subsection (a)(2) for 2004.

''PAYMENTS TO ELIGIBLE ENTITIES OFFERING MEDICARE PRESCRIPTION DRUG PLANS

''SEC. 1860D–16. (a) PAYMENT OF PREMIUMS.—For each year (beginning with 2005), the Administrator shall pay to each entity offering a Medicare Prescription Drug plan in which an eligible beneficiary is enrolled an amount equal to the full amount of the monthly premium approved for the plan under section 1860D–13 on behalf of each eligible beneficiary enrolled in such plan for the year, as adjusted using the risk adjusters that apply to the standard coverage published under section 1860D–11.

''(b) PAYMENT TERMS.—Payment under this section to an entity offering a Medicare Prescription Drug plan shall be made in a manner determined by the Administrator and based upon the manner in which payments are made under section 1853(a) (relating to payments to Medicare+Choice organizations).

''(c) PAYMENTS TO MEDICARE+CHOICE PLANS.—For provisions related to payments to Medicare+Choice organizations offering Medicare+Choice plans that provide qualified prescription drug coverage, see section 1853(k)(2).

''(d) SECONDARY PAYER PROVISIONS.—The provisions of section 1862(b) shall apply to the benefits provided under this part.

''COMPUTATION OF BENEFICIARY OBLIGATION

''SEC. 1860D–17. (a) BENEFICIARIES ENROLLED IN A MEDICARE PRESCRIPTION DRUG PLAN.—In the case of an eligible beneficiary enrolled under this part and in a Medicare Prescription Drug plan, the monthly beneficiary obligation for enrollment in such plan in a year shall be determined as follows:

''(1) MEDICARE PRESCRIPTION DRUG PLAN PREMIUMS EQUAL TO THE MONTHLY NATIONAL AVERAGE.—If the amount of the monthly premium approved by the Administrator under section 1860D–13 for a Medicare Prescription Drug plan for the year is equal to the monthly national average premium (as computed under section 1860D–15) for the year, the monthly obligation of the eligible beneficiary in that year shall be an amount equal to the applicable percent (as defined in subsection (c)) of the amount of the monthly national average premium.

''(2) MEDICARE PRESCRIPTION DRUG PLAN PREMIUMS THAT ARE LESS THAN THE MONTHLY NATIONAL AVERAGE.—If the amount of the monthly premium approved by the Administrator under section 1860D–13 for the Medicare Prescription Drug plan for the year is less than the monthly national average premium (as computed under section 1860D–15) for the year, the monthly obligation of the eligible beneficiary in that year shall be an amount equal to—

''(A) the applicable percent of the amount of the monthly national average premium; minus

''(B) the amount by which the monthly national average premium exceeds the amount of the premium approved by the Administrator for the plan.

''(3) MEDICARE PRESCRIPTION DRUG PLAN PREMIUMS THAT ARE GREATER THAN THE MONTHLY NATIONAL AVERAGE.—If the amount of the monthly premium approved by the Administrator under section 1860D–13 for a Medicare Prescription Drug plan for the year exceeds the monthly national average premium (as computed under section 1860D–15) for the year, the monthly obligation of the eligible beneficiary in that year shall be an amount equal to the sum of—

''(A) the applicable percent of the amount of the monthly national average premium; plus

''(B) the amount by which the premium approved by the Administrator for the plan exceeds the amount of the monthly national average premium.

''(b) BENEFICIARIES ENROLLED IN A MEDICARE+CHOICE PLAN.—In the case of an eligible beneficiary that is receiving qualified prescription drug coverage under a Medicare+Choice plan, the monthly obligation for such coverage shall be determined pursuant to section 1853(k)(3).

''(c) APPLICABLE PERCENT DEFINED.—For purposes of this section, except as provided in section 1860D–19 (relating to premium subsidies for low-income individuals), the term 'applicable percent' means 55 percent.

''COLLECTION OF BENEFICIARY OBLIGATION

''SEC. 1860D–18. (a) COLLECTION OF AMOUNT IN SAME MANNER AS PART B PREMIUM.—The amount of the monthly beneficiary obligation (determined under section 1860D–17) applicable to an eligible beneficiary under this part (after application of any increase under section 1860D–2(b)(1)(A)) shall be collected and credited to the Prescription Drug Account in the same manner as the monthly premium determined under section 1839 is collected and credited to the Federal Supplementary Medical Insurance Trust Fund under section 1840.

''(b) INFORMATION NECESSARY FOR COLLECTION.—In order to carry out subsection (a), the Administrator shall transmit to the Commissioner of Social Security—

''(1) at the beginning of each year, the name, social security account number, and annual beneficiary obligation owed by each individual enrolled in a Medicare Prescription Drug plan for each month during the year; and

''(2) periodically throughout the year, information to update the information previously transmitted under this paragraph for the year.

''(c) COLLECTION FOR BENEFICIARIES RECEIVING QUALIFIED PRESCRIPTION DRUG COVERAGE UNDER A MEDICARE+CHOICE PLAN.—For provisions related to the collection of the monthly beneficiary obligation for qualified prescription drug coverage under a Medicare+Choice plan, see section 1853(k)(4).

''PREMIUM AND COST-SHARING SUBSIDIES FOR LOW-INCOME INDIVIDUALS

''SEC. 1860D–19. (a) IN GENERAL.—

''(1) FULL PREMIUM SUBSIDY AND REDUCTION OF COST-SHARING FOR INDIVIDUALS WITH INCOME BELOW 135 PERCENT OF FEDERAL POVERTY LINE.—In the case of a subsidy-eligible individual (as defined in paragraph (3)) who is determined to have income that does not exceed 135 percent of the Federal poverty line—

''(A) section 1860D–17 shall be applied—

''(i) in subsection (c), by substituting '0 percent' for '55 percent'; and

''(ii) in subparagraphs (A) and (B) of subsection (a)(3), by substituting ''the amount of the premium for the Medicare Prescription Drug plan with the lowest monthly premium in the area that the beneficiary resides'' for ''the amount of the monthly national average premium'', but only if there is no Medicare Prescription Drug plan offered in the area in which the individual resides that has a monthly premium for the year that is equal to or less than the monthly national average premium (as computed under section 1860D–15) for the year;

''(B) the annual deductible applicable under section 1860D–6(c)(1) in a year shall be reduced to an amount equal to 5 percent of the annual deductible otherwise applicable under such section for that year;

''(C) section 1860D–6(c)(2) shall be applied by substituting '2.5 percent' for '50 percent' each place it appears;

''(D) such individual shall be responsible for cost-sharing for the cost of any covered drug provided in the year (after the individual has reached such initial coverage limit and before the individual has reached the limitation under section 1860D–6(c)(4)(A)), that is equal to 50 percent; and

''(E) section 1860D–6(c)(4)(A) shall be applied by substituting '0 percent' for '10 percent'.

In no case may the application of subparagraph (A) result in a monthly beneficiary obligation that is below zero.

''(2) SLIDING SCALE PREMIUM SUBSIDY AND REDUCTION OF COST-SHARING FOR INDIVIDUALS WITH INCOME BETWEEN 135 AND 150 PERCENT OF FEDERAL POVERTY LINE.—

''(A) IN GENERAL.—In the case of a subsidy-eligible individual who is determined to have income that exceeds 135 percent, but is less than 150 percent, of the Federal poverty line—

''(i) section 1860D–17 shall be applied—

''(I) in subsection (c), by substituting 'subsidy percent' for '55 percent'; and

''(II) in subparagraphs (A) and (B) of subsection (a)(3), by substituting ''the amount of the premium for the Medicare Prescription Drug plan with the lowest monthly premium in the area that the beneficiary resides'' for ''the amount of the monthly national average premium'', but only if there is no Medicare Prescription Drug plan offered in the area in which the individual resides that has a monthly premium for the year that is equal to or less than the monthly national average premium (as computed under section 1860D–15) for the year; and

''(ii) such individual shall be responsible for cost-sharing for the cost of any covered drug provided in the year (after the individual has reached such initial coverage limit and before the individual has reached the limitation under section 1860D–6(c)(4)(A)), that is equal to 50 percent.

In no case may the application of clause (i) result in a monthly beneficiary obligation that is below zero.

''(B) SUBSIDY PERCENT DEFINED.—For purposes of subparagraph (A)(i), the term 'subsidy percent' means a percent determined on a linear sliding scale ranging from 0 percent for individuals with incomes at 135 percent of such level to 55 percent for individuals with incomes at 150 percent of such level.

''(3) DETERMINATION OF ELIGIBILITY.—

''(A) SUBSIDY-ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, subject to subparagraph (D), the term 'subsidy-eligible individual' means an individual who—

''(i) is enrolled under this part, including an individual receiving qualified prescription drug coverage under a Medicare+Choice plan;

''(ii) has income that is less that 150 percent of the Federal poverty line; and

''(iii) meets the resources requirement described in section 1905(p)(1)(C).

''(B) DETERMINATIONS.—The determination of whether an individual residing in a State is a subsidy-eligible individual and the amount of such individual's income shall be determined under the State medicaid plan for the State under section 1935(a). In the case of a State that does not operate such a medicaid plan (either under title XIX or under a statewide waiver granted under section 1115), such determination shall be made under arrangements made by the Administrator.

''(C) INCOME DETERMINATIONS.—For purposes of applying this section—

''(i) income shall be determined in the manner described in section 1905(p)(1)(B); and

''(ii) the term 'Federal poverty line' means the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

''(D) TREATMENT OF TERRITORIAL RESIDENTS.—In the case of an individual who is not a resident of the 50 States or the District of Columbia, the individual is not eligible to be a subsidy-eligible individual but may be eligible for financial assistance with prescription drug expenses under section 1935(e).

''(b) RULES IN APPLYING COST-SHARING SUBSIDIES.—

''(1) ADDITIONAL BENEFITS.—In applying subparagraphs (B) and (C) of subsection (a)(1) and clauses (ii) and (iii) of subsection (a)(2)(A), nothing in this part shall be construed as preventing an eligible entity offering a Medicare Prescription Drug plan or a Medicare+Choice organization offering a Medicare+Choice plan in which qualified

drug coverage is provided from waiving or reducing the amount of the deductible or other cost-sharing otherwise applicable pursuant to section 1860D–6(a)(2).

''(2) LIMITATION ON CHARGES.—In the case of an individual receiving cost-sharing subsidies under subparagraphs (B) and (C) of subsection (a)(1) or under clauses (ii) and (iii) of subsection (a)(2)(A), the eligible entity offering a Medicare Prescription Drug plan or the Medicare+Choice organization offering a Medicare+Choice plan in which qualified drug coverage is provided may not charge more than the deductible or other cost-sharing required pursuant to such subsection.

''(c) ADMINISTRATION OF SUBSIDY PROGRAM.—The Administrator shall provide a process whereby, in the case of an individual eligible for a cost-sharing under subparagraphs (B) and (C) of subsection (a)(1) or under clauses (ii) and (iii) of subsection (a)(2)(A) and who is enrolled in a Medicare Prescription Drug plan or is enrolled in a Medicare+Choice plan under which qualified prescription drug coverage is provided—

''(1) the Administrator provides for a notification of the eligible entity or Medicare+Choice organization involved that the individual is eligible for a cost-sharing subsidy and the amount of the subsidy under such subsection;

''(2) the entity or organization involved reduces the cost-sharing otherwise imposed by the amount of the applicable subsidy and submits to the Administrator information on the amount of such reduction; and

''(3) the Administrator periodically and on a timely basis reimburses the entity or organization for the amount of such reductions.

The reimbursement under paragraph (3) may be computed on a capitated basis, taking into account the actuarial value of the subsidies and with appropriate adjustments to reflect differences in the risks actually involved.

''(d) RELATION TO MEDICAID PROGRAM.—

''(1) IN GENERAL.—For provisions providing for eligibility determinations, and additional financing, under the medicaid program, see section 1935.

''(2) MEDICAID PROVIDING WRAP AROUND BENEFITS.—The coverage provided under this part is primary payor to benefits for prescribed drugs provided under the medicaid program under title XIX.

''REINSURANCE PAYMENTS FOR QUALIFIED PRESCRIPTION DRUG COVERAGE

''SEC. 1860D–20. (a) REINSURANCE PAYMENTS.—

''(1) IN GENERAL.—The Administrator shall provide in accordance with this section for payment to a qualifying entity (as defined in subsection (b)) of the reinsurance payment amount (as defined in subsection (c)), which in the aggregate is 30 percent of the total payments made by a qualifying entity for standard coverage under the respective plan, for excess costs incurred in providing qualified prescription drug coverage for qualifying covered individuals (as defined in subsection (g)(1)).

''(2) BUDGET AUTHORITY.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Administrator to provide for the payment of amounts provided under this section.

''(b) QUALIFYING ENTITY DEFINED.—For purposes of this section, the term 'qualifying entity' means any of the following that has entered into an agreement with the Administrator to provide the Administrator with such information as may be required to carry out this section:

''(1) An eligible entity offering a Medicare Prescription Drug plan under this part.

''(2) A Medicare+Choice organization that provides qualified prescription drug coverage under a Medicare+Choice plan under part C.

''(3) The sponsor of a qualified retiree prescription drug plan (as defined in subsection (f)).

''(c) REINSURANCE PAYMENT AMOUNT.—

''(1) IN GENERAL.—Subject to subsection (d)(2), the reinsurance payment amount under this subsection for a qualifying covered individual for a coverage year (as defined in subsection (g)(2)) is equal to the sum of the following:

''(A) For the portion of the individual's gross covered drug costs (as defined in paragraph (3)) for the year that exceeds the amount specified in paragraph (2), but does not exceed the initial coverage limit, an amount equal to 50 percent of the allowable costs (as defined in paragraph (3)) attributable to such gross covered drug costs.

''(B) For the portion of the individual's gross covered drug costs for the year that exceeds the annual out-of-pocket threshold specified in section 1860D–6(c)(4)(B), an amount equal to 80 percent of the allowable costs attributable to such gross covered drug costs.

''(2) AMOUNT SPECIFIED.—The amount specified under this paragraph—

''(A) for 2005, is equal to $2,000; and

''(B) for a subsequent year, is equal to the amount specified in this paragraph for the previous year, increased by the annual percentage increase described in section 1860D–6(c)(5).

''(3) ALLOWABLE COSTS.—For purposes of this section, the term 'allowable costs' means, with respect to gross covered drug costs (as defined in paragraph (4)) under a plan described in subsection (b) offered by a qualifying entity, the part of such costs that are actually paid (net of average percentage rebates) under the plan, but in no case more than the part of such costs that would have been paid under the plan if the prescription drug coverage under the plan were standard coverage.

''(4) GROSS COVERED DRUG COSTS.—For purposes of this section, the term 'gross covered drug costs' means, with respect to an enrollee with a qualifying entity under a plan described in subsection (b) during a coverage year, the costs incurred under the plan (including costs attributable to administrative costs) for covered drugs dispensed during the year, including costs relating to the deductible, whether paid by the enrollee or under the plan, regardless of whether the coverage under the plan exceeds standard coverage and regardless of when the payment for such drugs is made.

''(d) ADJUSTMENT OF REINSURANCE PAYMENTS TO ASSURE 30 PERCENT LEVEL OF PAYMENT.—

''(1) ESTIMATION OF PAYMENTS.—The Administrator shall estimate—

''(A) the total payments to be made (without regard to this subsection) during a year under subsections (a) and (c); and

''(B) the total payments to be made by qualifying entities for standard coverage under plans described in subsection (b) during the year.

''(2) ADJUSTMENT.—The Administrator shall proportionally adjust the payments made under subsections (a) and (c) for a coverage year in such manner so that the total of the payments made under such subsections for the year is equal to 30 percent of the total payments described in subparagraph (A)(ii).

''(e) PAYMENT METHODS.—

''(1) IN GENERAL.—Payments under this section shall be based on such a method as the Administrator determines. The Administrator may establish a payment method by which interim payments of amounts under this section are made during a year based on the Administrator's best estimate of amounts that will be payable after obtaining all of the information.

''(2) SOURCE OF PAYMENTS.—Payments under this section shall be made from the Prescription Drug Account.

''(f) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN DEFINED.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified retiree prescription drug plan' means employment-based retiree health coverage (as defined in paragraph (3)(A)) if, with respect to a qualifying covered individual who is covered under the plan, the following requirements are met:

''(A) ASSURANCE.—The sponsor of the plan shall annually attest, and provide such assurances as the Administrator may require, that the coverage meets or exceeds the requirements for qualified prescription drug coverage.

''(B) AUDITS.—The sponsor (and the plan) shall maintain, and afford the Administrator access to, such records as the Administrator may require for purposes of audits and other oversight activities necessary to ensure the adequacy of prescription drug coverage, and the accuracy of payments made.

''(2) LIMITATION ON BENEFIT ELIGIBILITY.—No payment shall be provided under this section with respect to an individual who is enrolled under a qualified retiree prescription drug plan unless the individual—

''(A) is covered under the plan; and

''(B) was eligible for, but was not enrolled in, the program under this part.

''(3) DEFINITIONS.—As used in this section:

''(A) EMPLOYMENT-BASED RETIREE HEALTH COVERAGE.—The term 'employment-based retiree health coverage' means health insurance or other coverage of health care costs for individuals (or for such individuals and their spouses and dependents) based on their status as former employees or labor union members.

''(B) SPONSOR.—The term 'sponsor' means a plan sponsor, as defined in section 3(16)(B) of the Employee Retirement Income Security Act of 1974.

''(g) GENERAL DEFINITIONS.—For purposes of this section:

''(1) QUALIFYING COVERED INDIVIDUAL.—The term 'qualifying covered individual' means an individual who—

''(A) is enrolled in this part and in a Medicare Prescription Drug plan;

''(B) is enrolled in this part and in a Medicare+Choice plan that provides qualified prescription drug coverage; or

''(C) is eligible for, but not enrolled in, the program under this part, and is covered under a qualified retiree prescription drug plan.

''(2) COVERAGE YEAR.—The term 'coverage year' means a calendar year in which covered drugs are dispensed if a claim for payment is made under the plan for such drugs, regardless of when the claim is paid.

''Subpart 3—Medicare Competitive Agency; Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund

''ESTABLISHMENT OF MEDICARE COMPETITIVE AGENCY

''SEC. 1860D–25. (a) ESTABLISHMENT.—By not later than March 1, 2003, the Secretary shall establish within the Department of Health and Human Services an agency to be known as the Medicare Competitive Agency.

''(b) ADMINISTRATOR AND DEPUTY ADMINISTRATOR.—

''(1) ADMINISTRATOR.—

''(A) IN GENERAL.—The Medicare Competitive Agency shall be headed by an Administrator (in this section referred to as the 'Administrator') who shall be appointed by the

President, by and with the advice and consent of the Senate. The Administrator shall report directly to the Secretary.

''(B) COMPENSATION.—The Administrator shall be paid at the rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(C) TERM OF OFFICE.—The Administrator shall be appointed for a term of 5 years. In any case in which a successor does not take office at the end of an Administrator's term of office, that Administrator may continue in office until the entry upon office of such a successor. An Administrator appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

''(D) GENERAL AUTHORITY.—The Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

''(E) RULEMAKING AUTHORITY.—The Administrator may prescribe such rules and regulations as the Administrator determines necessary or appropriate to carry out the functions of the Administration. The regulations prescribed by the Administrator shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.

''(F) AUTHORITY TO ESTABLISH ORGANIZATIONAL UNITS.—The Administrator may establish, alter, consolidate, or discontinue such organizational units or components within the Administration as the Administrator considers necessary or appropriate, except that this subparagraph shall not apply with respect to any unit, component, or provision provided for by this section.

''(G) AUTHORITY TO DELEGATE.—The Administrator may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Administration as the Administrator may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Administrator.

''(2) DEPUTY ADMINISTRATOR.—

''(A) IN GENERAL.—There shall be a Deputy Administrator of the Medicare Competitive Agency who shall be appointed by the President, by and with the advice and consent of the Senate.

''(B) COMPENSATION.—The Deputy Administrator shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(C) TERM OF OFFICE.—The Deputy Administrator shall be appointed for a term of 5 years. In any case in which a successor does not take office at the end of a Deputy Administrator's term of office, such Deputy Administrator may continue in office until the entry upon office of such a successor. A Deputy Administrator appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

''(D) DUTIES.—The Deputy Administrator shall perform such duties and exercise such powers as the Administrator shall from time to time assign or delegate. The Deputy Administrator shall be Acting Administrator of the Administration during the absence or disability of the Administrator and, unless the President designates another officer of the Government as Acting Administrator, in the event of a vacancy in the office of the Administrator.

''(3) SECRETARIAL COORDINATION OF PROGRAM ADMINISTRATION.—The Secretary shall ensure appropriate coordination between the Administrator and the Administrator of the Centers for Medicare & Medicaid Services in carrying out the programs under this title.

''(c) DUTIES; ADMINISTRATIVE PROVISIONS.—

''(1) DUTIES.—

''(A) GENERAL DUTIES.—The Administrator shall carry out parts C and D, including—

''(i) negotiating, entering into, and enforcing, contracts with plans for the offering of Medicare+Choice plans under part C, including the offering of qualified prescription drug coverage under such plans; and

''(ii) negotiating, entering into, and enforcing, contracts with eligible entities for the offering of Medicare Prescription Drug plans under part D.

''(B) OTHER DUTIES.—The Administrator shall carry out any duty provided for under part C or D, including demonstration projects carried out in part or in whole under such parts, the programs of all-inclusive care for the elderly (PACE program) under section 1894, the social health maintenance organization (SHMO) demonstration projects (referred to in section 4104(c) of the Balanced Budget Act of 1997), and through a Medicare+Choice project that demonstrates the application of capitation payment rates for frail elderly medicare beneficiaries through the use of an interdisciplinary team and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved.

''(C) NONINTERFERENCE.—In carrying out its duties with respect to the provision of qualified prescription drug coverage to beneficiaries under this title, the Administrator may not—

''(i) require a particular formulary or institute a price structure for the reimbursement of covered drugs;

''(ii) interfere in any way with negotiations between eligible entities and Medicare+Choice organizations and drug manufacturers, wholesalers, or other suppliers of covered drugs; and

''(iii) otherwise interfere with the competitive nature of providing such qualified prescription drug coverage through such entities and organizations.

''(D) ANNUAL REPORTS.—Not later than March 31 of each year, the Administrator shall submit to Congress and the President a report on the administration of the voluntary prescription drug delivery program under this part during the previous fiscal year.

''(2) STAFF.—

''(A) IN GENERAL.—The Administrator, with the approval of the Secretary, may employ, without regard to chapter 31 of title 5, United States Code, other than sections 3110 and 3112, such officers and employees as are necessary to administer the activities to be carried out through the Medicare Competitive Agency. The Administrator shall employ staff with appropriate and necessary expertise in negotiating contracts in the private sector.

''(B) FLEXIBILITY WITH RESPECT TO COMPENSATION.—

''(i) IN GENERAL.—The staff of the Medicare Competitive Agency shall, subject to clause (ii), be paid without regard to the provisions of chapter 51 (other than section 5101) and chapter 53 (other than section 5301) of such title (relating to classification and schedule pay rates).

''(ii) MAXIMUM RATE.—In no case may the rate of compensation determined under clause (i) exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(C) LIMITATION ON FULL-TIME EQUIVALENT STAFFING FOR CURRENT CMS FUNCTIONS BEING TRANSFERRED.—The Administrator may not employ under this paragraph a number of full-time equivalent employees, to carry out functions that were previously conducted by the Centers for Medicare & Medicaid Services and that are conducted by the Administrator by reason of this section, that exceeds the number of such full-time equivalent employees authorized to be employed by the Centers for Medicare & Medicaid Services to conduct such functions as of the date of enactment of this Act.

''(3) REDELEGATION OF CERTAIN FUNCTIONS OF THE CENTERS FOR MEDICARE AND MEDICAID SERVICES.—

''(A) IN GENERAL.—The Secretary, the Administrator, and the Administrator of the Centers for Medicare & Medicaid Services shall establish an appropriate transition of responsibility in order to redelegate the administration of part C from the Secretary and the Administrator of the Centers for Medicare & Medicaid Services to the Administrator as is appropriate to carry out the purposes of this section.

''(B) TRANSFER OF DATA AND INFORMATION.—The Secretary shall ensure that the Administrator of the Centers for Medicare & Medicaid Services transfers to the Administrator such information and data in the possession of the Administrator of the Centers for Medicare & Medicaid Services as the Administrator requires to carry out the duties described in paragraph (1).

''(C) CONSTRUCTION.—Insofar as a responsibility of the Secretary or the Administrator of the Centers for Medicare & Medicaid Services is redelegated to the Administrator under this section, any reference to the Secretary or the Administrator of the Centers for Medicare & Medicaid Services in this title or title XI with respect to such responsibility is deemed to be a reference to the Administrator.

''(d) OFFICE OF BENEFICIARY ASSISTANCE.—

''(1) ESTABLISHMENT.—The Secretary shall establish within the Medicare Competitive Agency an Office of Beneficiary Assistance to carry out functions relating to medicare beneficiaries under this title, including making determinations of eligibility of individuals for benefits under this title, providing for enrollment of medicare beneficiaries under this title, and the functions described in paragraph (2). The Office shall be a separate operating division within the Administration.

''(2) DISSEMINATION OF INFORMATION ON BENEFITS AND APPEALS RIGHTS.—

''(A) DISSEMINATION OF BENEFITS INFORMATION.—The Office of Beneficiary Assistance shall disseminate to medicare beneficiaries, by mail, by posting on the Internet site of the Medicare Competitive Agency, and through the toll-free telephone number provided for under section 1804(b), information with respect to the following:

''(i) Benefits, and limitations on payment (including cost-sharing, stop-loss provisions, and formulary restrictions) under parts C and D.

''(ii) Benefits, and limitations on payment under parts A, B, and E, including information on medicare supplemental policies under section 1882.

Such information shall be presented in a manner so that medicare beneficiaries may compare benefits under parts A, B, D, and E, and medicare supplemental policies with benefits under Medicare+Choice plans under part C.

''(B) DISSEMINATION OF APPEALS RIGHTS INFORMATION.—The Office of Beneficiary Assistance shall disseminate to medicare beneficiaries in the manner provided under subparagraph (A) a description of procedural rights (including grievance and appeals procedures) of beneficiaries under the original

medicare fee-for-service program under parts A and B (including beneficiaries who elect to receive enhanced medicare benefits under part E), the Medicare+Choice program under part C, and the voluntary prescription drug delivery program under part D.

''(3) MEDICARE OMBUDSMAN.—

''(A) IN GENERAL.—Within the Office of Beneficiary Assistance, there shall be a Medicare Ombudsman, appointed by the Secretary from among individuals with expertise and experience in the fields of health care and advocacy, to carry out the duties described in subparagraph (B).

''(B) DUTIES.—The Medicare Ombudsman shall—

''(i) receive complaints, grievances, and requests for information submitted by a medicare beneficiary, with respect to any aspect of the medicare program;

''(ii) provide assistance with respect to complaints, grievances, and requests referred to in clause (i), including—

''(I) assistance in collecting relevant information for such beneficiaries, to seek an appeal of a decision or determination made by a fiscal intermediary, carrier, Medicare+Choice organization, an eligible entity under part D, or the Secretary; and

''(II) assistance to such beneficiaries with any problems arising from disenrollment from a Medicare+Choice plan under part C or a prescription drug plan under part D; and

''(iii) submit annual reports to Congress, the Secretary, and the Medicare Competitive Policy Advisory Board describing the activities of the Office, and including such recommendations for improvement in the administration of this title as the Ombudsman determines appropriate.

''(C) COORDINATION WITH STATE OMBUDSMAN PROGRAMS AND CONSUMER ORGANIZATIONS.—The Medicare Ombudsman shall, to the extent appropriate, coordinate with State medical Ombudsman programs, and with State- and community-based consumer organizations, to—

''(i) provide information about the medicare program; and

''(ii) conduct outreach to educate medicare beneficiaries with respect to manners in which problems under the medicare program may be resolved or avoided.

''(e) MEDICARE COMPETITIVE POLICY ADVISORY BOARD.—

''(1) ESTABLISHMENT.—There is established within the Medicare Competitive Agency the Medicare Competitive Policy Advisory Board (in this section referred to as the 'Board'). The Board shall advise, consult with, and make recommendations to the Administrator with respect to the administration of parts C and D, including the review of payment policies under such parts.

''(2) REPORTS.—

''(A) IN GENERAL.—With respect to matters of the administration of parts C and D, the Board shall submit to Congress and to the Administrator such reports as the Board determines appropriate. Each such report may contain such recommendations as the Board determines appropriate for legislative or administrative changes to improve the administration of such parts, including the stability and solvency of the programs under such parts and the topics described in subparagraph (B). Each such report shall be published in the Federal Register.

''(B) TOPICS DESCRIBED.—Reports required under subparagraph (A) may include the following topics:

''(i) FOSTERING COMPETITION.—Recommendations or proposals to increase competition under parts C and D for services furnished to medicare beneficiaries.

''(ii) EDUCATION AND ENROLLMENT.—Recommendations for the improvement of efforts to provide medicare beneficiaries information and education on the program under this title, and specifically parts C and D, and the program for enrollment under the title.

''(iii) QUALITY.—Recommendations on ways to improve the quality of benefits provided under plans under parts C and D.

''(iv) DISEASE MANAGEMENT PROGRAMS.—Recommendations on the incorporation of disease management programs under parts C and D.

''(v) RURAL ACCESS.—Recommendations to improve competition and access to plans under parts C and D in rural areas.

''(C) MAINTAINING INDEPENDENCE OF BOARD.—The Board shall directly submit to Congress reports required under subparagraph (A). No officer or agency of the United States may require the Board to submit to any officer or agency of the United States for approval, comments, or review, prior to the submission to Congress of such reports.

''(3) DUTY OF ADMINISTRATOR.—With respect to any report submitted by the Board under paragraph (2)(A), not later than 90 days after the report is submitted, the Administrator shall submit to Congress and the President an analysis of recommendations made by the Board in such report. Each such analysis shall be published in the Federal Register.

''(4) MEMBERSHIP.—

''(A) APPOINTMENT.—Subject to the succeeding provisions of this paragraph, the Board shall consist of 7 members to be appointed as follows:

''(i) Three members shall be appointed by the President.

''(ii) Two members shall be appointed by the Speaker of the House of Representatives, with the advice of the chairman and the ranking minority member of the Committees on Ways and Means and on Energy and Commerce of the House of Representatives.

''(iii) Two members shall be appointed by the President pro tempore of the Senate with the advice of the chairman and the ranking minority member of the Committee on Finance of the Senate.

''(B) QUALIFICATIONS.—The members shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education and experience in health care benefits management, exceptionally qualified to perform the duties of members of the Board.

''(C) PROHIBITION ON INCLUSION OF FEDERAL EMPLOYEES.—No officer or employee of the United States may serve as a member of the Board.

''(5) COMPENSATION.—Members of the Board shall receive, for each day (including travel time) they are engaged in the performance of the functions of the Board, compensation at rates not to exceed the daily equivalent to the annual rate in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(6) TERMS OF OFFICE.—

''(A) IN GENERAL.—The term of office of members of the Board shall be 3 years.

''(B) TERMS OF INITIAL APPOINTEES.—As designated by the President at the time of appointment, of the members first appointed—

''(i) one shall be appointed for a term of 1 year;

''(ii) three shall be appointed for terms of 2 years; and

''(iii) three shall be appointed for terms of 3 years.

''(C) REAPPOINTMENTS.—Any person appointed as a member of the Board may not serve for more than 8 years.

''(D) VACANCY.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made.

''(7) CHAIR.—The Chair of the Board shall be elected by the members. The term of office of the Chair shall be 3 years.

''(8) MEETINGS.—The Board shall meet at the call of the Chair, but in no event less than 3 times during each fiscal year.

''(9) DIRECTOR AND STAFF.—

''(A) APPOINTMENT OF DIRECTOR.—The Board shall have a Director who shall be appointed by the Chair.

''(B) IN GENERAL.—With the approval of the Board, the Director may appoint, without regard to chapter 31 of title 5, United States Code, such additional personnel as the Director considers appropriate.

''(C) FLEXIBILITY WITH RESPECT TO COMPENSATION.—

''(i) IN GENERAL.—The Director and staff of the Board shall, subject to clause (ii), be paid without regard to the provisions of chapter 51 and chapter 53 of such title (relating to classification and schedule pay rates).

''(ii) MAXIMUM RATE.—In no case may the rate of compensation determined under clause (i) exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(D) ASSISTANCE FROM THE ADMINISTRATOR.—The Administrator shall make available to the Board such information and other assistance as it may require to carry out its functions.

''(10) CONTRACT AUTHORITY.—The Board may contract with and compensate government and private agencies or persons to carry out its duties under this subsection, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

''(f) FUNDING.—There is authorized to be appropriated, in appropriate part from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund (including the Prescription Drug Account), such sums as are necessary to carry out this section.

''PRESCRIPTION DRUG ACCOUNT IN THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

''SEC. 1860D–26. (a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is created within the Federal Supplementary Medical Insurance Trust Fund established by section 1841 an account to be known as the 'Prescription Drug Account' (in this section referred to as the 'Account').

''(2) FUNDS.—The Account shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, the Account as provided in this part.

''(3) SEPARATE FROM REST OF TRUST FUND.—Funds provided under this part to the Account shall be kept separate from all other funds within the Federal Supplementary Medical Insurance Trust Fund.

''(b) PAYMENTS FROM ACCOUNT.—

''(1) IN GENERAL.—The Managing Trustee shall pay from time to time from the Account such amounts as the Secretary certifies are necessary to make payments to operate the program under this part, including payments to eligible entities under section 1860D–16, payments under 1860D–19 for low-income subsidy payments for cost-sharing, reinsurance payments under section 1860D–20, and payments with respect to administrative expenses under this part in accordance with section 201(g).

''(2) TRANSFER TO PARTS A AND B TRUST FUNDS FOR MEDICARE+CHOICE PAYMENTS.—The Managing Trustee shall establish procedures

for the transfer of funds from the Account, in an amount determined appropriate by the Secretary, to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in order to reimburse such trust funds for payments to Medicare+Choice organizations for the provision of qualified prescription drug coverage pursuant to section 1853(k).

''(3) TRANSFERS TO MEDICAID ACCOUNT FOR INCREASED ADMINISTRATIVE COSTS.—The Managing Trustee shall transfer from time to time from the Account to the Grants to States for Medicaid account amounts the Secretary certifies are attributable to increases in payment resulting from the application of a higher Federal matching percentage under section 1935(b).

''(4) TREATMENT IN RELATION TO PART B PREMIUM.—Amounts payable from the Account shall not be taken into account in computing actuarial rates or premium amounts under section 1839.

''(c) DEPOSITS INTO ACCOUNT.—

''(1) MEDICAID TRANSFER.—There is hereby transferred to the Account, from amounts appropriated for Grants to States for Medicaid, amounts equivalent to the aggregate amount of the reductions in payments under section 1903(a)(1) attributable to the application of section 1935(c).

''(2) APPROPRIATIONS TO COVER BENEFITS AND ADMINISTRATIVE COSTS.—There are appropriated to the Account in a fiscal year, out of any moneys in the Treasury not otherwise appropriated, an amount equal to the amount by which—

''(A) the payments and transfers made from the Account under subsection (b) in the year; exceed

''(B) the premiums collected under section 1860D–18 and 1853(k)(4) (for beneficiaries receiving qualified prescription drug coverage under a Medicare+Choice plan).''.

(b) CONFORMING AMENDMENTS TO FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND.—Section 1841 (42 U.S.C. 1395t) is amended—

(1) in the last sentence of subsection (a)—

(A) by striking ''and'' before ''such amounts''; and

(B) by inserting before the period the following: '', and such amounts as may be deposited in, or appropriated to, the Prescription Drug Account established by section 1860D–26'';

(2) in subsection (g), by inserting after ''by this part,'' the following: ''the payments provided for under part D (in which case the payments shall be made from the Prescription Drug Account in the Trust Fund),'';

(3) in subsection (h), by inserting after ''1840(d)'' the following: ''and section 1860D–18 (in which case the payments shall be made from the Prescription Drug Account in the Trust Fund)''; and

(4) in subsection (i), by inserting after ''section 1840(b)(1)'' the following: '', section 1860D–18 (in which case the payments shall be made from the Prescription Drug Account in the Trust Fund),''.

(c) CONFORMING REFERENCES TO PREVIOUS PART D.—Any reference in law (in effect before the date of enactment of this Act) to part D of title XVIII of the Social Security Act is deemed a reference to part F of such title (as in effect after such date).

SEC. 102. STUDY AND REPORT ON PERMITTING PART B ONLY INDIVIDUALS TO ENROLL IN MEDICARE VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM.

(a) STUDY.—The Administrator of the Medicare Competitive Agency (as established under section 1860D–25 of the Social Security Act (as added by section 301(a))) shall conduct a study on the need for rules relating to permitting individuals who are enrolled under part B of title XVIII of the Social Security Act but are not entitled to benefits under part A of such title to buy into the medicare voluntary prescription drug delivery program under part D of such title (as so added).

(b) REPORT.—Not later than January 1, 2004, the Administrator of the Medicare Competitive Agency shall submit a report to Congress on the study conducted under subsection (a), together with any recommendations for legislation that the Administrator determines to be appropriate as a result of such study.

SEC. 103. ADDITIONAL REQUIREMENTS FOR ANNUAL FINANCIAL REPORT AND OVERSIGHT ON MEDICARE PROGRAM.

(a) IN GENERAL.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

''(1) COMBINED REPORT ON OPERATION AND STATUS OF THE TRUST FUND AND THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND (INCLUDING THE PRESCRIPTION DRUG ACCOUNT).—In addition to the duty of the Board of Trustees to report to Congress under subsection (b), on the date the Board submits the report required under subsection (b)(2), the Board shall submit to Congress a report on the operation and status of the Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established under section 1841, including the Prescription Drug Account within such Trust Fund, (in this subsection referred to as the 'Trust Funds'). Such report shall include the following information:

''(1) OVERALL SPENDING FROM THE GENERAL FUND OF THE TREASURY.—A statement of total amounts obligated during the preceding fiscal year from the General Revenues of the Treasury to the Trust Funds, separately stated in terms of the total amount and in terms of the percentage such amount bears to all other amounts obligated from such General Revenues during such fiscal year, for each of the following amounts:

''(A) MEDICARE BENEFITS.—The amount expended for payment of benefits covered under this title.

''(B) ADMINISTRATIVE AND OTHER EXPENSES.—The amount expended for payments not related to the benefits described in subparagraph (A).

''(2) HISTORICAL OVERVIEW OF SPENDING.—From the date of the inception of the program of insurance under this title through the fiscal year involved, a statement of the total amounts referred to in paragraph (1), separately stated for the amounts described in subparagraphs (A) and (B) of such paragraph.

''(3) 10-YEAR AND 50-YEAR PROJECTIONS.—An estimate of total amounts referred to in paragraph (1), separately stated for the amounts described in subparagraphs (A) and (B) of such paragraph, required to be obligated for payment for benefits covered under this title for each of the 10 fiscal years succeeding the fiscal year involved and for the 50-year period beginning with the succeeding fiscal year.

''(4) RELATION TO OTHER MEASURES OF GROWTH.—A comparison of the rate of growth of the total amounts referred to in paragraph (1), separately stated for the amounts described in subparagraphs (A) and (B) of such paragraph, to the rate of growth for the same period in—

''(A) the gross domestic product;

''(B) health insurance costs in the private sector;

''(C) employment-based health insurance costs in the public and private sectors; and

''(D) other areas as determined appropriate by the Board of Trustees.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to fiscal years beginning on or after the date of enactment of this Act.

(c) CONGRESSIONAL HEARINGS.—It is the sense of Congress that the committees of jurisdiction of Congress shall hold hearings on the reports submitted under section 1817(l) of the Social Security Act (as added by subsection (a)).

SEC. 104. REFERENCE TO MEDIGAP PROVISIONS.

For provisions related to medicare supplemental policies under section 1882 of the Social Security Act (42 U.S.C. 1395ss), see section 202.

SEC. 105. MEDICAID AMENDMENTS.

(a) DETERMINATIONS OF ELIGIBILITY FOR LOW-INCOME SUBSIDIES.—

(1) REQUIREMENT.—Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)—

(i) by striking ''and'' at the end of paragraph (64);

(ii) by striking the period at the end of paragraph (65) and inserting ''; and''; and

(iii) by inserting after paragraph (65) the following new paragraph:

''(66) provide for making eligibility determinations under section 1935(a).''.

(2) NEW SECTION.—Title XIX (42 U.S.C. 1396 et seq.) is amended—

(A) by redesignating section 1935 as section 1936; and

(B) by inserting after section 1934 the following new section:

''SPECIAL PROVISIONS RELATING TO MEDICARE PRESCRIPTION DRUG BENEFIT

''SEC. 1935. (a) REQUIREMENT FOR MAKING ELIGIBILITY DETERMINATIONS FOR LOW-INCOME SUBSIDIES.—As a condition of its State plan under this title under section 1902(a)(66) and receipt of any Federal financial assistance under section 1903(a), a State shall—

''(1) make determinations of eligibility for premium and cost-sharing subsidies under (and in accordance with) section 1860D–19;

''(2) inform the Administrator of the Medicare Competitive Agency of such determinations in cases in which such eligibility is established; and

''(3) otherwise provide such Administrator with such information as may be required to carry out part D of title XVIII (including section 1860D–19).

''(b) PAYMENTS FOR ADDITIONAL ADMINISTRATIVE COSTS.—

''(1) IN GENERAL.—The amounts expended by a State in carrying out subsection (a) are, subject to paragraph (2), expenditures reimbursable under the appropriate paragraph of section 1903(a); except that, notwithstanding any other provision of such section, the applicable Federal matching rates with respect to such expenditures under such section shall be increased as follows:

''(A) For expenditures attributable to costs incurred during 2005, the otherwise applicable Federal matching rate shall be increased by 20 percent of the percentage otherwise payable (but for this subsection) by the State.

''(B) For expenditures attributable to costs incurred during 2006, the otherwise applicable Federal matching rate shall be increased by 40 percent of the percentage otherwise payable (but for this subsection) by the State.

''(C) For expenditures attributable to costs incurred during 2007, the otherwise applicable Federal matching rate shall be increased by 60 percent of the percentage otherwise payable (but for this subsection) by the State.

''(D) For expenditures attributable to costs incurred during 2008, the otherwise applicable Federal matching rate shall be increased by 80 percent of the percentage otherwise payable (but for this subsection) by the State.

''(E) For expenditures attributable to costs incurred after 2008, the otherwise applicable Federal matching rate shall be increased to 100 percent.

''(2) COORDINATION.—The State shall provide the Secretary with such information as may be necessary to properly allocate administrative expenditures described in paragraph (1) that may otherwise be made for similar eligibility determinations.''.

(b) PHASED-IN FEDERAL ASSUMPTION OF MEDICAID RESPONSIBILITY FOR PREMIUM AND COST-SHARING SUBSIDIES FOR DUALLY ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—Section 1903(a)(1) (42 U.S.C. 1396b(a)(1)) is amended by inserting before the semicolon the following: '', reduced by the amount computed under section 1935(c)(1) for the State and the quarter''.

(2) AMOUNT DESCRIBED.—Section 1935, as added by subsection (a)(2), is amended by adding at the end the following new subsection:

''(c) FEDERAL ASSUMPTION OF MEDICAID PRESCRIPTION DRUG COSTS FOR DUALLY-ELIGIBLE BENEFICIARIES.—

''(1) IN GENERAL.—For purposes of section 1903(a)(1), for a State for a calendar quarter in a year (beginning with 2005) the amount computed under this subsection is equal to the product of the following:

''(A) STANDARD PRESCRIPTION DRUG COVERAGE UNDER MEDICARE.—With respect to individuals who are residents of the State and are entitled to benefits with respect to prescribed drugs under the State plan under this title (including such a plan operating under a waiver under section 1115)—

''(i) the total amount of payments made (or not collected from the individuals) in the quarter under section 1860D–19 (relating to premium and cost-sharing prescription drug subsidies for low-income medicare beneficiaries) that are attributable to such individuals; and

''(ii) the actuarial value of standard coverage (as determined under section 1860D–6(f)) provided for all such individuals.

''(B) STATE MATCHING RATE.—A proportion computed by subtracting from 100 percent the Federal medical assistance percentage (as defined in section 1905(b)) applicable to the State and the quarter.

''(C) PHASE-OUT PROPORTION.—The phase-out proportion (as defined in paragraph (2)) for the quarter.

''(2) PHASE-OUT PROPORTION.—For purposes of paragraph (1)(C), the 'phase-out proportion' for a calendar quarter in—

''(A) 2005 is 90 percent;

''(B) 2006 is 80 percent;

''(C) 2007 is 70 percent;

''(D) 2008 is 60 percent; or

''(E) a year after 2008 is 50 percent.''.

(c) MEDICAID PROVIDING WRAP-AROUND BENEFITS.—Section 1935, as added by subsection (a)(2) and amended by subsection (b)(2), is amended by adding at the end the following new subsection:

''(d) ADDITIONAL PROVISIONS.—

''(1) MEDICAID AS SECONDARY PAYOR.—In the case of an individual who is enrolled under part D of title XVIII and entitled to medical assistance for prescribed drugs under this title, medical assistance shall continue to be provided under this title for prescribed drugs to the extent payment is not made under the Medicare Prescription Drug plan or the Medicare+Choice plan selected by the individual to receive part D benefits.

''(2) CONDITION.—A State may require, as a condition for the receipt of medical assistance under this title with respect to prescription drug benefits for an individual eligible to enroll in part D, that the individual elect to enroll under such part.''.

(d) TREATMENT OF TERRITORIES.—

(1) IN GENERAL.—Section 1935, as added by subsection (a)(2) and amended by subsections (b)(2) and (c), is amended—

(A) in subsection (a) in the matter preceding paragraph (1), by inserting ''subject to subsection (e)'' after ''section 1903(a)'';

(B) in subsection (c)(1), by inserting ''subject to subsection (e)'' after ''1903(a)(1)''; and

(C) by adding at the end the following new subsection:

''(e) TREATMENT OF TERRITORIES.—

''(1) IN GENERAL.—In the case of a State, other than the 50 States and the District of Columbia—

''(A) the previous provisions of this section shall not apply to residents of such State; and

''(B) if the State establishes a plan described in paragraph (2) (for providing medical assistance with respect to the provision of prescription drugs to medicare beneficiaries), the amount otherwise determined under section 1108(f) (as increased under section 1108(g)) for the State shall be increased by the amount specified in paragraph (3).

''(2) PLAN.—The plan described in this paragraph is a plan that—

''(A) provides medical assistance with respect to the provision of covered drugs (as defined in section 1860D(a)(2)) to low-income medicare beneficiaries; and

''(B) assures that additional amounts received by the State that are attributable to the operation of this subsection are used only for such assistance.

''(3) INCREASED AMOUNT.—

''(A) IN GENERAL.—The amount specified in this paragraph for a State for a year is equal to the product of—

''(i) the aggregate amount specified in subparagraph (B); and

''(ii) the amount specified in section 1108(g)(1) for that State, divided by the sum of the amounts specified in such section for all such States.

''(B) AGGREGATE AMOUNT.—The aggregate amount specified in this subparagraph for—

''(i) 2005, is equal to $20,000,000; or

''(ii) a subsequent year, is equal to the aggregate amount specified in this subparagraph for the previous year increased by the annual percentage increase specified in section 1860D–6(c)(5) for the year involved.

''(4) REPORT.—The Secretary shall submit to Congress a report on the application of this subsection and may include in the report such recommendations as the Secretary deems appropriate.''.

(2) CONFORMING AMENDMENT.—Section 1108(f) (42 U.S.C. 1308(f)) is amended by inserting ''and section 1935(e)(1)(B)'' after ''Subject to subsection (g)''.

(e) AMENDMENT TO BEST PRICE.—Section 1927(c)(1)(C)(i) (42 U.S.C. 1396r–8(c)(1)(C)(i)) is amended—

(1) by striking ''and'' at the end of subclause (III);

(2) by striking the period at the end of subclause (IV) and inserting ''; and''; and

(3) by adding at the end the following new subclause:

''(V) any prices charged which are negotiated under a Medicare Prescription Drug plan under part D of title XVIII with respect to covered drugs, under a Medicare+Choice plan under part C of such title with respect to such drugs, or under a qualified retiree prescription drug plan (as defined in section 1860D–20(f)(1)) with respect to such drugs, on behalf of eligible beneficiaries (as defined in section 1860D(a)(3).''.

SEC. 106. EXPANSION OF MEMBERSHIP AND DUTIES OF MEDICARE PAYMENT ADVISORY COMMISSION (MEDPAC).

(a) EXPANSION OF MEMBERSHIP.—

(1) IN GENERAL.—Section 1805(c) (42 U.S.C. 1395b–6(c)) is amended—

(A) in paragraph (1), by striking ''17'' and inserting ''19''; and

(B) in paragraph (2)(B), by inserting ''experts in the area of pharmacology and prescription drug benefit programs,'' after ''other health professionals,''.

(2) INITIAL TERMS OF ADDITIONAL MEMBERS.—

(A) IN GENERAL.—For purposes of staggering the initial terms of members of the Medicare Payment Advisory Commission under section 1805(c)(3) of the Social Security Act (42 U.S.C. 1395b–6(c)(3)), the initial terms of the 2 additional members of the Commission provided for by the amendment under paragraph (1)(A) are as follows:

(i) One member shall be appointed for 1 year.

(ii) One member shall be appointed for 2 years.

(B) COMMENCEMENT OF TERMS.—Such terms shall begin on January 1, 2004.

(b) EXPANSION OF DUTIES.—Section 1805(b)(2) (42 U.S.C. 1395b–6(b)(2)) is amended by adding at the end the following new subparagraph:

''(D) VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM.—Specifically, the Commission shall review, with respect to the voluntary prescription drug delivery program under part D, competition among eligible entities offering Medicare Prescription Drug plans and beneficiary access to such plans and covered drugs, particularly in rural areas.''.

SEC. 107. MISCELLANEOUS ADMINISTRATIVE PROVISIONS.

(a) ADMINISTRATOR AS MEMBER OF THE BOARD OF TRUSTEES OF THE MEDICARE TRUST FUNDS.—Sections 1817(b) and 1841(b) (42 U.S.C. 1395i(b), 1395t(b)) are each amended by striking ''and the Secretary of Health and Human Services, all ex officio,'' and inserting ''the Secretary of Health and Human Services, and the Administrator of the Medicare Competitive Agency, all ex officio,''.

(b) INCREASE IN GRADE TO EXECUTIVE LEVEL III FOR THE ADMINISTRATOR OF THE CENTERS FOR MEDICARE & MEDICAID SERVICES.—

(1) IN GENERAL.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Administrator of the Centers for Medicare & Medicaid Services.''.

(2) CONFORMING AMENDMENT.—Section 5315 of such title is amended by striking ''Administrator of the Health Care Financing Administration.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection take effect on March 1, 2003.

TITLE II—OPTION FOR ENHANCED MEDICARE BENEFITS

SEC. 201. OPTION FOR ENHANCED MEDICARE BENEFITS.

(a) ESTABLISHMENT.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 101, is amended by inserting after part D the following new part:

''PART E—ENHANCED MEDICARE BENEFITS

''ENTITLEMENT TO ELECT TO RECEIVE ENHANCED MEDICARE BENEFITS

''SEC. 1860E–1. (a) IN GENERAL.—The Secretary shall establish procedures under which each eligible beneficiary shall be entitled to elect to receive enhanced medicare benefits under this part instead of the benefits under parts A and B.

''(b) ENHANCED MEDICARE BENEFITS TO BE AVAILABLE IN 2005.—The Secretary shall establish the procedures under subsection (a) in a manner such that enhanced medicare benefits are first provided for months beginning with January 2005.

''(c) PRESERVATION OF ORIGINAL MEDICARE FEE-FOR-SERVICE BENEFITS.—Nothing in this part shall be construed to limit the right of

an individual who is entitled to benefits under part A or enrolled under part B to receive benefits under such part if an election to receive enhanced medicare benefits under this part is not in effect with respect to such individual.

''SCOPE OF ENHANCED MEDICARE BENEFITS

''SEC. 1860E–2. (a) IN GENERAL.—Except for the modifications described in the succeeding provisions of this section, enhanced medicare benefits shall be identical to the benefits that are available under parts A and B.

''(b) UNIFIED DEDUCTIBLE.—

''(1) IN GENERAL.—In the case of an eligible beneficiary who has elected to receive enhanced medicare benefits under this part—

''(A) the amount otherwise payable under part A and the total amount of expenses incurred by an eligible beneficiary during a year which would (except for this section) constitute incurred expenses from which benefits payable under section 1833(a) are determinable, shall be reduced under sections 1813(b) and 1833(b) by the amount of the unified deductible under paragraph (2); and

''(B) the eligible beneficiary shall be responsible for the payment of such amount.

''(2) AMOUNT OF UNIFIED DEDUCTIBLE.—

''(A) IN GENERAL.—The amount of the unified deductible under this subsection shall be—

''(i) for 2005, $300; or

''(ii) for a subsequent year, the amount specified in this subparagraph for the preceding year increased by the percentage increase in the per capita actuarial value of benefits under parts A and B for such subsequent year.

''(B) ROUNDING.—If any amount determined under subparagraph (A) is not a multiple of $1, such amount shall be rounded to the nearest multiple of $1.

''(3) APPLICATION.—The unified deductible under this subsection for a year shall be applied—

''(A) with respect to benefits under part A, on the basis of the amount that is payable for such benefits without regard to any other copayments or coinsurance and before the application of any such copayments or coinsurance;

''(B) with respect to benefits under part B, on the basis of the total amount of the expenses incurred by an eligible beneficiary during a year which would, except for the application of the deductible, constitute incurred expenses from which benefits payable under section 1833(a) are determinable, without regard to any other copayments or coinsurance and before the application of any such copayments or coinsurance; and

''(C) instead of the deductibles described in sections 1813(b) and 1833(b).

''(c) SERIOUS ILLNESS PROTECTION.—

''(1) IN GENERAL.—In the case of an eligible beneficiary who has elected to receive enhanced medicare benefits under this part, if the amount of the out-of-pocket cost-sharing of such beneficiary for a calendar year equals or exceeds the serious illness protection threshold for that year—

''(A) the beneficiary shall not be responsible for additional out-of-pocket cost-sharing incurred during that year; and

''(B) the Secretary shall establish procedures under which the Secretary shall pay on behalf of the beneficiary the amount of the additional out-of-pocket cost-sharing described in subparagraph (A) from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, in such proportion as the Secretary determines appropriate.

''(2) SERIOUS ILLNESS PROTECTION THRESHOLD.—

''(A) IN GENERAL.—The amount of the serious illness protection threshold under this subsection shall be—

''(i) for 2005, $6,000; or

''(ii) for a subsequent year, the amount specified in this subparagraph for the preceding year increased by the percentage increase in the per capita actuarial value of benefits under parts A and B for such subsequent year.

''(B) ROUNDING.—If any amount determined under subparagraph (A) is not a multiple of $1, such amount shall be rounded to the nearest multiple of $1.

''(3) OUT-OF-POCKET COST-SHARING DEFINED.—In this subsection, the term 'out-of-pocket cost-sharing' means, with respect to an eligible beneficiary, the amount of costs incurred by the beneficiary that are attributable to deductibles, coinsurance, and copayments imposed under part A or B (as modified by this part), without regard to whether the beneficiary or another person, including a State program or other third-party coverage, has paid for such costs.

''(d) ENHANCED HOSPITAL BENEFITS.—

''(1) ELIMINATION OF DURATIONAL LIMITS ON INPATIENT HOSPITAL SERVICES.—In the case of an eligible beneficiary who has elected to receive enhanced medicare benefits under this part—

''(A) there shall be no spell of illness limit or lifetime limit on inpatient hospital services under subsections (a)(1) and (b)(1) of section 1812 during the period in which the election of the beneficiary to receive enhanced medicare benefits under this part is in effect; and

''(B) section 1812(c) shall not be applied during such period.

''(2) REVISION OF INPATIENT HOSPITAL COINSURANCE.—

''(A) IN GENERAL.—In the case of an eligible beneficiary who has elected to receive enhanced medicare benefits under this part, after the application of the unified deductible under subsection (b), instead of imposing any coinsurance under the second sentence of section 1813(a)(1), the amount payable under part A for inpatient hospital services or inpatient critical access hospital services furnished to the eligible beneficiary during any year, shall be reduced by the amount of the inpatient hospital copayment specified in subparagraph (B) for each period of hospitalization and the beneficiary shall be responsible for payment of such amount for each such period.

''(B) AMOUNT OF INPATIENT HOSPITAL COPAYMENT.—

''(i) IN GENERAL.—The amount of the inpatient hospital copayment under this paragraph shall be—

''(I) for 2005, $400; or

''(II) for a subsequent year, the amount specified in this clause for the preceding year increased by the percentage increase in the per capita actuarial value of benefits under parts A and B for such subsequent year.

''(ii) ROUNDING.—If any amount determined under clause (i) is not a multiple of $1, such amount shall be rounded to the nearest multiple of $1.

''(C) PERIOD OF HOSPITALIZATION DEFINED.—In this subsection, the term 'period of hospitalization' means the period that begins on the date that the eligible beneficiary is admitted to the hospital and ends on the date on which the beneficiary has not been hospitalized for a 72-hour period.

''(D) COLLECTION OF COPAYMENTS.—For purposes of section 1866(a)(2)(A), hospitals shall substitute the imposition of the inpatient hospital copayment under this paragraph for the hospital coinsurance described in the second sentence of section 1813(a)(1).

''(e) ELIMINATION OF COST-SHARING FOR PREVENTIVE HEALTH CARE ITEMS AND SERVICES.—

''(1) IN GENERAL.—In the case of an eligible beneficiary who has elected to receive enhanced medicare benefits under this part, the unified deductible under subsection (b) and deductibles and the coinsurance otherwise applicable under subsections (a) and (b) of section 1833 shall not be applied with respect to expenses incurred for any preventive health care items and services (and no charges may be imposed under section 1866(a)(2) where such deductibles and coinsurance are not imposed).

''(2) PREVENTIVE HEALTH CARE ITEMS AND SERVICES DEFINED.—In this subsection, the term 'preventive health care items and services' means any of the following health care items and services:

''(A) Screening mammography under section 1861(s)(13).

''(B) Screening pap smear and screening pelvic examinations under section 1861(s)(14).

''(C) Bone mass measurement under section 1861(s)(15).

''(D) Prostate cancer screening tests under section 1861(s)(2)(P).

''(E) Colorectal cancer screening under section 1861(s)(2)(R).

''(F) Blood testing strips, lancets, and blood glucose monitors for individuals with diabetes under section 1861(n).

''(G) Diabetes outpatient self-management training services under section 1861(s)(2)(S).

''(H) Pneumococcal, influenza, and hepatitis B vaccines and administration under section 1861(s)(10).

''(I) Screening for glaucoma under section 1861(s)(2)(U).

''(J) Medical nutrition therapy services under section 1861(s)(2)(V).

''(f) SIMPLIFICATION OF COST-SHARING.—In the case of an eligible beneficiary who has elected to receive enhanced medicare benefits under this part, the following cost-sharing rules shall apply:

''(1) MODIFICATION OF SKILLED NURSING FACILITY COST-SHARING.—Instead of the coinsurance established under section 1813(b) for extended care services, under section 1888(e)—

''(A) the payment amount under paragraph (1)(B) of such section shall be equal to the amount otherwise provided minus the amount described in subparagraph (B); and

''(B) the eligible beneficiary shall be responsible for a copayment amount for each of the 100 days of care for which payment is made on behalf of an eligible beneficiary under that section equal to—

''(i) for 2005, $60; and

''(ii) for a subsequent year, the amount specified in this subparagraph for the preceding year increased by the percentage increase in the per capita actuarial value of benefits under parts A and B for such subsequent year.

If any amount determined under this subparagraph is not a multiple of $1, such amount shall be rounded to the nearest multiple of $1.

''(2) APPLICATION OF HOME HEALTH SERVICE COINSURANCE.—

''(A) IN GENERAL.—The amount of the payment otherwise made under section 1895 for home health services (other than such services for which payment is made under section 1834(a)) shall be reduced by the amount described in clause (ii).

''(B) COPAYMENT AMOUNT.—

''(i) IN GENERAL.—Subject to clause (ii), the eligible beneficiary shall be responsible for a copayment amount for each of the first 5 visits during an episode of care for which payment is made on behalf of an eligible beneficiary under section 1895 equal to—

''(I) for 2005, $10; and

''(II) for a subsequent year, the amount specified in this clause for the preceding year increased by the percentage increase in the per capita actuarial value of benefits under parts A and B for such subsequent year.

If any amount determined under this clause is not a multiple of $1, such amount shall be rounded to the nearest multiple of $1.

''(ii) ANNUAL LIMIT.—For each year in which an election to receive enhanced medicare benefits under this part is in effect, the eligible beneficiary shall not be responsible for the payment of any copayment amount under this subparagraph after the date on which the amount of payments made as a result of the application of this paragraph equals $300.

''(3) BLOOD DEDUCTIBLE.—The Secretary shall not apply the deductible under sections 1813(a)(2) and 1833(b) for blood or blood cells furnished to an eligible beneficiary during the period in which an election of the beneficiary to receive enhanced medicare benefits under this part is in effect.

''PAYMENT OF BENEFITS

''SEC. 1860E–3. Payment for enhanced medicare benefits on behalf of an eligible beneficiary who has elected to receive such benefits under this part shall be made in the same manner as payment for such benefits would have been made under parts A and B, subject to the modifications described in section 1860E–2, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, in such proportion as the Secretary determines appropriate.

''ELIGIBLE BENEFICIARIES; ELECTION OF ENHANCED MEDICARE BENEFITS; TERMINATION OF ELECTION

''SEC. 1860E–4. (a) ELIGIBLE BENEFICIARY DEFINED.—For purposes of this part, the term 'eligible beneficiary' has the meaning given that term in section 1860D(a)(3).

''(b) ELECTION OF ENHANCED MEDICARE BENEFITS.—

''(1) ELECTION BY INDIVIDUALS WHO BECOME ELIGIBLE BENEFICIARIES AFTER JANUARY 1, 2005.—

''(A) INITIAL ELECTION.—Any individual whose initial election period begins after September 30, 2004, shall be deemed to have elected to receive enhanced medicare benefits under this part as of the date on which such individual first becomes entitled to benefits under part A or eligible to enroll for benefits under part B, whichever is later, unless that individual affirmatively elects (in such form and manner as the Secretary may specify) to receive benefits under parts A and B.

''(B) INITIAL ELECTION PERIOD.—For purposes of this paragraph, the term 'initial election period' means, with respect to an individual, the period that begins on the first day of the third month before the month in which such individual first becomes entitled to benefits under part A or eligible to enroll for benefits under part B, whichever is later, and ends 7 months later.

''(C) EFFECT OF ELECTION.—If an individual makes an election under subparagraph (A) and such individual is not entitled to benefits under part A or enrolled for benefits under part B at the time of such election, such individual shall be deemed—

''(i) to have elected to enroll for benefits under such part under section 1818 or 1837 (as appropriate) if such individual is eligible to enroll for benefits under such section, as of the date of such election; or

''(ii) if such individual is not eligible to enroll for benefits under section 1818 or 1837, to have elected to enroll under part B as of the first date on which the individual is eligible to enroll under such part.

''(2) SPECIAL ELECTION PERIODS.—The Secretary shall establish special election periods for individuals under this part who have elected not to make an election (or to be deemed to have made such an election) under this part that are similar to the special enrollment periods under section 1837(i) for individuals described in such section.

''(3) TRANSITIONAL ELECTION FOR INDIVIDUALS WHO BECOME ELIGIBLE BENEFICIARIES ON OR BEFORE JANUARY 1, 2005.—

''(A) IN GENERAL.—In the case of an individual who is an eligible beneficiary as of January 1, 2005, the Secretary shall establish procedures under which such beneficiary may affirmatively elect to receive enhanced medicare benefits under this part during the 7-month period that begins on April 1, 2004, and ends on November 30, 2004, for such election to take effect on January 1, 2005.

''(B) EFFECT OF MEDICARE+CHOICE ENROLLMENT.—If an eligible beneficiary enrolls in a Medicare+Choice plan under part C during November 2004, such individual shall be deemed to have elected to receive enhanced medicare benefits under subparagraph (A).

''(4) CHANGES IN ELECTION.—

''(A) IN GENERAL.—An individual who has elected (or is deemed to have elected) to receive enhanced medicare benefits under this part under paragraph (1), (2), or (3) may change such election during an annual, coordinated election period and such election shall take effect on January 1 of the subsequent year. In no case shall such a change of election take effect on a date other than on January 1 of a year (unless the election is automatic pursuant to a termination resulting from a loss or termination of coverage under part A or part B).

''(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 2005), the month of November preceding such year.

''(5) PROCEDURES.—The Secretary shall establish procedures for the termination and reinstatement of an election under this section.

''(c) COVERAGE TERMINATED BY TERMINATION OF COVERAGE UNDER PART A OR B.—

''(1) IN GENERAL.—The Secretary shall terminate an individual's coverage under this part if the individual is no longer enrolled in both parts A and B.

''(2) EFFECTIVE DATE.—The termination described in subparagraph (A) shall be effective on the effective date of termination of coverage under part A or (if earlier) under part B.

''PREMIUM ADJUSTMENTS; LATE ELECTION PENALTY

''SEC. 1860E–5. (a) GENERAL RULE OF NO CHANGE IN AMOUNT OF PREMIUMS.—Except as provided in this section, an election to receive enhanced medicare benefits under this part shall not affect the amount of any premium charged under part A or B.

''(b) LATE ELECTION PENALTY.—

''(1) IN GENERAL.—In the case of an eligible beneficiary who does not elect to receive enhanced medicare benefits under this part during an election period described in paragraph (1), (2), or (3) of section 1860E–4(b) of that beneficiary, reinstates such an election under the procedures established under paragraph (5) of such section, or otherwise does not have such an election continuously in effect from the first date on which such election could be in effect, the premium otherwise imposed under part B (taking into account any late enrollment penalty under section 1839(b)) shall be increased during the period in which such individual has an election to receive enhanced medicare benefits under this part in effect by an amount that the Secretary determines is actuarially sound (based on the financial impact on the program under this part of the late election of the beneficiary or of the reinstatement of an election of the beneficiary) for each full 12-month period (in the same continuous period of eligibility) in which the eligible beneficiary could have elected to receive enhanced medicare benefits under this part but did not elect to receive such benefits.

''(2) PROCEDURES.—In applying the late election penalty under paragraph (1), the Secretary shall establish procedures for applying the penalty under this subsection that are similar to the procedures for applying the late enrollment penalty under section 1839(b).

''(c) LATE REVERSAL OF ELECTION PENALTY.—

''(1) IN GENERAL.—In the case of an eligible beneficiary who has elected to receive enhanced medicare benefits under this part and terminates such election under the procedures established under section 1860E–4(b)(5) on a date that is more than 1 year after the date on which such beneficiary first elected to receive enhanced medicare benefits under this part, the premium otherwise imposed under part B (taking into account any late enrollment penalty under section 1839(b)) shall be increased during the period in which such individual is enrolled under such part by an amount that the Secretary determines is actuarially sound based on the financial impact on the program under this part of the reversal of the election of the beneficiary.

''(2) PROCEDURES.—In applying the late reversal of election penalty under paragraph (1), the Secretary shall establish procedures for applying the penalty under this subsection that are similar to the procedures for applying the late enrollment penalty under section 1839(b).''.

(b) PROVIDING INFORMATION TO BENEFICIARIES.—During 2004, the Secretary shall provide for an extensive, national educational and publicity campaign to inform eligible beneficiaries (and prospective eligible beneficiaries) regarding the enhanced medicare benefits to be made available under part E of title XVIII of the Social Security Act (as added by subsection (a)).

(c) CONFORMING ADJUSTMENTS TO PART A AND B PREMIUMS.—

(1) EFFECT OF PART E ON PART A PREMIUM.—Section 1818(d)(1) (42 U.S.C. 1395i–2(d)(1)) is amended by adding at the end the following new sentence: ''In making the estimate under the previous sentence, the Secretary shall take into account the effect of elections to receive enhanced medicare benefits under part E on the amounts paid from such Trust Fund.''.

(2) EFFECT OF PART E ON PART B PREMIUM.—Section 1839(a) (42 U.S.C. 1395r(a)) is amended—

(A) in paragraph (1)—

(i) by inserting ''(including eligible beneficiaries who elect to receive enhanced medicare benefits under part E)'' after ''age 65 and over''; and

(ii) by inserting ''(including eligible beneficiaries who elect to receive enhanced medicare benefits under part E)'' after ''age 65 and older'';

(B) in paragraph (2), by inserting '', as adjusted under section 1860E–5'' before the period at the end;

(C) in paragraph (3)—

(i) by inserting ''(including eligible beneficiaries who elect to receive enhanced medicare benefits under part E)'' after ''age 65 and over''; and

(ii) by inserting ''(including eligible beneficiaries who elect to receive enhanced medicare benefits under part E)'' after ''age 65 and older''; and

(D) in paragraph (4)—

(i) in the first sentence, by inserting ''(including eligible beneficiaries who elect to receive enhanced medicare benefits under part E)'' after ''under age 65''; and

(ii) in the second sentence, by striking ''under age 65 which'' and inserting ''under age 65 (including eligible beneficiaries who elect to receive enhanced medicare benefits under part E)''.

(d) CLARIFICATION OF APPLICATION OF EXCLUSIONS FROM COVERAGE TO PART E.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended in the matter preceding paragraph (1) by inserting ''(including for enhanced medicare benefits under part E)'' after ''for items or services''.

SEC. 202. RULES RELATING TO MEDIGAP POLICIES THAT PROVIDE PRESCRIPTION DRUG COVERAGE; ESTABLISHMENT OF ENHANCED MEDICARE FEE-FOR-SERVICE MEDIGAP POLICIES.

(a) RULES RELATING TO MEDIGAP POLICIES THAT PROVIDE PRESCRIPTION DRUG COVERAGE.—Section 1882 (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

''(v) RULES RELATING TO MEDIGAP POLICIES THAT PROVIDE PRESCRIPTION DRUG COVERAGE.—

''(1) PROHIBITION ON SALE, ISSUANCE, AND RENEWAL OF POLICIES THAT PROVIDE PRESCRIPTION DRUG COVERAGE TO PART D ENROLLEES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, on or after January 1, 2005, no medicare supplemental policy that provides coverage of expenses for prescription drugs may be sold, issued, or renewed under this section to an individual who is enrolled under part D.

''(B) PENALTIES.—The penalties described in subsection (d)(3)(A)(ii) shall apply with respect to a violation of subparagraph (A).

''(2) ISSUANCE OF SUBSTITUTE POLICIES IF THE POLICYHOLDER OBTAINS PRESCRIPTION DRUG COVERAGE UNDER PART D.—

''(A) IN GENERAL.—The issuer of a medicare supplemental policy—

''(i) may not deny or condition the issuance or effectiveness of a medicare supplemental policy that has a benefit package classified as 'A', 'B', 'C', 'D', 'E', 'F' (including the benefit package classified as 'F' with a high deductible feature, as described in subsection (p)(11)), or 'G' (under the standards established under subsection (p)(2)) and that is offered and is available for issuance to new enrollees by such issuer;

''(ii) may not discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; and

''(iii) may not impose an exclusion of benefits based on a pre-existing condition under such policy,

in the case of an individual described in subparagraph (B) who seeks to enroll under the policy during the open enrollment period established under section 1860D–2(b)(2) and who submits evidence that they meet the requirements under subparagraph (B) along with the application for such medicare supplemental policy.

''(B) INDIVIDUAL DESCRIBED.—An individual described in this subparagraph is an individual who—

''(i) enrolls in the medicare prescription drug delivery program under part D; and

''(ii) at the time of such enrollment was enrolled and terminates enrollment in a medicare supplemental policy which has a benefit package classified as 'H', 'I', or 'J' (including the benefit package classified as 'J' with a high deductible feature, as described in section 1882(p)(11)) under the standards referred to in subparagraph (A)(i) or terminates enrollment in a policy to which such standards do not apply but which provides benefits for prescription drugs.

''(C) ENFORCEMENT.—The provisions of subparagraph (A) shall be enforced as though they were included in subsection (s).

''(3) NOTICE REQUIRED TO BE PROVIDED TO CURRENT POLICYHOLDERS WITH PRESCRIPTION DRUG COVERAGE.—

''(A) IN GENERAL.—No medicare supplemental policy of an issuer shall be deemed to meet the standards in subsection (c) unless the issuer provides written notice during the 60-day period immediately preceding the period established for the open enrollment period established under section 1860D–2(b)(2), to each individual who is a policyholder or certificate holder of a medicare supplemental policy issued by that issuer that provides some coverage of expenses for prescription drugs (at the most recent available address of that individual) of—

''(i) the ability to enroll in a new medicare supplemental policy pursuant to paragraph (2); and

''(ii) the fact that, so long as such individual retains coverage under such policy, the individual shall be ineligible for coverage of prescription drugs under part D and ineligible to elect to receive enhanced medicare benefits under part E.

''(B) COORDINATION.—The notice provided under subparagraph (A) shall be coordinated with the notice required under subsection (v)(4)(A)(i).

''(4) CLARIFICATION REGARDING ONE-TIME AVAILABILITY OF A GUARANTEED ISSUE POLICY FOR BENEFICIARIES WHO LOSE COVERAGE UNDER A MEDICARE+CHOICE PLAN OF JANUARY 1, 2005, BECAUSE THEY ELECT NOT TO RECEIVE ENHANCED PART E BENEFITS.—In the case of a beneficiary who is enrolled in a Medicare+Choice plan as of December 31, 2004, will not be eligible to be enrolled under such plan as of January 1, 2005, because the beneficiary has elected not to receive enhanced medicare benefits under part E—

''(A) such beneficiary shall be deemed to be described in subsection (s)(3)(B)(ii); and

''(B) for purposes of (s)(3)(E)(ii), the date of the termination of coverage shall be January 1, 2005.''.

(b) ESTABLISHMENT OF ENHANCED MEDICARE FEE-FOR-SERVICE MEDIGAP POLICIES.—Section 1882 (42 U.S.C. 1395ss), as amended by subsection (a), is amended by adding at the end the following new subsection:

''(w) ENHANCED MEDICARE FEE-FOR-SERVICE SUPPLEMENTAL POLICIES.—

''(1) ADDITIONAL BENEFIT PACKAGES.—

''(A) ESTABLISHMENT.—

''(i) IN GENERAL.—In addition to the benefit packages classified under the standards established by subsection (p)(2), there shall be established benefit packages that may only be purchased by beneficiaries who have elected to receive enhanced medicare benefits under part E that—

''(I) complement but do not duplicate enhanced medicare benefits described in section 1860E–2;

''(II) do not provide for coverage of the unified deductible under section 1860E–2(b);

''(III) subject to clause (ii), do not provide coverage for more than 50 percent of the amount of coinsurance and copayments applicable under section 1860E–2;

''(IV) do not provide for coverage of expenses for prescription drugs;

''(V) provide a range of coverage options for beneficiaries; and

''(VI) use uniform language, definitions, and format with respect to the coverage provided under a policy.

''(ii) ONE PACKAGE REQUIRED TO COVER ALL COST-SHARING.—

''(I) IN GENERAL.—One of the benefit packages established under clause (i) shall include coverage of all coinsurance and copayments applicable under section 1860E–2.

''(II) AVAILABILITY LIMITED TO BENEFICIARIES THAT ENROLLED IN PART E DURING CERTAIN PERIODS.—The benefit package that includes the coverage described in subclause (II) shall only be made available to beneficiaries who elect to receive enhanced medicare benefits under part E during the beneficiary's initial election period (as defined in paragraph (1)(B) of section 1860D–4(b)), during a special election period described in paragraph (2) of such section, or during the transitional election period under paragraph (3) of such section.

''(B) MANNER OF ESTABLISHMENT.—The benefit packages established under this section shall be established in the manner described in subparagraph (E) of subsection (p)(1), except that for purposes of subparagraph (C) of such subsection, the standards established under this subsection shall take effect not later than January 1, 2005.

''(2) CONSTRUCTION OF BENEFITS IN OTHER MEDICARE SUPPLEMENTAL POLICIES.—Nothing in this subsection shall be construed to affect the benefit packages classified as 'A' through 'J' under the standards established by subsection (p)(2) (including the benefit packages classified as 'F' and 'J' with a high deductible feature, as described in subsection (p)(11)).

''(3) GUARANTEED ISSUANCE AND RENEWAL OF ENHANCED MEDICARE FEE-FOR-SERVICE SUPPLEMENTAL POLICIES.—The provisions of subsections (q) and (s), including provisions of subsection (s)(3) (relating to special enrollment periods in cases of termination or disenrollment), shall apply to medicare supplemental policies established under this subsection in a similar manner as such provisions apply to medicare supplemental policies issued under the standards established under subsection (p).

''(4) OPPORTUNITY OF CURRENT POLICYHOLDERS TO PURCHASE ENHANCED MEDICARE FEE-FOR-SERVICE SUPPLEMENTAL POLICIES.—

''(A) REQUIREMENTS FOR ISSUERS OF POLICIES WITH RESPECT TO CURRENT POLICYHOLDERS.—No medicare supplemental policy of an issuer with a benefit package that is established under paragraph (1) shall be deemed to meet the standards in subsection (c) unless the issuer does all of the following:

''(i) NOTICE TO CURRENT POLICYHOLDERS.—Provide written notice during the 60-day period immediately preceding the period established under section 1860E–4(b)(1), to each individual who is a policyholder or certificate holder of a medicare supplemental policy issued by that issuer (at the most recent available address of that individual) of the offer described in clause (ii) and of the fact that, so long as such individual retains coverage under such policy, the individual shall be ineligible to elect enhanced medicare benefits under part E.

''(ii) OFFER FOR CURRENT POLICYHOLDERS.—Offer the policyholder or certificate holder under the terms described in subparagraph (C), during at least the period established under section 1860E–4(b)(1), a medicare supplemental policy established under paragraph (1) with the benefit package that the Secretary determines is most comparable to the policy in which the individual is enrolled with coverage effective as of the effective date of the election of the individual under part E.

''(iii) OFFER FOR INDIVIDUALS COVERED UNDER POLICIES ISSUED BY OTHER ISSUERS IF THAT ISSUER IS NOT GOING TO OFFER ENHANCED MEDICARE FEE-FOR-SERVICE SUPPLEMENTAL POLICIES.—Offer an individual described in subparagraph (B), under the terms described in subparagraph (C), and during at least the period established under section 1860E–4(b)(1), a medicare supplemental policy established under paragraph (1) with the benefit package that the Secretary determines

is most comparable to the policy in which the individual is enrolled with coverage effective as of the effective date of the election of the individual under part E.

The notice provided under clause (i) shall be coordinated with the notice required under subsection (v)(3)(A).

''(B) INDIVIDUAL DESCRIBED.—An individual described in this subparagraph is an individual who is a policyholder or certificate holder of a medicare supplemental policy issued by an issuer who is not going to offer a policy with a benefit package established under paragraph (1).

''(C) TERMS OF OFFER DESCRIBED.—The terms described in this subparagraph are terms which do not—

''(i) deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (A)(ii) that is offered and is available for issuance to new enrollees by such issuer;

''(ii) discriminate in the pricing of such policy because of health status, claims experience, receipt of health care, or medical condition; or

''(iii) impose an exclusion of benefits based on a preexisting condition under such policy.

''(5) PROHIBITION OF SALE OF ENHANCED POLICIES TO ORIGINAL MEDICARE FEE-FOR-SERVICE ENROLLEES; PROHIBITION OF SALE OF ORIGINAL POLICIES TO ENHANCED MEDICARE FEE-FOR-SERVICE ENROLLEES.—

''(A) PROHIBITION.—No person may sell, issue, or renew a medicare supplemental policy with—

''(i) a benefit package established under this subsection to an individual who has not elected to receive enhanced medicare benefits under part E; or

''(ii) a benefit package classified as 'A' through 'J' under the standards established by subsection (p)(2) (including the benefit packages classified as 'F' and 'J' with a high deductible feature, as described in subsection (p)(11)) to an individual who has elected to receive enhanced medicare benefits under part E.

''(B) PENALTY.—Any person who violates the provisions of subparagraph (A) shall be subject to a civil money penalty in an amount that does not exceed $25,000 (or $15,000 in the case of a seller who is not an issuer of a policy) for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

''(6) OTHER PROHIBITIONS AND PENALTIES.—Each penalty under this section shall apply with respect to policies established under this subsection as if such policies were issued under the standards established under subsection (p), including the penalties under subsections (a), (d), (p)(8), (p)(9), (q)(5), (r)(6)(A), (s)(4), and (t)(2)(D).''.

TITLE III—MEDICARE+CHOICE COMPETITION

SEC. 301. ANNUAL CALCULATION OF BENCHMARK AMOUNTS BASED ON FLOOR RATES AND LOCAL FEE-FOR-SERVICE RATES.

(a) ANNUAL CALCULATION OF BENCHMARK AMOUNTS BASED ON FLOOR RATES AND LOCAL FEE-FOR-SERVICE RATES.—Section 1853(a) (42 U.S.C. 1395w–23(a)) is amended by adding at the end the following new paragraph:

''(4) ANNUAL CALCULATION OF BENCHMARK AMOUNTS.—For each year, the Secretary shall calculate a benchmark amount for each Medicare+Choice payment area for each month for such year with respect to coverage of enhanced medicare benefits under part E equal to the greatest of the following amounts:

''(A) MINIMUM AMOUNT.—1/12 of the annual Medicare+Choice capitation rate determined under subsection (c)(1)(B) for the payment area for the year; or

''(B) LOCAL FEE-FOR-SERVICE RATE.—The local fee-for-service rate for such area for the year (as calculated under paragraph (5)).''.

(b) ANNUAL CALCULATION OF LOCAL FEE-FOR-SERVICE RATES.—Section 1853(a) (42 U.S.C. 1395w–23(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(5) ANNUAL CALCULATION OF LOCAL FEE-FOR-SERVICE RATES.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the term 'local fee-for-service rate' means the amount of payment for a month in a Medicare+Choice payment area for benefits under this title and associated claims processing costs for an individual who has elected to receive enhanced medicare benefits under part E (but, if the Medicare+Choice plan offers prescription drug coverage, excluding any costs associated with part D), and not enrolled in a Medicare+Choice plan under this part. The Secretary shall annually calculate such amount in a manner similar to the manner in which the Secretary calculated the adjusted average per capita cost under section 1876, except that such calculation shall include in such amount, to the extent practicable, any amounts that would have been paid under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Veterans Affairs or the Department of Defense.

''(B) REMOVAL OF MEDICAL EDUCATION COSTS FROM CALCULATION OF LOCAL FEE-FOR-SERVICE RATE.—

''(i) IN GENERAL.—In calculating the local fee-for-service rate under subparagraph (A) for a year, the amount of payment described in such subparagraph shall be adjusted to exclude from such payment the payment adjustments described in clause (ii).

''(ii) PAYMENT ADJUSTMENTS DESCRIBED.—

''(I) IN GENERAL.—Subject to subclause (II), the payment adjustments described in this subparagraph are payment adjustments that the Secretary estimates were payable during each month for direct graduate medical education costs under section 1886(h).

''(II) TREATMENT OF PAYMENTS COVERED UNDER STATE HOSPITAL REIMBURSEMENT SYSTEM.—To the extent that the Secretary estimates that the amount of the local fee-for-service rates reflects payments to hospitals reimbursed under section 1814(b)(3), the Secretary shall estimate a payment adjustment that is comparable to the payment adjustment that would have been made under clause (i) if the hospitals had not been reimbursed under such section.

''(C) SPECIAL RULE FOR RURAL AREAS.—

''(i) IN GENERAL.—Subject to clause (ii), in calculating the local fee-for-service rates under subparagraph (A) for a year, the Secretary shall calculate such costs for rural areas (as defined in section 1886(d)(2)(D)) of a State as if each rural area were part of a single Medicare+Choice payment area.

''(ii) LIMITATION.—Payment amounts determined under subparagraph (A) may not be less than the amounts that would have been paid if clause (i) did not apply.''.

(c) CPI INCREASES IN FLOOR PAYMENT RATES.—Section 1853(c)(1)(B) (42 U.S.C. 1395w–23(c)(1)(B)) is amended—

(1) in clause (iv), by striking ''and each succeeding year,'' and inserting '', 2003, and 2004,''; and

(2) by adding at the end the following new clause:

''(v) For 2005 and each succeeding year, the minimum amount specified in this clause (or clause (iv)) for the preceding year increased by the percentage increase in the Consumer Price Index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.''.

(d) FURNISHING OF CLAIMS DATA BY VA AND DOD.—Upon the request of the Secretary of Health and Human Services, the Secretary of Veterans Affairs and the Secretary of Defense shall provide such claims data as the Secretary of Health and Human Services may require to determine the amount that would have been paid under the medicare program under title XVIII of the Social Security Act if individuals entitled to benefits under such program had not received services from facilities of the Department of Veterans Affairs or the Department of Defense for purposes calculating the amounts under section 1853(a)(5) of such Act (as added by subsection (b)) and section 1853(c)(8) of such Act (as added by section 312(b)).

SEC. 302. APPLICATION OF COMPREHENSIVE RISK ADJUSTMENT METHODOLOGY.

Section 1853(a)(3) is amended to read as follows:

''(3) COMPREHENSIVE RISK ADJUSTMENT METHODOLOGY.—

''(A) APPLICATION OF METHODOLOGY.—The Secretary shall apply the comprehensive risk adjustment methodology described in subparagraph (B) to 100 percent of the amount of the plan bids under section 1853(d)(1) and the weighted service area benchmark amounts calculated under section 1853(d)(3).

''(B) COMPREHENSIVE RISK ADJUSTMENT METHODOLOGY DESCRIBED.—The comprehensive risk adjustment methodology described in this subparagraph is the risk adjustment methodology that would apply with respect to Medicare+Choice plans offered by Medicare+Choice organizations in 2004, except that if such methodology does not apply to groups of beneficiaries who are aged or disabled and groups of beneficiaries who have end-stage renal disease, the Secretary shall revise such methodology to apply to such groups.

''(C) UNIFORM APPLICATION TO ALL TYPES OF PLANS.—Subject to section 1859(e)(4), the comprehensive risk adjustment methodology established under this paragraph shall be applied uniformly without regard to the type of plan.

''(D) DATA COLLECTION.—In order to carry out this paragraph, the Secretary shall require Medicare+Choice organizations to submit such data and other information as the Secretary deems necessary.

''(E) IMPROVEMENT OF PAYMENT ACCURACY.—Notwithstanding any other provision of this paragraph, the Secretary may revise the comprehensive risk adjustment methodology described in subparagraph (B) from time to time to improve payment accuracy.''.

SEC. 303. ANNUAL ANNOUNCEMENT OF BENCHMARK AMOUNTS AND OTHER PAYMENT FACTORS.

Section 1853(b) (42 U.S.C. 1395w–23(b)), as amended by section 532(d)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188; 116 Stat. 696), is amended—

(1) in the heading, by striking ''PAYMENT RATES'' and inserting ''PAYMENT FACTORS'';

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

''(1) ANNUAL ANNOUNCEMENT.—Beginning in 2004, at the same time as the Secretary publishes the risk adjusters under section 1860D–11, the Secretary shall annually announce (in a manner intended to provide notice to interested parties) the following payment factors:

''(A) The benchmark amount for each Medicare+Choice payment area (as calculated under subsection (a)(4)) for the year.

''(B) The factors to be used for adjusting payments under the comprehensive risk adjustment methodology described in subsection (a)(3)(B) with respect to each Medicare+Choice payment area for the year.'';

(3) in paragraph (3), by striking ''monthly adjusted'' and all that follows before the period at the end and inserting ''each payment factor described in paragraph (1)''; and

(4) by striking paragraph (4).

SEC. 304. SUBMISSION OF BIDS BY MEDICARE+CHOICE ORGANIZATIONS.

Section 1854(a) (42 U.S.C. 1395w–24(a)), as amended by section 532(b)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188; 116 Stat. 696), is amended to read as follows:

''(a) SUBMISSION OF BIDS BY MEDICARE+CHOICE ORGANIZATIONS.—

''(1) IN GENERAL.—Not later than the second Monday in September (or July 1 of each year before 2002) and except as provided in paragraph (3), each Medicare+Choice organization shall submit to the Secretary, in such form and manner as the Secretary may specify, for each Medicare+Choice plan that the organization intends to offer in a service area in the following year—

''(A) notice of such intent and information on the service area of the plan;

''(B) the plan type for each plan;

''(C) if the Medicare+Choice plan is a coordinated care plan (as described in section 1851(a)(2)(A)) or a private fee-for-service plan (as described in section 1851(a)(2)(C)), the information described in paragraph (2) with respect to each payment area;

''(D) the enrollment capacity (if any) in relation to the plan and each payment area;

''(E) the expected mix, by health status, of enrolled individuals; and

''(F) such other information as the Secretary may specify.

''(2) INFORMATION REQUIRED FOR COORDINATED CARE PLANS AND PRIVATE FEE-FOR-SERVICE PLANS.—For a Medicare+Choice plan that is a coordinated care plan (as described in section 1851(a)(2)(A)) or a private fee-for-service plan (as described in section 1851(a)(2)(C)), the information described in this paragraph is as follows:

''(A) INFORMATION REQUIRED WITH RESPECT TO BENEFITS UNDER PART E.—Information relating to the coverage of benefits under part E as follows:

''(i) The plan bid, which shall consist of a dollar amount that represents the total amount that the plan is willing to accept (after the application of the comprehensive risk adjustment methodology under section 1853(a)(3)) for providing coverage of the benefits under part E to an individual enrolled in the plan that resides in the service area of the plan for a month.

''(ii) For the supplemental benefits package offered (if any)—

''(I) the adjusted community rate (as defined in subsection (g)(3)) of the package;

''(II) the Medicare+Choice monthly supplemental beneficiary premium (as defined in subsection (b)(2)(C));

''(III) a description of any cost-sharing; and

''(IV) such other information as the Secretary considers necessary.

''(iii) The assumptions that the Medicare+Choice organization used in preparing the plan bid with respect to numbers, in each payment area, of enrolled individuals and the mix, by health status, of such individuals.

''(B) INFORMATION REQUIRED WITH RESPECT TO PART D.—If the Medicare+Choice organization elects to offer prescription drug coverage, the information required to be submitted by an eligible entity under section 1860D–12, including the monthly premiums for standard coverage and any other qualified prescription drug coverage available to individuals enrolled under part D.

''(3) REQUIREMENTS FOR MSA PLANS.—For an MSA plan described in section 1851(a)(2)(B), the information described in this paragraph is the information that such a plan would have been required to submit under this part if the 21st Century Medicare Act had not been enacted.

''(4) REVIEW.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall review the adjusted community rates (as defined in section 1854(g)(3)), the amounts of the Medicare+Choice monthly basic and supplemental beneficiary premiums filed under this subsection and shall approve or disapprove such rates and amounts so submitted. The Chief Actuary of the Medicare Competitive Agency shall review the actuarial assumptions and data used by the Medicare+Choice organization with respect to such rates and amounts so submitted to determine the appropriateness of such assumptions and data.

''(B) EXCEPTION.—The Secretary shall not review, approve, or disapprove the amounts submitted under paragraph (3).''.

SEC. 305. ADJUSTMENT OF PLAN BIDS; COMPARISON OF ADJUSTED BID TO BENCHMARK; PAYMENT AMOUNT.

(a) IN GENERAL.—Section 1853 (42 U.S.C. 1395w–23) is amended—

(1) by redesignating subsections (d) through (i) as subsections (e) through (j), respectively; and

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

''(d) SECRETARY'S DETERMINATION OF PAYMENT AMOUNT FOR ENHANCED MEDICARE BENEFITS.—

''(1) ADJUSTMENT OF PLAN BIDS.—The Secretary shall adjust each plan bid submitted under section 1854(a) for the coverage of benefits under part E using the comprehensive risk adjustment methodology applicable under subsection (a)(3) based on the assumptions described in section 1854(a)(2)(A)(iii) that the plan used with respect to numbers of enrolled individuals.

''(2) DETERMINATION OF WEIGHTED SERVICE AREA BENCHMARK AMOUNTS.—The Secretary shall calculate a weighted service area benchmark amount for enhanced medicare benefits under part E for each plan equal to the weighted average of the benchmark amounts for enhanced medicare benefits under such part for the payment areas included in the service area of the plan using the assumptions described in section 1854(a)(2)(A)(iii) that the plan used with respect to numbers of enrolled individuals.

''(3) DETERMINATION OF PLAN BENCHMARK.—The Secretary shall calculate the plan benchmark amount by adjusting the weighted service area benchmark amount determined under paragraph (1) using—

''(A) the comprehensive risk adjustment methodology applicable under subsection (a)(3); and

''(B) the assumptions contained in the plan bid that the plan used with respect to numbers of enrolled individuals.

''(4) COMPARISON TO BENCHMARK.—The Secretary shall determine the difference between each plan bid (as adjusted under paragraph (1)) and the plan benchmark amount (as determined under paragraph (3)) for purposes of determining—

''(A) the payment amount under paragraph (5); and

''(B) the part E premium reductions and Medicare+Choice monthly basic beneficiary premiums.

''(5) DETERMINATION OF PAYMENT AMOUNT.—The Secretary shall determine the payment amount for plans as follows:

''(A) BIDS THAT EQUAL OR EXCEED THE BENCHMARK.—The amount of each monthly payment to a Medicare+Choice organization with respect to each individual enrolled in a plan shall be the plan benchmark amount.

''(B) BIDS BELOW THE BENCHMARK.—The amount of each monthly payment to a Medicare+Choice organization with respect to each individual enrolled in a plan shall be the plan benchmark amount reduced by 25 percent of the difference between the bid and the benchmark amount and further reduced by the amount of any premium reduction elected by the plan under section 1854(d)(1)(A)(i).

''(6) FACTORS USED IN ADJUSTING BIDS AND BENCHMARKS FOR MEDICARE+CHOICE ORGANIZATIONS AND IN DETERMINING ENROLLEE PREMIUMS.—Subject to paragraph (7), the Secretary shall use, for purposes of adjusting plan bids and calculating plan benchmarks under this subsection—

''(A) with respect to benefits under part E—

''(i) the benchmark amount for the Medicare+Choice payment area announced under section 1854(a)(1)(A); and

''(ii) the health status and other demographic adjustment factors for the Medicare+Choice payment area announced under section 1854(a)(1)(B); and

''(B) if the Medicare+Choice organization elects to offer prescription drug coverage, the risk adjusters published under section 1860D–11 applicable with respect to such coverage.

''(7) ADJUSTMENT FOR NATIONAL COVERAGE DETERMINATIONS AND LEGISLATIVE CHANGES IN BENEFITS.—If the Secretary makes a determination with respect to coverage under this title or there is a change in benefits required to be provided under this part that the Secretary projects will result in a significant increase in the costs to Medicare+Choice organizations of providing benefits under contracts under this part (for periods after any period described in section 1852(a)(5)), the Secretary shall appropriately adjust the benchmark amounts or payment amounts (as determined by the Secretary). Such projection and adjustment shall be based on an analysis by the Chief Actuary of the Competitive Medicare Agency of the actuarial costs associated with the new benefits.''.

(b) CONFORMING AMENDMENT.—Section 1853(c)(7) (42 U.S.C. 1395w–23(c)(7)) is repealed.

SEC. 306. DETERMINATION OF PREMIUM REDUCTIONS, REDUCED COST-SHARING, ADDITIONAL BENEFITS, AND BENEFICIARY PREMIUMS.

(a) CALCULATION OF BENEFICIARY PREMIUMS.—Section 1854 (42 U.S.C. 1395–24) is amended by—

(1) redesignating subsections (d) through (h) as subsections (e) through (i), respectively; and

(2) inserting after subsection (c) the following new subsection:

''(d) DETERMINATION OF PREMIUM REDUCTIONS, REDUCED COST-SHARING, ADDITIONAL BENEFITS, AND BENEFICIARY PREMIUMS.—

''(1) BIDS BELOW THE BENCHMARK.—

''(A) IN GENERAL.—If the Secretary determines under section 1853(d)(4) that the plan benchmark amount exceeds the plan bid, the Secretary shall require the plan to return 75 percent of such excess to the enrollee in the form of, at the option of the organization offering the plan—

''(i) subject to subparagraph (B), a monthly medicare premium reduction for individuals enrolled in the plan;

''(ii) a reduction in the actuarial value of plan cost-sharing for plan enrollees;

''(iii) subject to subparagraph (C), such additional benefits as the organization may specify; or

''(iv) any combination of the reductions and benefits described in clauses (i) through (iii).

''(B) LIMITATION ON PREMIUM REDUCTIONS.—The amount of the reduction under subparagraph (A)(i) with respect to any enrollee in a Medicare+Choice plan—

''(i) may not exceed the premium described in section 1839(a)(3), as adjusted under section 1860E–5; and

''(ii) shall apply uniformly to each enrollee of the Medicare+Choice plan to which such reduction applies.

''(C) REQUIREMENT OF ENROLLMENT IN PART D TO RECEIVE PRESCRIPTION DRUG BENEFITS.—An organization may not specify any additional benefit that provides for the coverage of any prescription drug (other than that required under part E).

''(2) BIDS ABOVE THE BENCHMARK.—If the Secretary determines under section 1853(d)(4) that the plan bid (as adjusted under section 1853(d)(1)) exceeds the plan benchmark amount (determined under section 1853(d)(3)), the amount of such excess shall be the Medicare+Choice monthly basic beneficiary premium (as defined in section 1854(b)(2)(A)).''.

(b) CONFORMING PART E PREMIUM REDUCTION AMENDMENTS.—

(1) ADJUSTMENT AND PAYMENT OF PART E PREMIUMS.—Section 1860E–5 (as added by section 201) is amended—

(A) in subsection (a), by inserting '', except as reduced by the amount of any reduction elected under section 1854(d)(1)(A)(i)'' before the period at the end; and

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

''(c) MEDICARE+CHOICE PREMIUM REDUCTIONS.—In the case of an individual enrolled in a Medicare+Choice plan, the Secretary shall reduce (but not below zero) the amount of the monthly beneficiary premium to reflect any reduction elected under section 1854(d)(1)(A)(i). Such premium adjustment may be provided in such manner as the Secretary may specify.''.

(2) TREATMENT OF REDUCTION FOR PURPOSES OF DETERMINING GOVERNMENT CONTRIBUTION UNDER PART E.—Section 1844(c) (42 U.S.C. 1395w) is amended by striking ''section 1854(f)(1)(E)'' and inserting ''section 1854(d)(1)(A)(i)''.

(c) SUNSET OF SPECIFIC REQUIREMENTS FOR ADDITIONAL BENEFITS.—Section 1854(g) (as redesignated by subsection (a)(1)) is amended—

(1) in paragraph (1)(A), by striking ''Each Medicare+Choice organization'' and inserting ''For years before 2005, each Medicare+Choice organization''; and

(2) in paragraph (2), by striking ''A Medicare+Choice organization'' and inserting ''For years before 2005, a Medicare+Choice organization''.

(d) LIMITATION ON ENROLLEE LIABILITY.—

(1) FOR BENEFITS UNDER PART E.—Section 1854(f)(1) (as redesignated by subsection (a)(1)) is amended to read as follows:

''(1) FOR ENHANCED MEDICARE BENEFITS.—The sum of—

''(A) the Medicare+Choice monthly basic beneficiary premium (multiplied by 12) and the actuarial value of the deductibles, coinsurance, and copayments (taking into account any reductions in cost-sharing described in subsection (d)(1)(A)(ii)) applicable on average to individuals enrolled under this part with a Medicare+Choice plan described in subparagraph (A) or (C) of section 1851(a)(2) of an organization with respect to required benefits described in section 1852(a)(1)(A) and any additional benefits described in subsection (a)(2)(A)(iii) for a year; must equal

''(B) the actuarial value of the deductibles, coinsurance, and copayments that would be applicable on average to individuals who have elected to receive enhanced medicare benefits under part E if they were not members of a Medicare+Choice organization for the year (adjusted as determined appropriate by the Secretary to account for geographic differences and for plan cost and utilization differences).''.

(2) FOR SUPPLEMENTAL BENEFITS.—Section 1854(f)(2) (as so redesignated) is amended to read as follows:

''(2) FOR SUPPLEMENTAL BENEFITS.—If the Medicare+Choice organization provides to its members enrolled under this part in a Medicare+Choice plan described in subparagraph (A) or (C) of section 1851(a)(2) with respect to supplemental benefits relating to benefits under part E described in section 1852(a)(3)(A), the sum of the Medicare+Choice monthly supplemental beneficiary premium (multiplied by 12) charged and the actuarial value of its deductibles, coinsurance, and copayments charged with respect to such benefits for a year must equal the adjusted community rate (as defined in subsection (g)(3)) for such benefits for the year.''.

(e) PREMIUMS CHARGED; PREMIUM TERMINOLOGY.—Section 1854(b) (42 U.S.C. 1395w–24) is amended to read as follows:

''(b) MONTHLY PREMIUMS CHARGED.—

''(1) IN GENERAL.—

''(A) COORDINATED CARE AND PRIVATE FEE-FOR-SERVICE PLANS.—The monthly amount of the premium charged to an individual enrolled in a Medicare+Choice plan (other than an MSA plan) offered by a Medicare+Choice organization shall be equal to the sum of the following:

''(i) The Medicare+Choice monthly basic beneficiary premium (if any).

''(ii) The Medicare+Choice monthly supplemental beneficiary premium (if any).

''(iii) The Medicare+Choice monthly obligation for qualified prescription drug coverage (if any).

''(B) MSA PLANS.—The rules under this section that would have applied with respect to an MSA plan if the 21st Century Medicare Act had not been enacted shall continue to apply to MSA plans after the date of enactment of such Act.

''(2) PREMIUM TERMINOLOGY.—For purposes of this part:

''(A) MEDICARE+CHOICE MONTHLY BASIC BENEFICIARY PREMIUM.—The term 'Medicare+Choice monthly basic beneficiary premium' means, with respect to a Medicare+Choice plan, the amount required to be charged under subsection (d)(2) for the plan.

''(B) MEDICARE+CHOICE MONTHLY OBLIGATION FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.—The term 'Medicare+Choice monthly obligation for qualified prescription drug coverage' means, with respect to a Medicare+Choice plan, the amount determined under section 1853(k)(3).

''(C) MEDICARE+CHOICE MONTHLY SUPPLEMENTAL BENEFICIARY PREMIUM.—The term 'Medicare+Choice monthly supplemental beneficiary premium' means, with respect to a Medicare+Choice plan, the amount required to be charged under subsection (f)(2) for the plan, or, in the case of an MSA plan, the amount filed under subsection (a)(3).

''(D) MEDICARE+CHOICE MONTHLY MSA PREMIUM.—The term 'Medicare+Choice monthly MSA premium' means, with respect to a Medicare+Choice plan, the amount of such premium filed under subsection (a)(3) for the plan.''.

(f) CONFORMING AMENDMENTS.—

(1) Section 1851(d)(2)(D) (42 U.S.C. 1395w–21(d)(2)(D)) is amended by inserting ''and Medicare+Choice monthly obligation for qualified prescription drug coverage'' after ''Medicare+Choice monthly basic and supplemental beneficiary premiums''.

(2) Section 1851(g)(3)(B)(i) (42 U.S.C. 1395w–21(g)(3)(B)(i)) is amended by striking ''any Medicare+Choice monthly basic and supplemental beneficiary premiums'' and inserting ''any Medicare+Choice monthly basic beneficiary premium, Medicare+Choice monthly obligation for qualified prescription drug coverage, Medicare+Choice monthly supplemental beneficiary premium,''.

(3) Section 1852(c)(1)(F) (42 U.S.C. 1395w–22(c)(1)(F)) is amended to read as follows:

''(F) SUPPLEMENTAL BENEFITS.—Supplemental benefits available from the organization offering the plan, including the supplemental benefits covered and the Medicare+Choice monthly supplemental beneficiary premium for such benefits.''.

(4) Section 1853(f)(1) (as redesignated by section 305(1)) is amended by striking ''(as defined in section 1854(b)(2)(C))'' and inserting ''(as defined in section 1854(b)(2)(D))''.

(5) Section 1854(c) (42 U.S.C. 1395w–24(c)) is amended by striking ''The Medicare+Choice monthly basic and supplemental beneficiary premium'' and inserting ''The Medicare+Choice monthly basic beneficiary premium, the Medicare+Choice monthly obligation for qualified prescription drug coverage, or the Medicare+Choice monthly supplemental beneficiary premium''.

(6) Section 1854(e) (as redesignated by subsection (a)(1)) is amended by inserting ''and the Medicare+Choice monthly obligation for qualified prescription drug coverage'' after ''Medicare+Choice monthly basic and supplemental beneficiary premiums''.

(7) Section 1859(c)(4) (42 U.S.C. 1395w–28(c)(4)) is amended to read as follows:

''(4) MEDICARE+CHOICE MONTHLY BASIC BENEFICIARY PREMIUM; MEDICARE+CHOICE MONTHLY OBLIGATION FOR QUALIFIED PRESCRIPTION DRUG COVERAGE; MEDICARE+CHOICE MONTHLY SUPPLEMENTAL BENEFICIARY PREMIUM.—The terms 'Medicare+Choice monthly basic beneficiary premium', 'Medicare+Choice monthly obligation for qualified prescription drug coverage', and 'Medicare+Choice monthly supplemental beneficiary premium' are defined in section 1854(b)(2).''.

SEC. 307. ELIGIBILITY, ELECTION, AND ENROLLMENT IN COMPETITIVE MEDICARE+CHOICE PLANS.

(a) ELIGIBILITY.—Section 1851(a)(3) is amended to read as follows:

''(3) MEDICARE+CHOICE ELIGIBLE INDIVIDUAL.—In this title, the term 'Medicare+Choice eligible individual' means an individual who—

''(A) is entitled to benefits under part A and enrolled under part B; and

''(B) has elected to receive enhanced medicare benefits under part E.''.

(b) ELECTIONS.—

(1) IN GENERAL.—Section 1851(a)(1)(A) is amended by inserting ''(including through the election of enhanced medicare benefits under part E) and, if elected by the beneficiary and offered by the Medicare+Choice plan, through the voluntary prescription drug delivery program under part D'' after ''parts A and B''.

(2) DEFAULT ELECTION.—Section 1851(c)(3) (42 U.S.C. 1395w–21(c)(3)) is amended by inserting ''to receive enhanced medicare benefits under part E of the'' after ''deemed to have chosen''.

(3) COVERAGE ELECTION PERIODS.—Section 1851(e)(1) (42 U.S.C. 1395w–21(e)(1)) is amended by striking ''entitled to benefits under part A and enrolled under part B'' and inserting ''eligible to elect to receive enhanced medicare benefits under part E''.

(4) GUARANTEED ISSUANCE AND RENEWAL.—Section 1851(g)(3)(C) (42 U.S.C. 1395w–21(g)(3)(C)) is amended—

(A) in clause (i), by inserting ''elected to receive enhanced medicare benefits under part E of the'' after ''deemed to have''; and

(B) in clause (ii), by striking ''deemed to have chosen to change coverage to'' and inserting ''deemed to have elected to receive enhanced medicare benefits under part E through the''.

(5) EFFECT OF ELECTION OF MEDICARE+CHOICE PLAN OPTION.—Section 1851(i) (42 U.S.C. 1395w–21(i)) is amended—

(A) in paragraph (1)—

(i) by striking ''1853(g), 1853(h)'' and inserting ''1853(h), 1853(i)''; and

(ii) by inserting ''(as modified under part E)'' after ''parts A and B''; and

(B) in paragraph (2), by striking ''1853(e), 1853(g), 1853(h)'' and inserting ''1853(f), 1853(h), 1853(i)''.

(c) PROVIDING INFORMATION TO PROMOTE INFORMED CHOICE.—

(1) GENERAL INFORMATION ON BENEFITS.—Section 1851(d)(3) (42 U.S.C. 1395w–21(d)(3)) is amended—

(A) by striking subparagraph (A) and inserting the following:

''(A) BENEFITS UNDER ENHANCED MEDICARE FEE-FOR-SERVICE PROGRAM OPTION.—A general description of the enhanced medicare benefits covered under the original medicare fee-for-service program under parts A and B for individuals who have elected to receive such benefits under part E, including—

''(i) covered items and services;

''(ii) beneficiary cost-sharing, such as deductibles, coinsurance, and copayment amounts; and

''(iii) any beneficiary liability for balance billing.'';

(B) by redesignating subparagraphs (B) through (E) as subparagraphs (C) through (F), respectively;

(C) by inserting after subparagraph (A) the following new subparagraph:

''(B) OUTPATIENT PRESCRIPTION DRUG COVERAGE BENEFITS.—For Medicare+Choice eligible individuals who are enrolled under part D, the information required under section 1860D–4 if the Medicare+Choice organization elects to offer prescription drug coverage.''; and

(D) in subparagraph (D) (as redesignated by subparagraph (B)), by inserting ''(with the enhanced medicare benefits under part E)'' after ''the original medicare fee-for-service program''.

(2) INFORMATION COMPARING PLAN OPTIONS.—Section 1851(d)(4) (42 U.S.C. 1395w–21(d)(4)) is amended—

(A) in subparagraph (A), by adding at the end the following new clause:

''(ix) For Medicare+Choice eligible individuals who are enrolled under part D, the comparative information described in section 1860D–4(b)(2) if the Medicare+Choice organization elects to offer prescription drug coverage.''; and

(B) in subparagraph (D), by inserting ''with respect to eligible beneficiaries who elect to receive enhanced medicare benefits under part E'' after ''under parts A and B''.

SEC. 308. BENEFITS AND BENEFICIARY PROTECTIONS UNDER COMPETITIVE MEDICARE+CHOICE PLANS.

(a) BASIC BENEFITS.—Section 1852(a) (42 U.S.C. 1395w–22(a)(1)(A)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (A) and inserting the following new subparagraph:

''(A) those items and services (other than hospice care) for which benefits are available under parts A and B to individuals residing in the area served by the plan and who have elected to receive enhanced medicare benefits under part E;'';

(B) by redesignating subparagraph (B) as subparagraph (C);

(C) by inserting after subparagraph (A) the following new subparagraph:

''(B) if the Medicare+Choice organization elects to offer prescription drug coverage, prescription drug coverage under part D to individuals who are enrolled under that part and who reside in the area served by the plan; and''; and

(D) in subparagraph (C) (as redesignated by paragraph (2)), by striking ''1854(f)(1)(A)'' and inserting ''1854(d)(1)'';

(2) in paragraph (2), by striking ''parts A and B (including any balance billing permitted under such parts'' and inserting ''part E (including any balance billing permitted under such part'';

(3) in paragraph (3), by adding at the end the following new subparagraph:

''(D) REQUIREMENT OF ENROLLMENT IN PART D TO RECEIVE PRESCRIPTION DRUG BENEFITS.—Notwithstanding the preceding provisions of this paragraph, the Secretary may not approve any supplemental health care benefit that provides for the coverage of any prescription drug (other than that required under part E).''; and

(4) in paragraph (5), by striking ''Health Care Financing Administration'' and inserting ''Medicare Competitive Agency'' in the flush matter following subparagraph (B).

(b) ESRD ANTIDISCRIMINATION.—Section 1852(b)(1) (42 U.S.C. 1395w–22(b)(1)) is amended to read as follows:

''(1) BENEFICIARIES.—A Medicare+Choice organization may not deny, limit, or condition the coverage or provision of benefits under this part, for individuals permitted to be enrolled with the organization under this part, based on any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.''.

(c) DISCLOSURE REQUIREMENTS.—Section 1852(c)(1)(B) (42 U.S.C. 1395w–22(c)(1)(B)) is amended by striking ''section 1851(d)(3)(A)'' and inserting ''subparagraphs (A) and (B) of section 1851(d)(3)''.

(d) ASSURING ACCESS TO SERVICES IN MEDICARE+CHOICE PRIVATE FEE-FOR-SERVICE PLANS.—Section 1852(d)(4)(A) is amended by striking ''part A, part B, or both, for such services, or'' and inserting ''part E for such services (and, if the Medicare+Choice organization elects to offer prescription drug coverage, that are not less than the payment rates provided under part D for such services for Medicare+Choice eligible individuals enrolled under that part); or''.

(e) INFORMATION ON BENEFICIARY LIABILITY FOR MEDICARE+CHOICE PRIVATE FEE-FOR-SERVICE PLANS.—Section 1852(k)(2)(C)(i) (42 U.S.C. 1395w–22(k)(2)(C)(i)) is amended by striking ''parts A and B'' and inserting ''part E, under part D for individuals enrolled under that part (if the Medicare+Choice organization elects to offer prescription drug coverage),''.

SEC. 309. PAYMENTS TO MEDICARE+CHOICE ORGANIZATIONS FOR ENHANCED MEDICARE BENEFITS UNDER PART E BASED ON RISK-ADJUSTED BIDS.

(a) IN GENERAL.—Section 1853(a)(1)(A) (42 U.S.C. 1395w–23(a)(1)(A)) is amended to read as follows:

''(1) MONTHLY PAYMENTS.—Under a contract under section 1857 and subject to subsections (f), (h), and (j) and section 1859(e)(4), the Secretary shall make, to each Medicare+Choice organization, with respect to coverage of an individual for a month under this part in a Medicare+Choice payment area, separate monthly payments with respect to—

''(A) enhanced medicare benefits under part E in accordance with subsection (d); and

''(B) if the Medicare+Choice organization elects to offer prescription drug coverage, benefits under part D in accordance with subsection (k) for individuals enrolled under that part.''.

(b) CONFORMING AMENDMENT.—Section 1853(g)(1)(A) (42 U.S.C. 1395w–23(g)(1)(A)) is amended by inserting ''as part of the enhanced medicare benefits elected under part E of'' before ''the original medicare fee-for-service program option''.

SEC. 310. SEPARATE PAYMENTS TO MEDICARE+CHOICE ORGANIZATIONS FOR PART D BENEFITS.

(a) IN GENERAL.—Section 1853 (42 U.S.C. 1395w–27) is amended by adding at the end the following new subsection:

''(k) AVAILABILITY OF PRESCRIPTION DRUG BENEFITS.—

''(1) SCOPE OF PRESCRIPTION DRUG BENEFITS.—

''(A) AVAILABILITY OF STANDARD COVERAGE.—If a Medicare+Choice organization elects to offer prescription drug coverage under a Medicare+Choice plan, such organization shall make such coverage (other than that required under part E) available to each enrollee under that plan who is also enrolled under part D that includes only standard coverage and that meets the requirements of this subsection.

''(B) ADDITIONAL QUALIFIED PRESCRIPTION DRUG COVERAGE.—In addition to the standard coverage option made available to each enrollee under paragraph (1), a Medicare+Choice plan may make available to each enrollee that is also enrolled under part D, other qualified prescription drug coverage (other than that required under part E) that meets the requirements of this subsection under a Medicare+Choice plan offered under this part.

''(C) REQUIREMENT OF ENROLLMENT IN PART D TO RECEIVE PRESCRIPTION DRUG BENEFITS.—A Medicare+Choice organization may not provide for the coverage of any prescription drugs (other than that required under part E) to an enrollee unless that enrollee is also enrolled under part D.

''(2) PAYMENT OF FULL AMOUNT OF PREMIUM TO ORGANIZATIONS FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.—For each year (beginning with 2005), the Secretary shall pay to each Medicare+Choice organization offering a Medicare+Choice plan that provides qualified prescription drug coverage in which a Medicare+Choice eligible individual is enrolled, an amount equal to the full amount of the monthly premium submitted under section 1854(a)(2)(B) on behalf of each such individual enrolled in such plan for the year, as adjusted using the risk adjusters that apply to the standard coverage under section 1853(b)(4)(B).

''(3) AMOUNT OF MEDICARE+CHOICE MONTHLY OBLIGATION FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.—In the case of a Medicare+Choice eligible individual receiving qualified prescription drug coverage under a Medicare+Choice plan, the obligation for qualified prescription drug coverage of such individual in a year shall be determined as follows:

''(A) PREMIUMS EQUAL TO THE MONTHLY NATIONAL AVERAGE.—If the amount of the monthly premium for qualified prescription drug coverage submitted under section 1854(a)(2)(B) for the plan for the year is equal to the monthly national average premium (as computed under section 1860D–15) for the year, the monthly obligation of the individual in that year shall be an amount equal to the applicable percent (as defined in section 1860D–17(c)) of the amount of the monthly national average premium.

''(B) PREMIUMS THAT ARE LESS THAN THE MONTHLY NATIONAL AVERAGE.—If the amount of the monthly premium for qualified prescription drug coverage submitted under section 1854(a)(2)(B) for the plan for the year is

less than the monthly national average premium (as computed under section 1860D–15) for the year, the monthly obligation of the individual in that year shall be an amount equal to—

''(i) the applicable percent (as defined in section 1860D–17(c)) of the amount of the monthly national average premium; minus

''(ii) the amount by which the monthly national average premium exceeds the amount of the premium submitted under section 1854(a)(2)(B).

''(C) PREMIUMS THAT ARE GREATER THAN THE MONTHLY NATIONAL AVERAGE.—If the amount of the monthly premium for qualified prescription drug coverage submitted under section 1854(a)(2)(B) for the plan for the year exceeds the monthly national average premium (as computed under section 1860D–15) for the year, the monthly obligation of the individual in that year shall be an amount equal to the sum of—

''(i) the applicable percent (as defined in section 1860D–17(c)) of the amount of the monthly national average premium; plus

''(ii) the amount by which the premium submitted under section 1854(a)(2)(B) exceeds the amount of the monthly national average premium.

''(4) COLLECTION OF MEDICARE+CHOICE MONTHLY OBLIGATION FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.—The provisions of section 1860D–18, including subsection (b) of such section, shall apply to the amount of the monthly premium required to be paid by a Medicare+Choice eligible individual receiving qualified prescription drug coverage under a Medicare+Choice plan (as determined under paragraph (3)) in the same manner as such provisions apply to the monthly beneficiary obligation required to be paid by an eligible beneficiary enrolled in a Medicare Prescription Drug plan.

''(5) COMPLIANCE WITH ADDITIONAL BENEFICIARY PROTECTIONS.—With respect to the offering of qualified prescription drug coverage by a Medicare+Choice organization under a Medicare+Choice plan, the organization and plan shall meet the requirements of section 1860D–5, including requirements relating to information dissemination and grievance and appeals, in the same manner as they apply to an eligible entity and a Medicare Prescription Drug plan under part D. The Secretary shall waive such requirements to the extent the Secretary determines that such requirements duplicate requirements otherwise applicable to the organization or plan under this part.

''(6) COVERAGE OF PRESCRIPTION DRUGS FOR ENROLLEES IN PLANS THAT DO NOT OFFER PRESCRIPTION DRUG COVERAGE.—If an individual who is enrolled under part D is enrolled in a Medicare+Choice plan that does not offer prescription drug coverage, such individual shall be permitted to enroll for prescription drug coverage under such part in the same manner as if such individual was not enrolled in a Medicare+Choice plan.

''(7) AVAILABILITY OF PREMIUM SUBSIDY AND COST-SHARING REDUCTIONS FOR LOW-INCOME ENROLLEES.—For provisions—

''(A) providing premium subsidies and cost-sharing reductions for low-income individuals receiving qualified prescription drug coverage through a Medicare+Choice plan, see section 1860D–19; and

''(B) providing a Medicare+Choice organization with insurance subsidy payments for providing qualified prescription drug coverage through a Medicare+Choice plan, see section 1860D–20.

''(8) QUALIFIED PRESCRIPTION DRUG COVERAGE; STANDARD COVERAGE.—For purposes of this part, the terms 'qualified prescription drug coverage' and 'standard coverage' have the meanings given such terms in paragraphs (9) and (10), respectively, of section 1860D.''.

(b) SANCTIONS FOR IMPROPER PRESCRIPTION DRUG COVERAGE.—Section 1857(g)(1) (42 U.S.C. 1395w–27(g)(1)) is amended—

(1) in subparagraph (F), by striking ''or'' after the semicolon at the end;

(2) in subparagraph (G), by adding ''or'' after the semicolon at the end; and

(3) by adding at the end the following new subparagraph:

''(H) charges any individual an amount in excess of the Medicare+Choice monthly obligation for qualified prescription drug coverage under section 1853(k)(3), provides coverage for prescription drugs that is not qualified prescription drug coverage (as defined in section 1853(k)(7)), offers prescription drug coverage, but does not make standard prescription drug coverage available (as defined in such section), or provides coverage for prescription drugs (other than those covered under part E) to an individual who is not enrolled under part D;''.

SEC. 311. ADMINISTRATION BY THE MEDICARE COMPETITIVE AGENCY.

On and after January 1, 2005, the Medicare+Choice program under part C of title XVIII of the Social Security Act shall be administered by the Medicare Competitive Agency in accordance with subpart 3 of part D of such title (as added by section 101), and, in accordance with section 1860D–25(c)(3)(C) of such Act (as added by section 101), each reference to the Secretary made in this title, or the amendments made by this title, shall be deemed to be a reference to the Administrator of the Medicare Competitive Agency.

SEC. 312. CONTINUED CALCULATION OF ANNUAL MEDICARE+CHOICE CAPITATION RATES.

(a) CONTINUED CALCULATION.—

(1) IN GENERAL.—Section 1853(c) (as amended by subsection (b)) is amended by adding at the end the following new paragraph:

''(7) TRANSITION TO MEDICARE+CHOICE COMPETITION.—

''(A) IN GENERAL.—For each year (beginning with 2005) payments to Medicare+Choice plans shall not be computed under this subsection, but instead shall be based on the payment amount determined under subsection (d).

''(B) CONTINUED CALCULATION OF CAPITATION RATES.—For each year (beginning with 2004) the Secretary shall calculate and publish the annual Medicare+Choice capitation rates under this subsection and shall use the annual Medicare+Choice capitation rate determined under subsection (c)(1)(B) for purposes of determining the benchmark amount under subsection (a)(4).''.

(2) CONFORMING AMENDMENT.—Section 1853(c)(1) (42 U.S.C. 1395w–23(c)(1)) is amended by striking ''For purposes of this part, subject to paragraphs (6)(C) and (7),'' and inserting ''For purposes of making payments under this part for years before 2004 and for purposes of calculating the annual Medicare+Choice capitation rates under paragraph (7) beginning with such year, subject to paragraph (6)(C),'' in the matter preceding subparagraph (A).

(b) INCLUSION OF COSTS OF VA AND DOD MILITARY FACILITY SERVICES IN CONTINUED CALCULATION.—Section 1853(c) (42 U.S.C. 1395w–23(c)), as amended by subsection (a)(1), is amended by adding at the end the following new paragraph:

''(8) INCLUSION OF COSTS OF VA AND DOD MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—For purposes of determining the blended capitation rate under subparagraph (A) of paragraph (1) and the minimum percentage increase under subparagraph (C) of such paragraph for a year, the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) shall be adjusted to include in such rate, to the extent practicable, the Secretary's estimate, on a per capita basis, of the amount of additional payments that would have been made in the area involved under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Veterans Affairs or the Department of Defense.''.

SEC. 313. FIVE-YEAR EXTENSION OF MEDICARE COST CONTRACTS.

(a) IN GENERAL.—Section 1876(h)(5)(C) (42 U.S.C. 1395mm(h)(5)(C)), as redesignated by section 634(1) of BIPA (114 Stat. 2763A–568), is amended by striking ''2004'' and inserting ''2009''.

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

SEC. 314. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in section 306(b)(1)(B), section 313(b), and subsection (b), the amendments made by this title shall apply to plan years beginning on and after January 1, 2005.

(b) MEDICARE+CHOICE MSA PLANS.—Notwithstanding any provision of this title, the Secretary shall apply the payment and other rules that apply with respect to an MSA plan described in section 1851(a)(2)(B) of the Social Security Act (42 U.S.C. 1395w–21(a)(2)(B)) as if this title had not been enacted.

SA 4311. Mr. REID (for Mr. WYDEN (for himself and Mr. ALLEN) proposed an amendment to the bill S. 2037, to mobilize technology and science experts to respond quickly to the threats posed by terrorist attacks and other emergencies, by providing for the establishment of a national emergency technology guard, a technology reliability advisory board, and a center for evaluating antiterrorism and disaster response technology within the National Institute of Standards and Technology; as follows:

On page 26, line 19, after the period, insert ''In completing the report, representatives of the commercial wireless industry shall be consulted, particularly to the extent that the report addresses commercial wireless systems.''.

On page 26, strike lines 22 and 23, and insert the following:

(1) developing a system of priority access for certain governmental officials to existing commercial wireless systems, and the impact such a priority access system would have on both emergency communications capability and consumer access to commercial wireless services;

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Production and Price Competitiveness be authorized to conduct a hearing on July 18, 2002 in SR–3328A at 2:00 p.m. The purpose of this hearing will be to discuss S. 532, the Pesticide Harmonization Act.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and

Transportation be authorized to meet on Thursday, July 18, 2002, at 11 a.m. on examining Enron: Enron Energy Services and its role in the western state electricity crisis.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 18, 2002, at 2:30 p.m. on the nomination of Frederick Gregory to be Deputy Administrator of NASA, Kathie Olsen and Richard Russell to be Associate Directors of OSTP.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a Hearing during the session of the Senate on Thursday, July 18, 2002, at 2:30 p.m. in SD–366. The purpose of this hearing is to receive testimony on the following bills:

S. 1865, to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Lower Los Angeles River and San Gabriel River watersheds in the State of California as a unit of the National Park System, and for other purposes;

S. 1943, to expand the boundary of the George Washington Birthplace National Monument, and for other purposes;

S. 2571, to direct the Secretary of the Interior to conduct a special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area;

S. 2595, to authorize the expenditure of funds on private lands and facilities at Mesa Verde National Park, in the State of Colorado, and for other purposes; and

H.R. 1925, to direct the Secretary of the Interior to study the suitability and feasibility of designating the Waco Mammoth Site Area in Waco, Texas, as a unit of the National Park System, and for other purposes.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, July 18, 2002, at 10:00 a.m. to conduct a hearing to hear from the following nominees: John S. Bresland to be a Member of the Chemical Safety and Hazard Investigation Board, and Carolyn W. Merritt to be a Member and Chair of the Chemical Safety and Hazard Investigation Board.

The hearing will be held in SD–406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, July 18, 2002, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on a bill to approve the settlement of water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes.

I also ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, July 18, 2002, at 2:00 p.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 2065, a bill to Ratify an Agreement to Regulate Air Quality on the Southern Ute Indian Reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, July 18, 2002 at 10:00 a.m., in SD–226.

TENTATIVE AGENDA

I. Bills.—S. 486, Innocence Protection Act [Leahy/Smith]; H.R. 3375, Embassy Employee Compensation Act [Blunt]; S. 862, State Criminal Alien Assistance Program Reauthorization Act of 2001 [Feinstein/Kyl/Durbin/Cantwell]; S. 2395, Anticounterfeiting Amendments of 2002 [Biden/Hatch/Leahy/Feinstein/DeWine]; S. 2513, DNA Sexual Assault Justice Act of 2002 [Biden/Cantwell/Specter/Clinton/Carper].

II. Resolutions.—S. Res. 293, A resolution designating the week of November 10 through November 16, 2002, as ''National Veterans Awareness Week'' to emphasize the need to develop educational programs regarding the contributions of veterans to the country. [Biden/Kohl].

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Ms. STABENOW. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Thursday, July 18, 2002 from 9:30 a.m.–12:00 p.m. in Dirksen 628 for the purpose of conducting a hearing.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Ms. STABENOW. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, July 18, 2002 at 10:00 a.m. and 2:30 p.m. to hold a closed hearing on the Joint Inquiry into the events of September 11, 2001.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMER AFFAIRS, FOREIGN COMMERCE AND TOURISM

Ms. STABENOW. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Affairs, Foreign Commerce and Tourism of the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 18, 2002, at 9:30 a.m., on perspective on improving corporate responsibility.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mrs. CLINTON. Madam President, I ask unanimous consent that Suzanne Johnson, a legislative fellow in my office, be permitted on the Senate floor throughout the debate on S. 812, and other prescription drug issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Madam President, I ask unanimous consent that Dr. Howard Forman, from my office, be granted floor privileges for the duration of debate on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCIENCE AND TECHNOLOGY EMERGENCY MOBILIZATION ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 459, S. 2037.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2037) to mobilize technology and science experts to respond quickly to the threats posed by terrorist attacks and other emergencies, by providing for the establishment of a national emergency technology guard, a technology reliability advisory board, and a center for evaluating antiterrorism and disaster response technology within the National Institute of Standards and Technology.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part in black brackets and insert the part printed in italic]

S. 2037

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 ''Science and Technology Emergency Mobilization Act''.

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) In the aftermath of the terrorist attacks of September 11, 2001, many private-sector technology and science experts provided valuable assistance to rescue and recovery efforts by donating their time and expertise. However, many who wished to help had significant difficulty determining how they could be most useful. They were hampered by the lack of any organizational structure to harness their abilities and coordinate their efforts.

(2) A prompt and well-coordinated volunteer base of technology and science expertise could help save lives, aid rescue efforts, and rebuild

critical technology infrastructures in the event of a future major terrorist attack, natural disaster, or other emergency. Technology and science expertise also could help minimize the vulnerability of critical infrastructure to future attacks or natural disasters.

(3) Police, fire personnel, and other local emergency responders frequently could benefit from timely technological assistance, and efforts to organize a system to assist in locating the desired help should be expedited.

(4) Efforts to develop and deploy innovative new technologies for use by government emergency prevention and response agencies would be improved by the designation of a clear contact point within the federal government for intake and evaluation of technology ideas.

(5) The creation of compatible communications systems would strengthen emergency response efforts of police, fire, and other emergency response personnel to communicate effectively with each other and with their counterparts from nearby jurisdictions. Some programs, such as the Capital Wireless Integrated Network (CapWIN), have made significant progress in addressing the issue of interoperable communications between emergency service providers in particular urban areas and the Federal government has sought to address the issue through the Public Safety Wireless Networks program. Relatively few States and localities, however, have achieved a sufficient level of communications interoperability.

(b) PURPOSE.—The purpose of this Act is to reinforce, focus, and expedite ongoing efforts to mobilize America's extensive capability in technology and science in responding to the threats posed by terrorist attacks, natural disasters, and other major emergencies, by creating—

(1) a national emergency technology guard or ''NET Guard'' that includes—

(A) rapid response teams of volunteers with technology and science expertise, organized at the local level; and

(B) opportunities for NET Guard volunteers to assist with non-emergency tasks related to local preparedness and prevention, including reducing the vulnerability of government information technology systems;

(2) a national clearinghouse for innovative civilian technologies relating to emergency prevention and response; and

(3) a pilot program to assist state efforts to achieve the interoperability of communications systems used by fire, law enforcement, and emergency preparedness and response agencies.

SEC. 3. ESTABLISHMENT OF NATIONAL EMERGENCY TECHNOLOGY GUARD.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President shall designate an appropriate department, agency, or office to compile and maintain a repository database of nongovernmental technology and science experts who have offered, and who can be mobilized, to help Federal agencies counter terrorism.

(b) NET GUARD DISASTER RESPONSE TEAMS.—

(1) CERTIFICATION PROCEDURES.—The President shall also designate an appropriate department, agency, or office (which may be the department, agency, or office designated under subsection (a)) to develop a procedure to encourage groups of volunteers with technological or scientific expertise to team with individuals from State and local governments, local emergency response agencies, and nongovernmental emergency aid, assistance, and relief organizations.

(2) TEAM FORMATION.—The department, agency, or office designated under paragraph (1) may develop and implement a system for facilitating the formation of local teams of such volunteers by helping individuals that wish to participate in such teams to locate and contact one another.

(3) CRITERIA FOR CERTIFICATION.—The department, agency, or office designated under paragraph (1) shall establish criteria for the certification of such teams, including—

(A) the types of expertise, capabilities, and equipment required; and

(B) minimum training and practice requirements, including participation in not less than 2 emergency drills each year.

(4) CERTIFICATION AND CREDENTIALS.—The department, agency, or office designated under paragraph (1) shall—

(A) certify any group of individuals requesting certification as a NET Guard disaster response team that complies with the procedures established under paragraph (1) and meets the criteria established under paragraph (3);

(B) issue credentials and forms of identification as appropriate identifying each such team and its members; and

(C) suspend, withdraw, or terminate certification of and recover credentials and forms of identification from any NET Guard disaster response team, or any member thereof, when the head of the entity designated deems it appropriate.

(5) COMPENSATION; PER DIEM, TRAVEL, AND TRANSPORTATION EXPENSES.—The department, agency, or office designated under paragraph (1) may authorize the payment to a member of a NET Guard disaster response team, for the period that member is engaged in performing duties as such member at the request of the United States—

(A) compensation as employees for temporary or intermittent services as experts or consultants under section 3109 of title 5, United States Code; and

(B) travel or transportation expenses, including per diem in lieu of subsistence, as provided by section 5703 of title 5.

(c) ADDITIONAL AUTHORITIES.—The head of the department, agency, or office designated under paragraph (1) may—

(1) activate NET Guard disaster response teams in an emergency (as defined in section 102(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(1)) or a major disaster (as defined in section 102(2) of that Act);

(2) provide for access by team members to emergency sites; and

(3) assign, on a voluntary basis, NET Guard volunteers to work, on a temporary basis on—

(A) the development and maintenance of the database described in subsection (a) and the procedures for access to the database; and

(B) such other technology related projects to improve emergency preparedness and prevention as may be appropriate.

SEC. 4. CENTER FOR CIVILIAN HOMELAND SECURITY TECHNOLOGY EVALUATION.

(a) IN GENERAL.—The President shall establish a Center for Civilian Homeland Security Technology Evaluation within the Executive Branch to evaluate innovative technologies relating to security and emergency preparedness and response and to serve as a national clearinghouse for such technologies.

(b) FUNCTION.—The Center shall—

(1) serve as a principal, national contact point for the intake of innovative technologies relating to security and emergency preparedness and response;

(2) evaluate promising new technologies relating to security and emergency preparedness and response;

(3) assure persons and companies that have submitted a technology receive a timely response to inquiries;

(4) upon request by Federal agencies consult with and advise Federal agencies about the development, modification, acquisition, and deployment of technology relating to security and emergency preparedness and response; and

(5) provide individuals and companies that have submitted information about a technology the ability to track, to the extent practicable, the current status of their submission online.

(c) MODEL.—The Center may be modeled on the Technical Support Working Group that provides an interagency forum to coordinate research and development of technologies for combating terrorism.

(d) INTERNET ACCESS.—

(1) IN GENERAL.—The President shall create an online portal accessible through the FirstGov Internet website (www.firstgov.gov), or any successor to such website, to provide individuals and companies with innovative technologies a single point of access to the Center and a single point of contact at each Federal agency participating in the Center.

(2) FUNCTIONS.—The Center portal shall—

(A) provide individuals and companies with an online opportunity to obtain information about various open solicitations relevant to homeland security and points of contact for submission of solicited and unsolicited proposals; and

(B) include safeguards to ensure that business proprietary information is protected and that no personally identifiable information is accessible to unauthorized persons.

(e) PROCUREMENT NOT CONDITIONED ON SUBMISSION.—Nothing in this section requires a technology to be submitted to, or evaluated by, the Center in order to be eligible for procurement by Federal agencies.

SEC. 5. COMMUNICATIONS INTEROPERABILITY PILOT PROJECTS.

(a) IN GENERAL.—The President shall establish within an appropriate department, agency, or office a pilot program for planning or implementation of interoperable communications systems for appropriate emergency response agencies.

(b) GRANTS.—The head of the department, agency, or office in which the program is established under subsection (a) shall make grants of $5,000,000 each to 7 different States for pilot projects under the program.

(c) CRITERIA; ADMINISTRATIVE PROVISIONS.—The head of the department, agency, or office in which the program is established under subsection (a), in consultation with other appropriate agencies, shall prescribe such criteria for eligibility for projects and for grantees, including applications, fund use assurance and accounting, and reporting requirements as the head of the entity deems appropriate. In prescribing such criteria, the head of the department, agency, or office shall consult with the administrators of existing projects designed to facilitate public safety communications interoperability concerning the best practices and lessons learned from such projects.

SEC. 6. REPORTS.

(a) WIRELESS COMMUNICATIONS CAPABILITIES FOR FIRST RESPONDERS.—Within 1 year after the date of enactment of this Act, the President shall designate an appropriate department, agency, or office to submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives setting forth policy options for ensuring that emergency officials and first responders have access to effective and reliable wireless communications capabilities. The report shall include an examination of the possibility of—

(1) developing a system of priority access to existing commercial wireless systems;

(2) designating national emergency spectrum to be held in reserve for public safety and emergency purposes; and

(3) creating a specialized public safety communications network or networks for use with wireless devices customized for public safety use.

(b) IN-KIND DONATIONS.—Within 1 year after the date of enactment of this Act, the Federal Emergency Management Agency, in consultation with other appropriate Federal agencies, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a report on the barriers to acceptance by Federal agencies of in-kind donations of technology and services during emergency situations.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) NATIONAL EMERGENCY TECHNOLOGY GUARD.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2003 and 2004 to carry out section 3.

(b) PILOT PROGRAMS.—There are authorized to be appropriated to the department, agency, or office in which the program is established under section 5(a) $35,000,000 for fiscal year 2003 to carry out section 5 of this Act, such sums to remain available until expended.

(c) REPORT.—There are authorized to be appropriated to the department, agency, or office designated in section 6(a) $500,000 for fiscal year 2003 to carry out section 6(a) of this Act.

SEC. 8. EMERGENCY RESPONSE AGENCIES.

In this Act, the term ''emergency response agency'' includes agencies providing any of the following services:

(1) Law Enforcement services.

(2) Fire services.

(3) Emergency Medical services.

(4) Public Safety Communications.

(5) Emergency Preparedness.

Mr. WYDEN. Mr. President, as America mobilizes to protect itself from terrorism, a key weapon in its defensive arsenal is its great technological prowess. From high-tech ''cyber attacks'' to more conventional threats, many of the solutions for reducing America's vulnerabilities at home will be rooted in technology. And much of the country's science and technology expertise resides outside the government in the dynamic arena of private sector entrepreneurship.

Therefore, it is essential to ensure that America's antiterrorism efforts tap the tremendous science and technology talents of the private sector. To that end, the Science and Technology Emergency Mobilization Act will help forge strong partnerships between the government and private sector science and technology experts, in order to provide the best protection and response for the American people.

The legislation the Senate is approving today has been in the works since shortly after September 11. The Subcommittee on Science and Technology held a series of hearings in 2001–2002 on the best way to mobilize science and technology experts, drawing on first-hand accounts of those who sought to offer help in the aftermath of the terrorist attacks. The subcommittee's ranking Republican, Senator ALLEN, joined me as a cosponsor and helped to draft the bill. House Science Committee Chairman BOEHLERT participated as well, making this a bipartisan and bicameral effort. The bill also bears the imprint of various executive branch agencies: we worked very closely with the Office of Management and Budget, the Office of Science and Technology Policy, the Commerce Department's Technology Administration, FEMA, and NIST to shape the original legislation into a finely-turned and targeted bill. On May 17, it was approved by the Commerce Committee without dissent.

The legislation provides for the creation of a database of private sector science and technology experts whom government officials may call upon in emergencies. It provides for the creation of National Emergency Technology Guard, NET Guard, teams of volunteers with technology and science expertise, organized in advance and available to be mobilized on short notice, similar to existing urban search and rescue teams.

It also calls for the creation of a Center for Civilian Homeland Security Technology Evaluation, modeled on the existing Technical Support Working Group, to serve as a single point of contact and clearinghouse for innovative technologies relating to emergency prevention and response. The center will have an online portal, so that the numerous small businesses that have been struggling to negotiate the maze of bureaucracy will finally have a way to get their bright technology ideas into the right hands. In addition, the legislation provides for pilot projects to improve the interoperability of communications systems used by fire, law enforcement, and emergency preparedness and response agencies.

The legislation does not create a large bureaucracy, nor does it seek to micromanage; instead, it gives the President flexibility to decide where within the executive branch the different functions set forth in the bill should be placed. This is particularly important in light of the pending proposals for reorganizing the Federal Government's homeland security functions. This bill is flexible enough to fit comfortably within whatever structure is ultimately adopted.

I express my appreciation to Senator ALLEN for his efforts on the bill; to the distinguished chairman of the Commerce Committee, Senator HOLLINGS, for his help and support as the bill was considered by the committee; and to Mitch Daniels, Director of the Office of Management and Budget, for mobilizing his staff to work with us on the fine points of the legislation. I also thank all the private sector organizations and individuals who provided important advice throughout the process, and in particular those who have expressed formal support for the legislation, including Intel, Microsoft, America Online, Oracle, the National Association of Manufacturers, and the Biotechnology Industry Organization.

Mr. ALLEN. Mr. President, today I rise to thank my colleagues for their unanimous support of S. 2037, the Science and Technology Emergency Mobilization Act. I also thank Senator WYDEN for his leadership and continued tenacious work on pushing this important measure through the Senate.

S. 2037 highlights the vital role technology and innovation play in our Nation's war to protect our homeland from terrorism. As this body has highlighted time and time again, new technologies are being developed every day that can help save lives and improve the ability of our firefighters, police, and first responders to react quickly and effectively to a catastrophic event.

As our Nation becomes more dependent upon technology in nearly every aspect of our lives, the level of vulnerability to technological disruptions rises accordingly. We all saw with the problems following the attacks of September 11, the promptness and quality of the technological response to terrorist attacks or natural disasters could mean the difference between life and death.

S. 2037, the Net Guard bill, will play a major role in preventing many of the problems that occurred during the attacks against New York and the Pentagon. September 11 taught us two things: (1) how much technological improvements are needed for State, local, and Federal services, and (2) the depth of the reservoir of American goodwill to provide solutions.

S. 2037 will call upon the ideas of the best and the brightest minds in the American technology workforce to act as an all-volunteer force to help restore communications and infrastructure operations after a major national disaster. Like all Americans, I was heartened by the volunteer efforts of companies, like Verizon, Intel, IBM, Accenture, and Cingular Wireless, that volunteered both staff and equipment to restore communications in New York and the Washington, DC area.

This bill will simply add structure to private sector efforts and encourages the participation of the Nation's science and technology experts to respond to national emergencies. Additionally, this bill creates a ''virtual technology reserve'' consisting of a database of private-sector expertise and equipment that can be called upon, at any moment, by emergency officials during a crisis situation.

I believe the all-volunteer teams of science and technology personnel in conjunction with the virtual technology reserve that are created by this legislation will help many Americans by restoring vital services in times of need.

There are many enterprises and commercial applications that can be adapted to meet the Government's needs, however currently there is no central location for evaluation or mechanism for recommendation within the Government. I, along with other Senators, receive volumes of information from numerous companies on their different products and ideas regarding the defense of our homeland. As public servants we want to be sure the Government has the necessary structure and process in place to test and apply new technologies to meet our homeland security needs.

S. 2037 establishes of a Center for Civilian Homeland Security Technology Evaluation and an online, Internet portal within the Executive Branch. This Center will perform the important task of matching the inventions of the private sector to the needs of our Nation's homeland defense. Additionally, the Internet portal will provide individuals and companies with a single point to access the center and a single point of

contact at each federal agency participating in the Center for Civilian Homeland Security.

Mr. President, I am glad to see the Senate come together and pass this important legislation and again thank my colleague from Oregon for his leadership. I have truly enjoyed working with him for the successful passage of this positive, constructive utilization of the advances in technology to improve the security of Americans.

Mr. REID. Mr. President, Senators WYDEN and ALLEN have an amendment at the desk, and I ask unanimous consent that the amendment be considered and agreed to, the motion to reconsider be laid upon the table, the committee substitute amendment, as amended, be agreed to, the bill, as amended, be read the third time and passed, and the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD as if read, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4311) was agreed to, as follows:

(Purpose: To ensure that private sector input is considered in the wireless communications capabilities policy options report required by section 6)

On page 26, line 19, after the period, insert ''In completing the report, representatives of the commercial wireless industry shall be consulted, particularly to the extent that the report addresses commercial wireless systems.''.

On page 26, strike lines 22 and 23, and insert the following:

(1) developing a system of priority access for certain governmental officials to existing commercial wireless systems, and the impact such a priority access system would have on both emergency communications capability and consumer access to commercial wireless services;

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 2307), as amended, was read the third time and passed, as follows:

(The bill will be printed in a future editing of the RECORD.)

BORN-ALIVE INFANTS PROTECTION ACT OF 2001

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 323, H.R. 2175.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2175) to protect infants who are born alive.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2175) was read the third time and passed.

RECOGNIZING THE ACCOMPLISHMENTS OF IGNACY JAN PADEREWSKI

Mr. REID. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Res. 296 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 296) recognizing the accomplishments of Ignacy Jan Paderewski as a musician, composer, statesman, and philanthropist and recognizing the 10th anniversary of the return of his remains to Poland.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be placed in the RECORD as if read at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 296) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 296

Whereas Ignacy Jan Paderewski, born in Poland in 1860, was a brilliant and popular pianist who performed hundreds of concerts in Europe and the United States during the late 19th and early 20th centuries;

Whereas Paderewski often donated the proceeds of his concerts to charitable causes;

Whereas, during World War I, Paderewski worked for the independence of Poland and served as the first Premier of Poland;

Whereas in December 1919, Paderewski resigned as Premier of Poland, and in 1921 he left politics to return to his music;

Whereas the German invasion of Poland in 1939 spurred Paderewski to return to political life;

Whereas Paderewski fought against the Nazi dictatorship in World War II by joining the exiled Polish Government to mobilize the Polish forces and to urge the United States to join the Allied Forces;

Whereas Paderewski died in exile in America on June 29, 1941, while war and occupation imperiled all of Europe;

Whereas by the direction of United States President Franklin D. Roosevelt, Paderewski's remains were placed along side America's honored dead in Arlington National Cemetery, where President Roosevelt said, ''He may lie there until Poland is free.'';

Whereas in 1963, United States President John F. Kennedy honored Paderewski by placing a plaque marking Paderewski's remains at the Mast of the Maine at Arlington National Cemetery;

Whereas in 1992, United States President George H.W. Bush, at the request of Lech Walesa, the first democratically elected President of Poland following World War II, ordered Paderewski's remains returned to his native Poland;

Whereas June 26, 1992, the remains of Paderewski were removed from the Mast of the Maine at Arlington National Cemetery, and were returned to Poland on June 29, 1992;

Whereas on July 5, 1992, Paderewski's remains were interned in a crypt at the St. John Cathedral in Warsaw, Poland; and

Whereas Paderewski wished his heart to be forever enshrined in America, where his lifelong struggle for democracy and freedom had its roots and was cultivated, and now his heart remains at the Shrine of the Czestochowa in Doylestown, Pennsylvania: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the accomplishments of Ignacy Jan Paderewski as a musician, composer, statesman, and philanthropist; and

(2) acknowledges the invaluable efforts of Ignacy Jan Paderewski in forging close Polish-American ties, on the 10th Anniversary of the return of Paderewski's remains to Poland.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore and upon the recommendation of the Republican Leader, pursuant to Public Law 98–183, as amended by Public Law 103–419, reappoints Russell G. Redenbaugh of Pennsylvania to the United States Commission on Civil Rights.

ORDERS FOR FRIDAY, JULY 19, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Friday, July 19; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 11:30 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided between the two leaders or their designees; further, that the cloture vote scheduled for 10:30 a.m. on Tuesday, July 23, occur at 10:45 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, tomorrow there is as much time as Senators may want to talk about the pending amendments or any topic related to this bill. The leader has said we will convene in the afternoon on Monday. There are no votes on Monday. If Senators want to talk about the pending amendments or the bill tomorrow, there will be available as many hours as Senators wish to speak, and then all day Monday. These are two very important amendments, and people should feel inclined to talk about them if they desire. We cannot have anyone carping and saying: I did not have time to talk. Senators have all the time that can possibly be needed to talk about these two important amendments.

There will be no rollcall votes tomorrow or Monday. As I indicated in the request the Chair has granted, we will vote at 10:45 a.m. on Tuesday.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:03 p.m., adjourned until Friday, July 19, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 18, 2002:

DEPARTMENT OF TRANSPORTATION

ROGER P. NOBER, OF MARYLAND, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2005, VICE WILLIAM CLYBURN, JR., TERM EXPIRED.

DEPARTMENT OF THE TREASURY

PAMELA F. OLSON, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE MARK A. WEINBERGER, RESIGNED.

THE JUDICIARY

S. JAMES OTERO, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE RICHARD A. PAEZ, ELEVATED.

ROBERT G. KLAUSNER, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE WILLIAM D. KELLER, RETIRED.

ROBERT A. JUNELL, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS, VICE HIPOLITO FRANK GARCIA, DECEASED.

JAMES E. KINKEADE, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF TEXAS, VICE JOE KENDALL, RESIGNED.

WILLIAM E. SMITH, OF RHODE ISLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF RHODE ISLAND, VICE RONALD R. LAGUEUX, RETIRED.

IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT AS PERMANENT COMMISSIONED REGULAR OFFICERS IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER SECTION 211, TITLE 14, U.S. CODE:

To be commander

GEORGE H. TEUTON, 0000

To be lieutenant

BLAKE L. NOVAK, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. CHARLES F. WALD, 0000

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203.

To be colonel

FREDERIC A. MARKS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

MEREDITH L. *ADAMS, 0000
JAMES W. BARBER, 0000
CRAIG T. *BARD, 0000
PAUL O. *BEGNOCHE, 0000
MARY ANN BEHAN, 0000
DANNY L. *BLAKE, 0000
DUANE M. *BRAGG, 0000
MICHAEL S. BURKE, 0000
RICHARD E. CUTTS, 0000
JOHN H. *DANIELS, 0000
GREGORY B. *DEWOLF, 0000
ANNETTE I. *DORRIS, 0000
BRENT A. *EPLING, 0000
MATTHEW B. *ESCHER, 0000
CHARLES B. *FARLEY, 0000
LOUIS A. *FERRUCCI JR., 0000
KEVIN M. *FRANKE, 0000
DAVID V. *GILL, 0000
MATTHEW A. *GRINSTAFF, 0000
CHARLES A. *GROH, 0000
SEAN A. *HOLLOWAY, 0000
JAMES M. *HUGHES, 0000
KARL D. *HUTH, 0000
GENE C. *KRAFT, 0000
BARNA C. *LAMBERT, 0000
DWIGHT E. *LISLE, 0000
CHRISTOPHER P. MARCUS, 0000
RODNEY K. *MCCURDY, 0000
RICK A. *MOORE, 0000
STEPHEN M. MOUNTS, 0000
ERICH P. *MURRELL, 0000
CHRISTOPHER A. *PHILLIPS, 0000
STEPHEN D. *SPEECE, 0000
MICHAEL C. *SUMNER, 0000
CATHERINE A. *TARABINI, 0000
STEVEN P. *VANDEWALLE, 0000
CHRISTOPHER L. *VROOMAN, 0000
EDWIN W. *WRIGHT, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

SARA K. *ACHINGER, 0000
MARK E. *ALLEN, 0000
BRUCE A. *BARNARD, 0000
TERESA H. *BARNES, 0000
GREGORY A. *BAXLEY, 0000
NOAH J. *BLEDSTEIN, 0000
ROBERT F. *BOOTH, 0000
JEFFREY *BRANSTETTER, 0000
ROBIN L. *BRODRICK, 0000
LEONARD L. *BURRIDGE, 0000
ROBERT C. *BURTON, 0000
CYNTHIA *BUXTON, 0000
CHRISTOPHER L. COLCLASURE, 0000
CHRISTA S. *COTHREL, 0000
MICHELLE S. *CRAMER, 0000
RONALD S. *CRAMER, 0000
DAVID M. *CUNNINGHAM, 0000
GORDON P. *DAVIS, 0000
KIM M. *DIPPOLITO, 0000
BRETT W. *DOWNEY, 0000
JEFFREY A. *FERGUSON, 0000
DAVID J. R. *FRAKT, 0000
PETER *GALINDEZ JR., 0000
FRANK T. *GIAMBATTISTA, 0000
MICHAEL W. *GOLDMAN, 0000
SHANNON R. *HANSCOM, 0000
KRISTINE R. *HOFFMAN, 0000
DARREN C. *HUSKISSON, 0000
KYLE R. *JACOBSON, 0000
DIANA L. *JOHNSON, 0000
JOSHUA E. *KASTENBERG, 0000
MARCI A. *LAWSON, 0000
MICHAEL A. *LEWIS, 0000
TRACEY Y. *MADSEN, 0000
BRYAN T. MARTIN, 0000
TODD E. MCDOWELL, 0000
MARTIN T. *MITCHELL, 0000
KYLE W. *NOLTE, 0000
RICHARD S. *PAKOLA, 0000
IRA *PERKINS, 0000
CHARLES L. *PLUMMER, 0000
TERESA L. *REED, 0000
NATALIE D. *RICHARDSON, 0000
TAMAIRA *RIVERA, 0000
THOMAS A. *ROGERS JR., 0000
DEREK S. *SHERRILL, 0000
JOHN D. SMITH, 0000
HUGH A. *SPIRES JR., 0000
MICHAEL A. *SUMNER, 0000
ERIK A. *TROFF, 0000
RACHEL E. VANLANDINGHAM, 0000
REBECCA R. *VERNON, 0000
STACIE A. *VEST, 0000
MATTHEW S. *WARD, 0000
PATRICK J. *WELLS, 0000
ERIC J. *WERNER, 0000
LYNNE A. *WHITTLER, 0000
JONATHAN P. *WIDMANN, 0000
CHARLES E. *WIEDIE JR., 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

CHRISTOPHER R. *ABRAMSON, 0000
ORLANDO A. ACOSTA, 0000
BRIAN E. *ADAMCIK, 0000
ANDREW J. ADAMS, 0000
DAVID E. *ADAMS, 0000
DENNIS P. *ADAMS, 0000
SHAWN J. *ADKINS, 0000
MICHAEL P. AERSTIN, 0000
THANOON J. *AGHA, 0000
LATHEEF N. *AHMED, 0000
MARK J. *AHRENS, 0000
RICKY L. *AINSWORTH, 0000
SUSAN M. *AIROLA, 0000
ANTHONY J. AJELLO JR., 0000
MICHAEL J. *AKOS, 0000
KRISTINA M. *ALBERTWYMS, 0000
CHARLYNN M. *ALDERMAN, 0000
PATRICK L. *ALDERMAN, 0000
JOSE M. *ALEMAN, 0000
LEWIS E. ALFORD III, 0000
DAVID T. *ALLEN, 0000
THADDEUS P. ALLEN, 0000
WALTER C. ALLEN II, 0000
NATHAN A. ALLERHEILIGEN, 0000
MATTHEW W. ALLINSON, 0000
CHARLES R. ALMQUIST, 0000
CLIFFORD G. *ALTIZER, 0000
RAYMOND ALVES II, 0000
KELLY JAY *AMEDEE, 0000
CHRISTOPHER C. *AMENTA, 0000
STEVEN C. AMMONS, 0000
DAVID J. *ANASON, 0000
KEVIN P. *ANCHOR, 0000
CORNELIUS T. *ANDERSON, 0000
DAGVIN R. M. ANDERSON, 0000
DOUGLAS C. *ANDERSON, 0000
LEIGHTON T. ANDERSON JR., 0000
MICHAEL A. *ANDERSON, 0000
MONTE D. ANDERSON, 0000
ROBERT E. *ANDERSON JR., 0000
STEVEN E. ANDERSON, 0000
THEODORE J. ANDERSON, 0000
TIMOTHY W. ANDERSON, 0000
JOSE ZL *ANDIN, 0000
MICHAEL S. *ANGLE, 0000
STEVEN E. *ANKERSTAR, 0000
CHRISTOPHER T. ANTHONY, 0000
WILLIAM B. *APODACA, 0000
JOHN E. *ARD, 0000
JASON R. ARMAGOST, 0000
JOHN H. *ARMSTRONG JR., 0000
JONATHAN D. ARNETT, 0000
CHARLES F. *ARNOLD JR., 0000
JOSEPH E. *ARTHUR, 0000
REGINALD E. G. *ASH III, 0000
JOEL E. ATKINSON, 0000
TAFT O. AUJERO, 0000
SCOTT J. BABBITT, 0000
LESLIE P. BABICH, 0000
JEREMY O. BAENEN, 0000
MARK E. *BAER, 0000
FRED P. *BAIER, 0000
ROBERT D. *BAIER, 0000
CHARLES P. *BAILEY JR., 0000
DARRIN E. *BAILEY, 0000
JAMES B. *BAILEY JR., 0000
RICHARD J. BAILEY JR., 0000
BRANDON E. BAKER, 0000
CRAIG R. BAKER, 0000
GILBERT W. BAKER, 0000
JESSICA *BAKER, 0000
JOHN P. *BAKER, 0000
RICHARD W. *BAKER, 0000
JONATHAN P. *BAKONYI, 0000
RUSSELL L. *BALL, 0000
MICKEY L. BALLARD, 0000
THOMAS C. *BALLARD, 0000
DAVID BALLEW, 0000
KEITH W. BALTS, 0000
ANTHONY E. BAMSEY, 0000
MARTIN J. *BANGERT, 0000
DAVID D. BANHOLZER, 0000
ERIC J. BARELA, 0000
ALEXANDER J. *BARELKA, 0000
MICHAEL D. BARG, 0000
MATTHEW A. BARKER, 0000
GARY A. *BARLET, 0000
GEOFFREY C. *BARNES, 0000
DANIEL J. *BARONE, 0000
MARK A. BARONI, 0000
FRANKLIN D. *BARROW, 0000
STEPHEN P. BARROWS, 0000
DEREK S. BARTHOLOMEW, 0000
ROBERT A. *BASKETTE, 0000
SAMUEL D. *BASS, 0000
ANDREW J. BATES, 0000
TIMOTHY D. *BATSON, 0000
LOREN E. *BATTELS JR., 0000
ROBERT G. *BATTEMA, 0000
JOSEPH T. *BATTLE JR., 0000
KURT P. *BAUER II, 0000
JONATHAN M. BAUGHMAN, 0000
STEPHEN J. BAUMGARTE, 0000
STEPHEN C. *BAXTER, 0000
JOSEPH G. *BEAHM JR., 0000
DONALD C. *BEAL, 0000
CATHY *BEASLEY, 0000
DAVID L. BEAVER, 0000
MATTHEW R. BECKLEY, 0000
ANDREA D. BEGEL, 0000
ANDREW J. *BELANGER, 0000
DEAN C. *BELLAMY, 0000
KELLY S. *BELLAMY, 0000
ALFRED P. *BELLO III, 0000
KYLE G. *BELLUE, 0000
CHRISTOPHER *BEMBENICK, 0000
ROBERT J. *BEMENT, 0000
MICHAEL R. *BENHAM, 0000
VERONICA P. *BENNET, 0000
JAMES S. *BENOIT, 0000
LYNN *BENTLEY III, 0000
RICHARD F. *BENZ, 0000
DANIELLE E. BERNARD, 0000
JESSICA ANNE BERTINI, 0000
GREG D. BIGLEY, 0000
PETER M. BILODEAU, 0000
CHRISTOPHER D. *BIRKHEAD, 0000
JERRY W. *BISHOP JR., 0000
FREDERICK C. *BIVETTO, 0000
SHAWN L. BLACK, 0000
DOUGLAS F. BLACKLEDGE, 0000
BARRY A. BLANCHARD, 0000
CHRISTOPHER J. *BLANEY, 0000
THOMAS R. *BLAZEK, 0000
JENNIFER A. BLOCK, 0000
JAMES A. BLOIR, 0000
THEODORE B. BLOOMER, 0000

STEPHEN J. *BLOSE, 0000
GREGORY D. *BLOUNT, 0000
TRACY A. *BOBO, 0000
JAMES E. *BODDY JR., 0000
RON W. *BODINE, 0000
DEAN G. BOERRIGTER, 0000
EDMUND J. BOHN, 0000
ERIC J. *BOLLINGER, 0000
PETER J. *BOLLINGER, 0000
ROBERT P. *BONGIOVI, 0000
NICOLE A. BONTRAGER, 0000
BRENT M. *BOOKER, 0000
EUGENE A. BOOTH JR., 0000
RALPH W. *BOOTH, 0000
DONALD J. *BORCHELT, 0000
JAMES B. *BORDERS, 0000
BRETT J. *BORGHETTI, 0000
OLEG BORUKHIN, 0000
WILLIAM K. BOSCH, 0000
SCOTT L. BOUSHELL, 0000
PAUL S. BOVANKOVICH, 0000
SCOTT R. *BOWEN, 0000
CORY W. BOWER, 0000
ANDREW S. *BOYD, 0000
MARK H. BOYD, 0000
CHERRYL A. *BOYETTE, 0000
ROOSEVELT F. BOYLAND JR., 0000
ANDREW J. BRACKEN, 0000
ERIC D. *BRADSHAW, 0000
DANIEL M. *BRANAN, 0000
DANIEL E. *BRANT, 0000
TROY A. J. BRASHEAR, 0000
JAMES A. *BRAUNSCHNEIDER, 0000
FREDERICK C. BRAVO, 0000
PAUL D. *BRAWLEY JR., 0000
PATRICK R. *BREAUX, 0000
STEVEN J. BREEZE, 0000
JASON M. *BRENNEMAN, 0000
JOSEPH D. BREWER, 0000
JOHN A. *BREWSTER, 0000
ALEXANDER W. BRID, 0000
YUSEF D. BRIDGES, 0000
LARA C. *BRINSON, 0000
RICHARD S. *BRISCOE, 0000
KERRY D. *BRITT, 0000
EDWARD S. BRODERICK JR., 0000
KEVIN W. *BROOKS, 0000
ERIC D. *BROWN, 0000
HAL D. BROWN, 0000
NICOLE R. *BROWN, 0000
ROBERT G. *BROWN, 0000
SCOTT M. *BROWN, 0000
DAVID F. *BROWNING, 0000
KENNETH W. *BROWNING, 0000
DENISE M. BRUCE, 0000
BRIAN R. *BRUCKBAUER, 0000
NEAL W. *BRUEGGER, 0000
MARY J. *BRUNE, 0000
MICHAEL A. BRUZZINI, 0000
JOHN N. *BRYAN, 0000
ALBERT D. BRYSON, 0000
BRIAN G. *BUCK, 0000
JOHN S. *BULLDIS, 0000
RICHARD K. *BULLOCK, 0000
LANCE R. BUNCH, 0000
DONALD D. *BUOL, 0000
JEFFREY S. BURDETT, 0000
CHRISTOPHER W. *BURELLI, 0000
JOSHUA C. BURGESS, 0000
MICHAEL D. *BURK, 0000
STEVEN J. BURNS, 0000
BRIAN J. *BURNSIDE, 0000
ALVIN F. *BURSE, 0000
DEANNA M. BURT, 0000
ANGELA J. *BURTH, 0000
THOMAS F. BURTSCHI, 0000
FREDERICK E. *BUSH III, 0000
VIVIAN *BUSH, 0000
BRENT B. BUSS, 0000
RICHARD D. *BUTLER, 0000
WADE C. BUXTON, 0000
STEVEN M. *BUZON, 0000
CHRISTINE M. *BYERS, 0000
CHRISTOPHER L. BYROM, 0000
DENNIS O. *BYTHEWOOD, 0000
STEVEN R. CABOSKY, 0000
WILLIAM M. *CAHILL, 0000
JOHN D. *CAIN, 0000
PAUL D. CAIRNEY, 0000
LLENA C. *CALDWELL, 0000
PHILIP M. *CALI, 0000
KENNETH D. CALLAHAN, 0000
JAMES H. CAMARENA, 0000
JEFFREY B. *CAMPBELL, 0000
JEFFREY S. CAMPBELL, 0000
MICHAEL G. *CANCELLIER, 0000
JIMMY R. *CANLAS, 0000
MONTE R. CANNON, 0000
TODD D. *CANTERBURY, 0000
CHRISTOPHER E. *CANTRELL, 0000
ANTHONY B. CAPOBIANCO II, 0000
CHRISTOPHER P. CAPUTO, 0000
MICHAEL R. CARDOZA, 0000
SCOTT H. CARDOZO, 0000
JOEL L. CAREY, 0000
LANCE A. *CARMACK, 0000
STEVEN C. *CARMICAL, 0000
DENNIS F. *CARON, 0000
BRIAN L. CARR, 0000
KELVIN B. *CARR, 0000
ERIN Y. *CARRAHER, 0000
STEPHEN T. CARSON, 0000
BRENDA P. *CARTIER, 0000
ALAN M. *CARVER, 0000
KENNETH R. CARYER, 0000
DONALD *CASNE, 0000
EUGENE G. CASSINGHAM, 0000
ELIZABETH A. CASSTEVENS, 0000
DEAN J. CATALANO, 0000
GREGORY T. *CATARRA, 0000
JOHN M. *CATES, 0000
JOSEPH R. CDEBACA, 0000
BRYAN K. CESSNA, 0000
MICHAEL W. *CEULE, 0000
TIMOTHY P. *CHAMERNIK, 0000
JACK G. *CHARLESWORTH, 0000
HASTINGS M. CHASE, 0000
ROBERT M. *CHAVEZ, 0000
SAMUEL J. CHESNUT IV, 0000
JASON J. E. *CHILDS, 0000
VINCENT J. CHIOMA, 0000
DAVID B. CHISENHALL JR., 0000
DAVID P. *CHRISMAN, 0000
KENT A. *CHRISTEN, 0000
TERRY L. CHRISTIANSEN, 0000
ROWENA *CHRISTIE, 0000
CHAD L. *CHRISTOPHERSON, 0000
MATTHEW C. CICCARELLO, 0000
JEFFREY S. *CIESLA, 0000
ROBERT O. *CIOPPA, 0000
ANNE L. CLARK, 0000
MICHAEL J. CLARK, 0000
JONATHAN B. CLAUNCH, 0000
CHRISTINA M. CLAUSNITZER, 0000
JOSEPH R. *CLAWSON JR., 0000
HERBERT L. CLAYTON, 0000
JOHN D. *CLAYTON, 0000
JAMES *CLEGERN, 0000
JASON E. CLEMENTS, 0000
PHILIP A. CLINTON, 0000
MELISSA A. COBURN, 0000
NILES M. COCANOUR, 0000
STEPHEN B. *COCKS, 0000
SHAWN M. *COCO, 0000
JED S. *COHEN, 0000
PETER J. COHEN, 0000
DEIRDRE A. *COKER, 0000
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OMAR S. *COLBERT, 0000
MICHAEL D. *COLBURN, 0000
BARRY W. COLE, 0000
DARREN R. COLE, 0000
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STAN G. COLE, 0000
JAMES E. COLEBANK, 0000
ANTHONY E. COLEMAN, 0000
BRIAN D. COLLINS, 0000
TODD A. *COLLINS, 0000
MARK W. P. *COLLISON, 0000
KEITH A. COMPTON JR., 0000
MICHAEL J. *COMTOIS, 0000
VERNON W. CONAWAY IV, 0000
CHAD L. *CONERLY, 0000
KURT E. *CONKLIN, 0000
WILLIAM J. CONLEY, 0000
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DEREK T. *CONTRERAS, 0000
JOEL O. *COOK, 0000
MICHAEL R. *COOK JR., 0000
WANDA D. *COOK, 0000
BERT *COOL, 0000
BRYAN S. COON, 0000
CHARLES J. COOPER, 0000
JAMES A. COPHER, 0000
THOMAS *COPPERSMITH, 0000
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CHARLES S. CORCORAN, 0000
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SIMON D. *CORLEY, 0000
DYLAN R. CORNWELL, 0000
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MICHAEL L. *COTE, 0000
SHERMAN L. COTTRELL, 0000
JON E. COUNSELL, 0000
MICHAEL S. COURINGTON, 0000
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STEVEN M. COX, 0000
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MICHELLE L. *COZORT, 0000
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JACKSON BENITA F. *CURRY, 0000
LAVERN E. *CURRY JR., 0000
ELIZABETH D. *CURTIS, 0000
RUSSELL V. *CUSTER, 0000
TIMOTHY S. CUTLER, 0000
ROGER C. *CUTSHAW, 0000
ALEXANDER J. *CZERNECKI III, 0000
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GARY D. *DENNEY, 0000
CHAD P. *DERANGER, 0000
MARK M. DERESKY, 0000
ABNER *DEVALLON, 0000
JEFFREY W. DEVORE, 0000
LARUE R. DEWALD III, 0000
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JOHN H. DEYARMON, 0000
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TOR F. *DIETRICHS, 0000
BEBE D. *DIGGINS, 0000
LINDA M. DINNDORF, 0000
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JOHN L. *DORRIAN, 0000
PETER W. DOTY, 0000
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PETER A. *DUGAS, 0000
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PERCY E. DUNAGIN III, 0000
WALTER E. *DUNBAR III, 0000
JAMES W. DUNN, 0000
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LEO J. *EISBACH, 0000
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BYRL R. ENGEL, 0000
JAMES N. ENGLE, 0000
W. CHADBURN *ENGMAN, 0000
STEPHANIE F. *EPPLER, 0000
JOHN W. *ERICKSON, 0000
JOHN B. *ESCH, 0000
ERIC A. ESPINO, 0000
EDWARD E. *ESTERON, 0000
SHAWN D. *EURE, 0000
DAVID F. EVANS JR., 0000
MARCIA D. *EVANS, 0000
JAMES A. EVERITT, 0000
DAVID W. *EVERITTE, 0000
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JOHN M. FAIR, 0000
JEFFREY K. *FALLESEN, 0000
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ERIK S. *FEGENBUSH, 0000

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GARY A. *GABRIEL JR., 0000
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JOHN C. GLASS, 0000
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STEVEN F. GLENDENNING, 0000
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JOHN W. GLOYSTEIN III, 0000
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MATTHEW W. *GODDARD, 0000
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ALEJANDRO *GOMEZ JR., 0000
JAIME *GOMEZ JR., 0000
HECTOR L. *GONZALEZ, 0000
LONGINOS GONZALEZ JR., 0000
PEDRO I. GONZALEZ, 0000
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ANDREW C. *GOODNITE, 0000
GLEN L. *GOSS, 0000
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DONALD B. GROVE, 0000
MICHAEL C. GRUB, 0000
KYLE E. *GRUNDEN, 0000
LUIS M. *GRUNEIRO, 0000
MARK A. GUERRERO, 0000
RYAN E. GUIBERSON, 0000
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ENRIQUE J. GWIN, 0000
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TRAVIS C. *HARSHA, 0000
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CARL R. *HARTSFIELD, 0000
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JARROD H. *HATFIELD, 0000
JANET J. *HAUG, 0000
HANS P. *HAUSSLER, 0000
JEAN E. *HAVENS, 0000
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ARTHUR J. *HEAPHY III, 0000
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HELMUT K. HEIDEMANN, 0000
WALTER J. HEIDMANN JR., 0000
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MICHAEL D. *HEIRONIMUS JR., 0000
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DWIGHT H. *HINTZ JR., 0000
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TOMMY J. *HOARD JR., 0000
ERIC P. *HOBSON, 0000
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BRET L. HOUK, 0000
PAMELA M. *HOWARDWHITEHURST, 0000
JAMES J. HOWELL, 0000
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SEAN M. *HOYER, 0000
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GEORGE W. *IRVING IV, 0000
LYNN MARIE *IRWIN, 0000
JEAN K. IWAI, 0000
SIMON A. *IZAGUIRRE JR., 0000
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GLENN G. *JACQUOT, 0000
J. MICHAEL W. JAGGERS, 0000
RODNEY L. *JAMES, 0000
ALAN R. *JAMIESON, 0000
EFREN J. JAMIR JR., 0000
MICHAEL S. JANSEN, 0000
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CLARENCE A. JOHNSON JR., 0000
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DEAN R. *JUDGE, 0000

TIMOTHY P. JUNG, 0000
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MACE R. KANT, 0000
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MICHAEL A. KASIC, 0000
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NICHOLAS B. *KAVOURAS, 0000
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REGAN T. KEENER, 0000
SAMUEL C. *KEENER, 0000
CHRISTOPHER J. *KEETON, 0000
WERNER W. KEIDEL II, 0000
MATTHEW D. *KEIHL, 0000
JOHN J. *KELCHEN JR., 0000
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DEBORAH L. *KENT, 0000
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JOE D. *KERR, 0000
AZAD Y. *KEVAL, 0000
ROBERT E. KIEBLER, 0000
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KELLY C. KIMSEY, 0000
DAVID N. KINCAID JR., 0000
LEIF S. *KING, 0000
MICHAEL O. *KINSLOW, 0000
KELLY M. KIRBY, 0000
LEA T. *KIRKWOOD, 0000
MICHAEL R. KITCHING, 0000
ROGER W. *KLAFFKA, 0000
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EDWARD J. KOHARIK III, 0000
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TERRE J. *KYLE, 0000
JONATHAN *LAAHS, 0000
TIMOTHY H. *LACEY, 0000
GARRET ALAN *LACY, 0000
DAVID P. LAMBERT, 0000
JOHN D. LAMONTAGNE, 0000
JOHN A. LANCE, 0000
PAUL J. *LANDER, 0000
BENNY A. *LANDFAIR II, 0000
JOHN F. *LANDOLT III, 0000
LANCE K. LANDRUM, 0000
GRANT E. *LANG, 0000
JARA N. LANG, 0000
ANDREW D. *LANGFELD, 0000
DONALD L. *LANGLEY II, 0000
ALLEN L. *LARKINS, 0000
THOMAS G. *LARKINS, 0000
THEODORE L. *LARSON JR., 0000
JEFFRY P. *LAUTH, 0000
CHARLES J. *LAW, 0000
KELLY M. *LAW, 0000
WILLIAM M. LAW JR., 0000
SEAN M. LAWLER, 0000
ROBERT N. *LAWRENCE, 0000
BILLY J. LAWSON JR., 0000
ERICK J. *LAWSON, 0000
MICHAEL D. LAY, 0000
MARK D. *LEDBETTER, 0000
DOUGLAS J. *LEE, 0000
JEFFREY A. *LEE, 0000
RICHARD E. *LEE, 0000
JEFFREY P. *LEEDER, 0000
SAINTNET Z. LEHTINEN, 0000
JEFFREY A. *LEISCHNER, 0000
CHAD E. *LEMAIRE, 0000
EDWARD J. LENGEL, 0000
BROOK J. LEONARD, 0000
JOHN G. *LEONARD, 0000
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RYAN G. *LESTER, 0000
JONATHAN M. LETSINGER, 0000
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ERIC J. *LEWAN, 0000
TARA A. *LEWELING, 0000
ANDREW J. *LEWIN, 0000
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JEFFREY S. LEWIS, 0000
ROBERT H. *LILKE, 0000
PHILIP D. LIMBACHER, 0000
THOMAS L. *LIMBAUGH, 0000
ROBERT A. *LINDBLOM, 0000
DAVID C. LINDSAY, 0000
DOUGLAS R. LINDSAY, 0000
RICHARD J. LINEHAN III, 0000
MICHAEL J. LINGOR, 0000
MICHAEL D. *LINK, 0000
LINDA K. *LINSK, 0000
GRAY J. *LIVINGSTON, 0000
CHRISTINE A. *LOCKE, 0000
DARRELL LOCKHART, 0000
RANDY S. *LOEB, 0000
DANIEL J. LOGAR, 0000
KEITH M. *LOGEMAN, 0000
CHARLES E. *LOMINAC II, 0000
SEAN F. LONDRIGAN, 0000
JILL A. *LONG, 0000
PERRY M. LONG III, 0000
TODD E. *LONG, 0000
JONNA D. LOPRESTI, 0000
THOMAS M. *LOPRESTI, 0000
JAMES A. *LOUTHAIN, 0000
BYRON K. LOVE, 0000
STEPHEN A. *LOVE, 0000
WALTER F. *LOVINGS, 0000
JAMES C. LOWE, 0000
KRISTEN D. LOWNEY, 0000
THOMAS J. *LUCKRITZ, 0000
CLARENCE W. LUKES JR., 0000
LOUISE J. *LYLE, 0000
MARC A. *LYNCH, 0000
JOHN W. LYONS, 0000
JOSEPH E. *MACCAFFREY, 0000
ROBERT S. MACKENZIE, 0000
CHARLES T. *MACKIN, 0000
WILLIAM J. *MACLEAN, 0000
WILLIAM M. MACMILLAN IV, 0000
MARK W. *MADAUS, 0000
TRACI R. *MADISON, 0000
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MATTHEW T. *MAGNESS, 0000
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NATHANIEL E. *MAJEAN, 0000
JOHN A. MAJEWSKI JR., 0000
PAUL G. *MALACHOWSKI, 0000
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RACHEL E. *MANN, 0000
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JOSEPH P. *MARCHESINI, 0000
MARIA C. MARION, 0000
STEVEN P. MARKOWSKY, 0000
PAUL K. *MARKS, 0000
DAVID W. *MARSH, 0000
ADAM S. *MARSHALL, 0000
CLAYTON R. *MARSHALL, 0000
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ROBIN L. *MASON, 0000
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GARY E. *MATHIS, 0000
SCOTT B. *MATTHEWS, 0000
MARK F. MATTICOLA, 0000
JOHN W. *MATUS, 0000
DARRIN L. *MAXWELL, 0000
ROBERT W. *MAXWELL, 0000
MARK A. MAY, 0000
ROBERT H. MAY III, 0000
VERNON S. MAY, 0000
CHRISTOPHER B. *MAYER, 0000
GARY R. *MAYER, 0000
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EDWIN D. *MCCAIN, 0000
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GAYLORD E. *MCFALLS, 0000
BRIAN P. MCGILL, 0000
STEPHEN F. MCGRATH, 0000
SEAN M. *MCGRAW, 0000
WILLIAM A. MCGUFFEY, 0000
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SEAN S. *MCKENNA, 0000
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THOMAS C. M. MCNURLIN, 0000
CURTIS A. *MCVAY, 0000
MIGUEL A. *MEDRANO, 0000
ROBERT T. MEEKS III, 0000
JAMES P. MEGER, 0000
JAMES S. MEHTA, 0000
JOHN J. MENOZZI, 0000
KELLY K. MENOZZI, 0000
JAMES S. *MERCHANT, 0000
LANCE R. MEREDITH, 0000
BRADY V. *MERRILL, 0000
JEFFERY S. MERRITT, 0000
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JACK W. *MESSER, 0000
KIRSTEN R. MESSER, 0000
DAVID O. *METEYER, 0000
KAREN J. MEURY, 0000
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SHAUN C. *MILLER, 0000
TODD A. *MILLER, 0000
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WILLIAM PAUL MILLER JR., 0000
JERRY W. *MILLIGAN JR., 0000
STEVEN J. *MINKIN, 0000
DARRYL L. *MITCHELL, 0000
MICHAEL R. *MITCHELL, 0000
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ERIC N. *MOLTZAU, 0000
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SEAN P. *MONOGUE, 0000
DOUGLAS C. *MONROE, 0000
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CASEY K. MOORE, 0000
ERIC Y. MOORE, 0000
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JOHN W. *MORTLAND III, 0000
BENTLEY H. *MOSER, 0000
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HENRY L. *MOTON, 0000
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AMANDA S. *MYERS, 0000
LARRY A. *MYERS, 0000
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PETER P. *MYKYTYN III, 0000
JOHN P. *NAGLE, 0000
GEORGE R. *NAGY, 0000
BRYAN J. *NALLEY, 0000
ARNOLD W. *NASH III, 0000
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JEREMY J. *NOVAK, 0000
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ADRIAN C. *NUNES, 0000
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EDWARD M. *OCHOA, 0000
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MICHAEL A. OCONNOR, 0000
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MARGARET M. *OHARA, 0000
DONNA L. *OHARREN, 0000
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RALPH T. *OKUBO JR., 0000
JON M. OLEKSZYK, 0000
DEREK M. OLIVER, 0000
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MARK V. *ONEILL, 0000
PHILLIP STEVEN *OPELA, 0000
RONNI M. *OREZZOLI, 0000
DEAN P. ORFIELD, 0000
CHARLES D. *ORMSBY, 0000
AARON M. *ORR, 0000
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AMMON H. *PALMER, 0000
DONALD D. *PALMER, 0000
KIM L. *PARKER, 0000
JEFFERY M. *PARKS, 0000
TAMARA L. *PARSONS, 0000
TODD J. *PARSONT, 0000
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REGAN J. *PATRICK, 0000
TIMMOTHY L. PATTERSON, 0000
CHAD A. *PATTON, 0000
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MARK E. *PEARSON, 0000
TROY D. *PEARSON, 0000
DAVID L. *PEELER JR., 0000
STEVEN A. PEEPLES, 0000
KENNETH V. PEIFER, 0000
LYNN P. *PEITZ, 0000
DANA C. *PELLETIER, 0000
KEITH A. PELOQUIN, 0000
TOMAS A. *PENA, 0000
RYAN R. *PENDLETON, 0000
DOUGLAS W. *PENTECOST, 0000
LINDA N. PEPIN, 0000
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CHARLES D. *PERHAM, 0000
KEITH A. *PERKINS, 0000
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BRIAN C. *PETERS, 0000
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SCOTT T. *PETERSEN, 0000
MARC A. *PETERSON, 0000
TY W. *PETERSON, 0000
MICHAEL S. *PETROCCO, 0000
MICHAEL R. *PETTIT, 0000
GEORGE E. PETTY, 0000
STEPHEN C. *PETZOLD, 0000
CHRISTOPHER L. *PEWTERBAUGH, 0000
LEO R. *PFEIFER, 0000
GORDON G. *PFEIL, 0000
THOMAS E. *PHILIPP, 0000
ROBERT L. *PHILLIPS, 0000
TIMOTHY M. PHILLIPS, 0000
RICHARD J. PIAZZA, 0000
JAMES W. *PIEL, 0000
SAMMY T. *PIERCE, 0000
RONALD L. PIERI, 0000
DONNA M G *PIKE, 0000
LEONARD C. *PILHOFER, 0000
SUNCHLAR MARLEE RUST PILKEY, 0000
MARSHA D. PILLER, 0000
JOSE A. PINEDO, 0000
BRIAN S. *PITCHER, 0000
CHAD E. A. PITOG, 0000
ROBERT N. PITTMAN, 0000
GARY T. PLASTER, 0000
RAYMOND M. PLATT, 0000
WILLIAM C. PLEASANTS, 0000
STEVEN PLUMHOFF, 0000
WILLIAM H. *POE, 0000
ANTONY J. *POHL, 0000
WILLIAM J. *POIRIER, 0000
MARK E. POLOMSKY, 0000
STEPHEN A. *POLOMSKY, 0000
JEFFREY D. POMEROY, 0000
JAMES S. *POMPANO, 0000
JOSEPH G. *PORRAZZO, 0000
BRIAN H. PORTER, 0000
GLORIA L. *PORTER, 0000
JAMES A. *POTZAUF, 0000
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DAVID M. *POWELL, 0000
DANIEL T. *POWERS, 0000
MELANIE Y. PREISSER, 0000
CHRISTOPHER T. PREJEAN, 0000
SKIP C. J. PRIBYL, 0000
GREGORY W. *PRICE, 0000
MICHAEL J. PRICE, 0000
ARTHUR W. PRIMAS JR., 0000
DENNIS L. *PRIMOLI II, 0000
JONATHAN M. *PRINDLE, 0000
MATTHEW S. PRUITT, 0000
JOHN G. *PUGH, 0000
SHAWN C. PURVIS, 0000
TIMOTHY K. *PYEATT, 0000
RICHARD D. QUARBERG, 0000
DANIEL R. *QUEEN, 0000
ROBERT J. *QUIGG IV, 0000
MARK D. *QUIGLEY, 0000
PAUL J. QUIGLEY, 0000
AARON S. QUINICHETT, 0000
JAMES A. *QUINN, 0000
MICHAEL R. QUINTINI JR., 0000
JOHN F. RADCLIFFE, 0000
DAVID L. RADEMACHER, 0000
DONNA M. *RAINEY, 0000
KEVIN L. RAINEY, 0000
JAVIER T. RAMOS, 0000
JEFFERY A. *RAMSEY, 0000
JOHN E. *RAMSEY, 0000
CHRISTIAN E. *RANDELL, 0000
BLANE J. RASCH, 0000
CLINT L. *RASIC, 0000
BRUCE J. *RASK, 0000
CHRISTOPHER R. RATE, 0000
DAVID W. *RAWLINS, 0000
MICHAEL T. *RAWLS, 0000
BRIAN J. *RAY, 0000
THOMAS P. REARDON, 0000
HOWARD T. REDD, 0000
KEITH W. REEVES, 0000
BRAXTON D. *REHM, 0000
RHONDA K. REICHEL, 0000
JAMES R. *REID JR., 0000
JOSEPH T. REIDY, 0000
CHRISTOPHER S. *REIFEL, 0000
WILLIAM C. *REIGELSPERGER, 0000
MARK P. *REIMANN, 0000
MICHAEL C. *REINERS, 0000
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RICHARD D. *RENEAU, 0000
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DAVID A. *REYNOLDS, 0000
GEORGE M. REYNOLDS, 0000
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JUSTIN M. RICE, 0000
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SHELLEY A. RIPPLE, 0000
WILLIAM *RITTERSHAUS, 0000
RICARDO L. *RIVERA, 0000
JOSEPH M. RIZZUTO, 0000
DARREN S. *ROACH, 0000
GARY R. *ROACH, 0000
ROBERT L. ROANE, 0000
BILLY G. *ROBERSON, 0000
CHRISTIAN D. ROBERT, 0000
ALLEN R. ROBERTS, 0000
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GLEN A. *ROBERTS, 0000
TODD S. *ROBERTS, 0000
TOMMY A. ROBERTS, 0000
GREGORY M. ROBERTSON, 0000
AMY R. ROBINSON, 0000
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DWAYNE M. *ROBISON, 0000
MICHELLE R. ROCCO, 0000
SCOTTLAND L. RODDY, 0000
ANTHONY L. ROE, 0000
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BRANDI SHANE ROGERS, 0000
CHRISTOPHER J. *ROGERS, 0000
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MICHAEL K. ROKAW, 0000
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JENNIFER C. *ROMAN, 0000
ROBERT T. *ROMER, 0000
LARRY D. *ROOF, 0000
RICHARD M. ROSA, 0000
DOUGLAS W. *ROTH, 0000
KRISTINA L. *ROTH, 0000
JAMES P. *ROUGHNEEN, 0000
CATHERINE J. *ROURKE, 0000
DONOVAN L. *ROUTSIS, 0000
TARA K. *ROUTSIS, 0000
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JAMES R. RUFFING, 0000
FRANK G. *RUGGERI, 0000
BRYAN T. RUNKLE, 0000
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JOHN H. RUSSELL, 0000
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ANDREW J. RYAN, 0000
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ERIK D. RYDBERG, 0000
PATRICK S. *RYDER, 0000
JOHN D. RYE, 0000
MATTHEW B. RYTTING, 0000
MANUEL F. SAENZ, 0000
KURT M. *SAFFER, 0000
JAMES R. *SAGE, 0000
ROBERT D. SAGRAVES, 0000
DANIEL E. *SALGADO, 0000
CARLOS V. *SALINAS, 0000
BENNETT T. SAMUELS, 0000
FRANK D. *SAMUELSON, 0000
TROY L. SANDERS, 0000
BRIAN S. *SANDLIN, 0000
DORAL E. SANDLIN, 0000
CLIFFORD S. *SANDS JR., 0000
TIMOTHY A. *SANDS, 0000
BRIAN P. SANFORD, 0000
MATTHEW D. *SANFORD, 0000
MICHAEL G. *SANJUME, 0000
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REX E. SAUKKONEN, 0000
TODD A. *SAULS, 0000
MICHAEL W. *SAUTER, 0000
WILLIAM R. *SAVAGE, 0000
DOMINIC R. *SAYMO, 0000
DAVID R. *SCANLON, 0000
JERRY B. *SCARBOROUGH, 0000
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BRADLEY J. *SCHAEFER, 0000
TIMOTHY J. *SCHALICK, 0000
JEAN A. *SCHARA, 0000
DAVID C. *SCHARF, 0000
JAY F. *SCHATZ, 0000
JEFFREY A. *SCHAVLAND, 0000
WILLIAM J. *SCHELLENBERGER, 0000
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HERMAN D. *SCHIRG, 0000
MICHAEL *SCHLOTTERBACK, 0000
THOMAS L. *SCHMIDT, 0000
STANTON P. *SCHNEIDER, 0000
THOMAS E. *SCHOCK, 0000
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BRIAN K. *SCHOOLEY, 0000
FRANK D. SCHORZMAN, 0000
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BRYAN J. *SCHRASS, 0000
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DEREK M. *SCOTT, 0000
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PATRICIA K. *SEINWILL, 0000
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TRISHA M. *SEXTON, 0000
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RONALD B. *SHANKLAND JR., 0000
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ROBERT K. *SHEEHAN, 0000
JAMES R. SHELL II, 0000
SCOTT A. *SHEPARD, 0000
RYAN C. *SHERWOOD, 0000
JAMES S. SHIGEKANE, 0000
SCOTT S. *SHIGETA, 0000
MICHAEL D. *SHILLING, 0000
DONNA D. SHIPTON, 0000
JOHN W. *SHIRLEY, 0000
LISA C. *SHOEMAKER, 0000
KENNETH A. SHUGART JR., 0000
DAVID A. *SHULTZ, 0000
VINCENT J. *SIERRA, 0000
DAVID K. *SIEVE, 0000
GUILLERMO E. *SILVA, 0000
FRANCISCO O. *SIMAS, 0000
CHARLES T. SIMMONS, 0000
ERIK L. SIMONSEN, 0000
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DANIEL L. SIMPSON, 0000
RAY L. *SIMPSON, 0000
RODNEY *SINGLETON, 0000
DOUGLAS S. SIRK, 0000
TERRY C. *SISSON, 0000
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ANGELA K. SLAGEL, 0000
JOSEPH *SLAVINSKY, 0000
BEVERLY S. *SLOAN, 0000
JEREMY T. SLOANE, 0000
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CHRISTOPHER M. SMITH, 0000
DAVID C. *SMITH, 0000
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DAVID B. *SMUCK, 0000
DAVID W. *SNODDY, 0000
ROBERT D. *SNODGRASS, 0000
LISA M. *SNOW, 0000
MATTHEW O. SNYDER, 0000
JULIE M. *SOLBERGSHAFFORD, 0000
FREDRICK L. *SONNEFELD, 0000
PANUK P. *SOOMSAWASDI, 0000
STEPHEN T. *SORENSEN, 0000
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JEFFERY B. *SPANN, 0000
ALAN N. *SPARKS, 0000
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KIMBERLY C. ST JOHN KEYS, 0000
MATTHEW I. *STAHL, 0000
TREVOR D. STAIGER, 0000
JEFFREY W. STAMP, 0000
JASON T. STANLEY, 0000
BILLY L. B. STARKEY, 0000
MICHAEL B. B. STARR, 0000
KENNETH W. *STAUFFER, 0000
WILLIAM N. STEELE III, 0000
MITCHELL J. *STEFANISH, 0000
AARON W. STEFFENS, 0000
CONRAD R. STEGEMAN, 0000
MARK A. STEGER, 0000
CINDY D. STEIN, 0000
ANDREW J. STELMACK, 0000
RONALD D. STENGER, 0000
RODNEY A. STEPHAN, 0000
MARK A. STEPHENS, 0000
MICHAEL D. *STEPHENS, 0000
MICHAEL J. *STETINA, 0000
LAWRENCE J. *STETZ, 0000
TODD A. *STEVENS, 0000
LISA Y. STEVENSON, 0000
MICHAEL S. STEVENSON, 0000
PHILLIP A. *STEWART, 0000
STEVEN A. STOLLY, 0000
EARL W. *STOLZ II, 0000
DAVID A. *STONE, 0000
TIMOTHY M. STONG, 0000
STEVEN J. *STORCH, 0000
WILLIAM M. *STOWE III, 0000
DANIEL M. STRACENER, 0000
MARK E. *STRATTON, 0000
PHILLIP G. *STRATTON, 0000
WILLIAM J. STRAUS III, 0000
SUZANNE M. STREETER, 0000
KRISTIN M. STREUKENS, 0000
SCOTT L. *STROHECKER, 0000
BERNARD J. STROUTH, 0000
GENA R. STUCHBERY, 0000
STEVE S. SUGIYAMA, 0000
CHRISTOPHER P. *SULLIVAN, 0000
JIMMIE E. *SULLIVAN JR., 0000
SHANE T. *SULLIVAN, 0000
TROY L. SULLIVAN III, 0000
WILLIAM S. *SULLIVAN, 0000
BRIAN A. *SUNDERMEYER, 0000
TIMOTHY J. SUNDVALL, 0000
JONATHAN A. *SUTHERLAND, 0000
DAVID K. SUTTON, 0000
RICHARD C. *SUTTON, 0000
THOMAS T. *SWAIM, 0000
JENNIFER E. SWAIN, 0000
DAVID J. SWANKE, 0000
SCOTT R. SWANSON, 0000
TIMOTHY J. *SWEENEY, 0000
ZACHARY S. *SWEENEY, 0000
DOUGLAS H. *SWIFT, 0000
CARRIE R. *SYCK, 0000
DAVID H. *TABOR, 0000
RANDALL A. *TABOR, 0000
JAMES W. TANIS, 0000
DAVID A. *TAYLOR, 0000
FRED D. TAYLOR, 0000
JAMES M. *TAYLOR, 0000
JOHN D. TAYLOR, 0000
ROBERT M. TAYLOR II, 0000
CHRISTINE A. TEDROW, 0000
MARK A. *TEDROW, 0000
RAYMUND MICHAEL *TEMBREULL, 0000
MICHAEL E. TENNEY, 0000
RONALD J. TEWKSBURY II, 0000
CRAIG G. THEISEN, 0000
ALLAN P. *THILMANY, 0000
ANTHONY L. *THOMAS, 0000
GREGORY D. THOMAS, 0000
JOHN J. *THOMAS, 0000
JOHN N. *THOMAS, 0000
SPENCER S. *THOMAS, 0000
IAN O. THOMPSON, 0000
NEAL R. THOMPSON, 0000
PHILLIP J. THOMPSON, 0000
SCOTT T. THOMPSON, 0000
DANIEL M. THORN, 0000
DENNIS R. *THORNE, 0000
BRIAN C. *TICHENOR, 0000
SEAN P. *TIERNAN, 0000
KENT J. *TIFFANY, 0000
DARREN W. *TILLMAN, 0000
JASON A. *TIMM, 0000
ROBERT M. TOBLER, 0000
JOHN T. *TODD, 0000
PAUL A. *TOMBARGE, 0000
DAVID R. *TONI, 0000
STEPHON J. TONKO, 0000
THOMAS D. TORKELSON, 0000
STEPHEN B. *TORRES, 0000
KELVIN J. *TOWNSEND, 0000
TIMOTHY J. TOWNSEND II, 0000
BRIAN M. TOY, 0000
MICHAEL J. TRAVIS, 0000
EDWARD D. V. *TREANOR, 0000
JOSEPH M. *TRECHTER, 0000
STERLING E. TREE, 0000
BRIAN H. *TRENHOLM, 0000
ROBERT B. *TREPTON, 0000
ROBERT W. *TRIPLETT, 0000
GEORGE E. *TROMBA, 0000
DAVID C. *TRUCKSA, 0000
PETER A. *TSCHOHL, 0000
CLAUDE K. *TUDOR JR., 0000
DANIEL H. *TULLEY, 0000
DAVID P. TUPAJ, 0000
MICHAEL E. *TURBYFILL, 0000
ERIC S. *TURNER, 0000
JEFFERSON E. *TURNER, 0000
CHRISTAN L. *TUTTLE, 0000
JAMES R. TWIFORD, 0000
ROBERT T. *TYNAN, 0000
MICHAEL D. TYYNISMAA, 0000
ERIC A. UJFALUSY, 0000
AARON L. *ULLMAN, 0000
JOHN R. *UNDERHILL, 0000
SHAWN C. *UNDERWOOD, 0000
SAMUEL B. *URSO III, 0000
DAVID A. *VALENTINE, 0000
ANTHONY E. VALERIO, 0000
JAMES P. *VALLEY, 0000
WENDY R. *VAN EYK, 0000
TODD C. *VANDYKE, 0000
JEFFREY *VANSANFORD, 0000
DEREK D. VARBLE, 0000
RUBEN C. *VARGAS, 0000
CARLOS A. *VECINO, 0000
PETER C. VEHLOW, 0000
ROBERT J. *VERCHER, 0000
JAMES K. *VICKERS, 0000
JESSE E. VICKERS, 0000
ROBERT A. VICKERS, 0000
ORLANDO E. *VILCHES, 0000
JEFFREY A. VISH, 0000
CHRISTOPHER L. *VOEHL, 0000
SCOTT J. *VOLK, 0000
JOHN C. VOORHEES, 0000
WILLIAM E. *WADE JR., 0000
MICHAEL V. WAGGLE, 0000
SAMUEL D. *WAGNER, 0000
RALPH J. WAITE IV, 0000
TODD S. WALDVOGEL, 0000
JEFFREY R. *WALES, 0000
ALEXANDER W. *WALFORD, 0000
BRIAN P. WALKER, 0000
MARK M. *WALLACE, 0000
MATTHEW V. *WALLACE, 0000
JENNIFER L. WALLER, 0000
KARL C. *WALLI, 0000
JOERG D. *WALTER, 0000
MARK D. *WALTERS, 0000
EDWINA M. WALTON, 0000
ROBERT W. *WANNER, 0000
DAVID J. *WAPELHORST, 0000
BRADLEY J. WARD, 0000
DONNA M. WARD, 0000
SCOTT C. WARD, 0000
SCOTT L. *WARD, 0000
JEFFREY S. WARDELL, 0000
JAMES E. H. WARMA, 0000
JEFFREY E. WARMKA, 0000
RONALD B. WARREN, 0000
MICHAEL P. *WATERS, 0000
MARY MELISSA N. *WATKINS, 0000
AARON C. WATSON, 0000
ERIK D. *WEAVER, 0000
GAIL M. *WEAVER, 0000
TERI J. *WEAVER, 0000
ANDREW G. *WEBSTER, 0000
RICKY A. *WEDDLE, 0000
SCOTT D. *WEENUM, 0000
CHRISTOPHER M. *WEGNER, 0000
THEODORE G. WEIBEL, 0000
TROY B. *WEINGART, 0000
MICHAEL T. WEISS, 0000
MICHAEL R. *WELBORN, 0000
KEITH A. *WELCH, 0000
JULIE L. *WENDE, 0000
BRADLEY R. WENSEL, 0000
EDWARD J. WERNER, 0000
KEVIN G. WESTBURG, 0000
DANIEL J. *WHANNELL, 0000
MICHAEL D. WHEELER, 0000
TERENCE D. *WHEELER, 0000
VICTOR B. *WHEELER, 0000
WESLEY L. *WHITAKER, 0000
CHAD H. WHITE, 0000
CRYSTAL A. *WHITE, 0000
GARY L. *WHITE, 0000
JASON D. WHITE, 0000
SAMUEL G. WHITE III, 0000
STEVEN D. *WHITE, 0000
TED N. *WHITE, 0000
TODD A. *WHITE, 0000
EVAN L. *WHITEHOUSE, 0000
BRENT R. *WHITNEY, 0000
JAMES T. *WICKTOM, 0000
SCOTT D. WIERZBANOWSKI, 0000
MARA C. *WIGHT, 0000
LANCE R. WIKOFF, 0000
JOHN T. WILCOX II, 0000
DAVID P. *WILDER, 0000
VICTOR D. *WILEY, 0000
RICHARD *WILGOS, 0000
SHANE C. *WILKERSON, 0000
BRETT D. *WILKINSON, 0000
JON C. *WILKINSON, 0000
CHRISTOPHER S. WILKOWSKI, 0000
BENJAMIN G. WILLIAMS, 0000
CHARLES L. *WILLIAMS, 0000
DARRELL L. *WILLIAMS, 0000
KENT A. *WILLIAMS, 0000
PAUL N. WILLIAMS, 0000
RASHEAD J. WILLIAMS, 0000
STEVEN D. WILLIAMS, 0000
MARK L. WILLIAMSON, 0000
DARRYL M. *WILLIS, 0000
DANIEL L. *WILSON, 0000
JACQUE J. WILSON, 0000
JACQUELINE R. *WILSON, 0000
JOEL B. *WILSON, 0000
JOHN H. WILSON, 0000
KEVIN A. WILSON, 0000
WILLIAM V. WINANS, 0000
RANDOLPH L. *WINGE, 0000
JENNIFER L. *WINSLOW, 0000
LYNN H. WINWARD, 0000
GARY L. WITOVER, 0000
MARK D. WITZEL, 0000
JASON D. WOLF, 0000
PATRICK F. WOLFE, 0000
TIMOTHY A. *WOLIVER, 0000
STUART L. *WOLTHUIS, 0000
ANN *WONGJIRU, 0000
ZUN YING *WOO, 0000
BRIAN S. *WOOD, 0000
CAROLYN L. WOOD, 0000
MARK A. *WOODARD, 0000
BOBBY C. *WOODS JR., 0000
JAMES J. *WOODS JR., 0000
RANDAL W. *WORKMAN, 0000
CHRISTOPHER A. WORLEY, 0000
DALE W. *WRIGHT, 0000
DONALD L. *WRIGHT JR., 0000
JENNIFER L. WRYNN, 0000
TINA M. *WYANT, 0000
MARK A. *WYATT, 0000
HERBERT D. *WYMS, 0000
DIANA J. *WYRTKI, 0000
SCOTT D. YANCY, 0000
DAVID J. *YAO, 0000
CULLA L. YARBOROUGH, 0000
ROBERT L. YARBROUGH JR., 0000
WALTER K. *YAZZIE, 0000
MATTHEW H. YETISHEFSKY, 0000
DAVID T. YOUNG, 0000
THOMAS R. *YOUNG, 0000
THEODORE T. *YUN, 0000
KENNETH J. *YUNEVICH, 0000
ROBERT L. ZABEL JR., 0000
TIMOTHY A. ZACHARIAS, 0000
DENNIS K. ZAHN, 0000
JAMES C. *ZEGEL, 0000
MATTHEW S. *ZICKAFOOSE, 0000
DAVID Q. *ZIEGLER, 0000
SEAN E. ZORTMAN, 0000
MATTHEW E. ZUBER, 0000
PAUL M. *ZULUAGA, 0000
ANNAMARIE *ZURLINDEN, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

WILLIAM A. BENNETT, 0000
RUTH M. HARRIS, 0000
MURTY SAVITALA, 0000
CHARLES B. TEMPLETON, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

JOHN W. BAILEY, 0000
VINCENT J. DEMAGGIO, 0000
REYNOLD N. HOOVER, 0000
THEODORE D. JOHNSON, 0000
ANTHONY P. LIBRI JR., 0000
DANIEL N. RODECK, 0000
MARVIN R. SCHLATTER, 0000
JAMES R. SMITH II, 0000
JOYCE L. STEVENS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

ALONZO C. CUTLER, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

DOMINIC D. ARCHIBALD, 0000
DAVID N. BLACKORBY, 0000
JAMES T. KEEFNER, 0000
PAUL J. PENA, 0000
EDWARD J. ROUGEMONT, 0000
MICHAEL A. SAINZ, 0000
RICHARD L. THOMAS, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

RICKY W. BRANSCUM, 0000
MICHAEL T. HAMIL, 0000
RAYMOND L. HULINGS, 0000
JEFFERY D. KINARD, 0000
KENNETH D. LEE, 0000
RICHARD N. MEADOWS, 0000
JERRY E. REEVES, 0000
FREDERICK O. STEPAT, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

CURTIS W. ANDREWS, 0000
RUFINO I BETANCOURT, 0000
JAMES E. GRAYSON JR., 0000
WILLIAM J. HORAM, 0000
TERRY A. JOHNSON, 0000
MARTIN E. KIDNER, 0000
DAVID F. SCHMIDT, 0000
DANNY K. SPEIGNER, 0000
THOMAS F. STEPHENSON, 0000

CONFIRMATION

Executive nomination confirmed by the Senate July 18, 2002:

THE JUDICIARY

RICHARD R. CLIFTON, OF HAWAII, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

EXTENSIONS OF REMARKS

IN SUPPORT OF PEACE ON THE 28TH BLACK ANNIVERSARY OF THE TURKISH INVASION OF CYPRUS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. GEKAS. Mr. Speaker, 28 years ago this week, Turkish troops illegally invaded the nation of Cyprus seizing control of one third of the island and forcing tens of thousands of Greek Cypriots out of their homes. In 1983, the Turkish Republic of Northern Cyprus established itself through a declaration of independence and to this day is recognized only by the Turkish government. Today, 35,000 Turkish soldiers are stationed on the island occupying the lands of Greek Cypriots and guarding the 113-mile, fenced border. Many consider this border to be one of the most heavily militarized regions in the world.

This atrocious affront to the sovereignty of Cyprus has received generous attention from the international community and, in particular, the United Nations, however, it has resulted in little action taken by Turkey. I am heartened by this year's talks between the President of Cyprus, Glafcos Clerides, and the Turkish Cypriot leader, Rauf Denktash, as they indicate a strong interest to find a peaceful and final solution to this decades old conflict.

Potential membership in the European Union has been the strongest catalyst for peace between the two parties since the initial invasion of Cyprus. Both Cyprus and Turkey are vying for inclusion in the E.U., but because of certain requirements for membership, their requests may not be granted unless they first focus their attention to the forcibly divided nation. With this new motive for a solution, I have increased hope that this ancient part of our world will once again see harmony within its borders.

The Greek and Turkish Cypriot leadership have a long, tough road ahead of them for a diplomatic solution, but they have come a long way. With continued support from the U.S., the U.N., and now the E.U., I believe that freedom and peace are attainable for the people of Cyprus.

PAYING TRIBUTE TO RUBY MARTINEZ

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. MCINNIS. Mr. Speaker, today I stand before you to celebrate the life and mourn the loss of Ruby Martinez. Mrs. Martinez, a former Councilwoman and Mayor of Boone, Colorado, selflessly committed years towards the development and betterment of her community. After a long battle with cancer, she passed away on June 30, 2002. As we mourn her loss, I would like to pay tribute to her life before this body of Congress and this Nation.

At the early age of fourteen, Ruby Martinez began striving for success when she began working the fields to raise money so that she could attend Catholic school. Although her graduation led her to a job in the larger city of Colorado Springs, she selflessly returned to Boone to care for her ailing grandmother who had suffered from a stroke. Her civil involvement began through calling local officials with the intent of organizing local volunteer programs to help the less fortunate and actively address the town's issues and concerns.

Once her tenure as Mayor commenced, she created several agencies to improve the lives of her constituents with the Housing and Urban Development agency, which repaired homes for owners who could not find the means to do so themselves. She actively served as a board member of the Pueblo Community Health Board, the Pueblo Chemical Depot Reuse Commission and Chemical Demilitarization Authority, the Sheriff's Advisory Board, and she was the founding member of the Boone-Avondale citizens Alliance.

Mr. Speaker, I stand before you today to pay tribute to the memory of an exemplary citizen in the State of Colorado. Ruby Martinez was a vibrant woman who achieved much success and was a beacon of inspiration to her entire community. I join her family and a grateful community today in the mourning of her loss.

WHOSE DEFINITION OF ''FAIRNESS''?

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. BEREUTER. Mr. Speaker, this Member wishes to commend to his colleagues an editorial from the July 12, 2002, edition of the Omaha World-Herald entitled '' 'Fairness' to be wary of.''

As the editorial stresses, the International Criminal Court (ICC) will place U.S. policymakers and military personnel in a precarious position whereby practically any random nongovernmental organization (NGO) could bring esoteric charges against them. Indeed, the editorial highlights the story of a Croatian advocacy group which has brought charges against former President Clinton for his support for military actions in Croatia. These charges, which were presented in the special tribunal on the Balkans, were not presented due to any specific infraction but because the advocacy group believes that all sides of the issue should be reviewed for the sake of ''evenhanded justice.'

Mr. Speaker, the ICC is likely to consume vast resources on similar baseless cases and charges rather than focusing on the gross infractions of basic international rules of engagement. It is appropriate for this body and for the Administration to adamantly oppose U.S. participation in the new court.

[From the Omaha World-Herald, July 12, 2002]

''FAIRNESS'' TO BE WARY OF

Critics have scoffed at the insistence by the Bush administration and Congress that U.S. military personnel abroad be protected from indictment by international tribunals. Such courts, the critics claim, are intended only for prosecution of major war criminals. The indictment of U.S. policy-makers and soldiers, they say, isn't very likely.

Recent events, however, have shown that U.S. concerns are justified. The Washington Times reported this week that a special tribunal investigating war crimes in the Balkans is examining whether charges are warranted against former President Bill Clinton and his aides for U.S. support of a Croatian military offensive in 1995.

An advocacy group in Croatia sparked the court's action. The activists told the tribunal that if it indicts a former Croatian general accused of slaughtering Serbian civilians during that campaign, it should also indict American officials in the interests of what it called ''evenhanded justice.''

This isn't the first time U.S. officials have come under scrutiny by that court. Previously, the prosecutor for the tribunal had investigated whether NATO had violated international law during its 1999 bombing campaign in Yugoslavia. The prosecutor filed no indictments, saying she wouldn't have been able to collect sufficient evidence to bring charges against high-level officials.

In light of those facts, the Bush administration has been amply justified in refusing to seek congressional approval for a new entity, the International Criminal Court, which began operation last week and seeks global jurisdiction. (To keep United Nations peacekeeping on track in the Balkans, the Bush administration compromised this week on the immunity question, while still refusing to endorse the court. The compromise should provide sufficient de facto protection for troops.)

Supporters of the new court say it is a vehicle for trying only the most brutal of international war criminals. But such claims lack credibility when a similar international court is dutifully conducting an investigation—out of ''fairness''—of possible war crimes by a former U.S. president.

On balance, we think it's a good idea to have specially appointed courts consider war-crimes matters for individual military conflicts. But the International Criminal Court has been granted too much authority, and the Balkans tribunal has shown a troubling lack of proportion by taking seriously calls for indictments against high U.S. officials.

American leaders are right to be wary about the potential for abuse.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

SPEECH OF

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September– 30, 1996, and for other purposes:

Mr. CASTLE. Mr. Speaker, I rise today in support of the Slaughter-Dicks-Horn-Johnson-Morella Amendment to increase funding for the National Endowment for the Arts and the National Endowment for the Humanities. The arts and humanities are important both socially and economically to our nation as a whole.

Studies have shown students benefit from exposure to both the arts and humanities. They gain not only a better cultural appreciation but are able to translate their positive experiences into skills that are essential for their academic future and their future in the American workforce.

Arts and humanities funding are increasingly allocated to state agencies for grant programs that reach out to underprivileged and smaller suburban and rural areas that do not have the benefits of big city art programs. In correlation, seventy-nine percent of businesses believe it is important to have an active cultural community in the locale in which they operate. Businesses in Delaware work hand in hand with the arts and humanities communities. This partnership makes my state a stronger community than it otherwise would be.

I have witnessed in Delaware firsthand how rewarding arts and humanities programs can be to our nation's youth. For example, the Possum Point Players in Georgetown, Delaware, is funded through the NEA's Challenge America Program. This organization provides positive alternatives for youth in Sussex County high schools through the creation of theater programs for rural and low-income students. Many of these students would not have the opportunity to participate in such programs without the Challenge America Program. These students have a better chance to increase their SAT scores, develop increased self-confidence, and are more likely to create multiple solutions to problems and work collaboratively with one another.

Furthermore, the Delaware Humanities Forum, through NEH funding, has played an essential role in bringing humanities to all corners of the state with programs available for schools, businesses, and other community groups. Each year the Humanities Forum presents an annual living history event bringing education and entertainment together. Past events have centered around the old west and the gilded age in American history.

It is important for us to remember, the collective benefits gained by not only our districts but also by the nation as a whole and that is why I rise today in strong support of increased funding for the NEA and the NEH.

TRIBUTE TO MIKE BENNETT

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. SCHAFFER. Mr. Speaker, it is an honor to rise today to express gratitude and pay tribute to one of Colorado's outstanding public servants, Mike Bennett, who is stepping down this month as Chief of Staff to U.S. Senator WAYNE ALLARD. Mike is a true professional who has performed his duties with the highest degree of excellence. His leadership in Washington on behalf of Colorado will be greatly missed but always appreciated.

Over the past 11 years, Mike Bennett has served our country with distinction, carrying out both his personal and professional life with dignity, respect and dedication. Beginning first as then-Congressman ALLARD's District Director, Mike later served as Senator ALLARD's Administrative Assistant until his promotion to Chief of Staff in 1999.

Prior to his public service, Mike Bennett was President of First National Bank of Brighton, Colorado, and the Valley Bank of Lyons. Mike served as a member of the Board of Directors of Valley Bank of Brighton from 1984 to 1996. His banking career from 1977 to 1990 also included positions at the Farmers State Bank of Yuma, the Byers State Bank, and Valley Bank of Frederick.

A constituent of the Fourth Congressional District in Colorado, Mike Bennett not only makes his community proud but also his state and country. He has taken the responsibilities and standards of his job to a higher level, and I applaud him now before the House. On behalf of the citizens of Colorado, I ask the House to join me in extending congratulations to Mike Bennett for his commendable accomplishments.

PAYING TRIBUTE TO DEAN DOWSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. McINNIS. Mr. Speaker, I am honored to take this opportunity to recognize Dean Dowson of Lakewood Colorado, for his accomplishments and achievements towards the betterment of his community. Dean has contributed greatly to the city of Lakewood, Colorado and is well known as a pillar of the Lakewood business community.

In May of 2002 Dean was awarded the "Minuteman Award" from the American International Automobile Dealers Association (AIADA), for outstanding political and legislative involvement. He has actively involved himself with Members of Congress, and has pioneered many efforts of the AIADA. Dean has exhibited an unparalleled commitment to his work and has become a pivotal part of the AIADA, aiding an organization that uplifts and reinforces the economy. He has truly excelled in many facets of his job, and continues to improve.

Mr. Speaker, it is my pleasure to stand this evening and honor Dean Dowson before this body of Congress and this nation. Thank you Dean for every minute of time you selflessly spent building a strong foundation in our community. Congratulations on your award and good luck in your future endeavors!

TRIBUTE TO ALEX REZA

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. BERMAN. Mr. Speaker, I rise today to recognize a good friend and an outstanding educator, Alex Reza. In May 2002, Alex retired after 34 years of service with the Los Angeles Unified School System.

Alex was one of the founders of the Mexican-American Studies curriculum at San Fernando High School where he has taught since 1968. He has a unique ability to clearly communicate history and make it relevant and understandable generation after generation. Known for his infectious passion when it comes to civil rights, Alex has made it a priority to ensure that his students learned about civil rights and labor leaders such as Cesar Chavez, Martin Luther King, and Walter Reuther.

A charismatic leader, Alex always manages to enlist numerous faculty, students and community members in his many initiatives and projects. His accomplishments and successes are legion. He helped found the Cesar Chavez March, co-sponsored the San Fernando High School chapter of MEChA (a national Chicano organization), and volunteered in the fund raising campaign for the Cesar Chavez Memorial. In recognition of his service to his community, Alex received the first Cesar Chavez Service Award in the City of San Fernando.

Alex's integrity, enthusiasm and strong consensus building abilities have made him a role model to many and an inspiration to many more. Over the years I have witnessed firsthand Alex's genuine concern for youth and their surrounding communities. I have met many of his former students whose interest in history, government and politics were inspired by his enthusiasm. In fact, three of those students now serve on my staff.

Lawyers, doctors, activists and leaders, including the President of the Los Angeles City Council, proudly count themselves as alumni of Alex Reza's classroom. Alex has created a living legacy through his students and in turn, he has earned the respect of his colleagues and his community.

Over the years, even though I never had the privilege of being a student in Alex's class, I've grown to trust his advice and counsel. In 2000, I designated him as my elector in the Presidential primary. He represented me well, and served with enthusiasm and professionalism.

Mr. Speaker, it is my distinct pleasure to ask my colleagues to join me in saluting my good friend, Alex Reza, for his extraordinary service to the hundreds of students he has inspired in his distinguished career.

IN MEMORY OF ADM ROBERT L.J. LONG

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. SKELTON. Mr. Speaker, it is with deep sadness that I inform the House of the death of ADM Robert L.J. Long of Annapolis, MD.

ADM Long was born in Kansas City, MO, on May 29, 1920, son of Trigg Allen and Margaret (Franklin) Long. He attended Paseo High School, Kansas City Junior College, and Washington University in St. Louis, MO.

ADM Long was a 1943 graduate of the U.S. Naval Academy at Annapolis. He served his country in the Pacific during World War II on the battleship *Colorado.* He was awarded the Bronze Star Medal with Combat ''V'', for meritorious service as Plotting Room Officer during operations against enemy Japanese forces in the Philippine Islands and the Ryukyu Islands.

ADM Long went on to serve the U.S. Navy in many other capacities including commander of the Atlantic Fleet Submarine Force and Vice Chief of Naval Operations in 1972, and commander in chief of all U.S. military forces in the Pacific from 1979 until his retirement in 1983.

After his retirement, ADM Long became a board member of Northrop Grumman Corporation and Hudson Industries. He was also principal executive of President Ronald Reagan's fact-finding committee that investigated the 1983 bombing of the Marine barracks in Beirut.

Mr. Speaker, ADM Long was a valuable leader in the U.S. Navy. He was a role model for younger people interested in military service. I know the Members of the House will join me in extending heartfelt condolences to his family: his wife, Sara, and his three sons, Charles Allen, William Trigg, and Robert Helms Long.

NATIVE AMERICAN SACRED LANDS ACT

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. RAHALL. Mr. Speaker, this body, the United States House of Representatives, is housed in a testament to freedom, a symbol of government, a monument of national historical and cultural significance. Throughout the halls of the United States Capitol there are statues of our founders, our heroes, our history. For the past 200 years, legislators have sweat blood and tears debating the laws of our great country.

In fact, many would argue the United States Capitol is sacred.

But there are many places across this country, no less sacred than the building behind me, that are being desecrated as we speak. It is inconceivable to imagine an oil rig plopped in the middle of the Sistine Chapel. But in fact that is the very problem facing Native American sacred lands today.

For example, the proposed site for a 1,600-acre, open-pit gold mine in Indian Pass, California, is a place where ''dream trails'' were woven. The Bush Administration revoked a Clinton-era ruling that said mining operations would cause irreparable harm to these ancestral lands, an extremely sacred place to the Quechan Indian tribe. Now the tribe is left fighting for its religious and cultural history.

Long before my ancestors arrived on these shores, American Indians were the first stewards of this land. They respected the earth, water and air. They understood you take only what you need and leave the rest. They demonstrated you do not desecrate that which is sacred.

Most Americans understand a reverence for the great Sistine Chapel, or even the United States Capitol. But often non-Indians have difficulty giving that same reverence to a mountain, valley, stream or rock formation.

Recently Indian Country attained a victory in Valley of Chiefs, Montana. The oil company which sought to drill in this valley of peace agreed to transfer its oil leases to the National Trust for Historic Preservation.

But we cannot fight to preserve Native American sacred lands on a case by case basis. Valley of Chiefs serves as a wake-up call for action, for the pressing need to protect bona fide Native American sacred sites wherever they may lie on the public domain.

That is why today I am introducing the Native American Sacred Lands Protection Act. Joining me in the introduction of this legislation are DALE KILDEE of Michigan, GEORGE MILLER of California, ENI FALEOMAVAEGA of American Samoa, FRANK PALLONE of New Jersey, TOM UDALL of New Mexico, BRAD CARSON of Oklahoma, BETTY MCCOLLUM of Minnesota, PATRICK KENNEDY of Rhode Island and JOHN BALDACCI of Maine.

First, the bill would enact into law a 1996 executive order designed to protect sacred lands. Specifically, it ensures access and ceremonial use of sacred lands and mandates all federal land management agencies take the necessary steps to prevent significant damage to sacred lands.

Second, our bill gives Indian Tribes the ability to petition the government to place federal lands off-limits to energy leasing or other incompatible developments when they believe those proposed actions would cause significant damage to their sacred lands.

This is an extremely important provision. The tribes would no longer have to depend on the good graces of federal bureaucrats to protect these lands. Rather, the tribes themselves could initiate those protections.

If you look to our national parks, forests and monuments and you see the commitment to preserve many of our country's natural treasures. The Federal Government has put its full weight behind protecting these lands, and we can do the same for Indian Country.

At a time when the Bush Administration is promoting increased energy development, we must enact comprehensive legislation that prohibits the loss of further Native American sacred lands. We must not stand idly by as these unique places are wiped off the face of the earth.

We commend this legislation to the House of Representatives.

CONDEMNATION OF TERRORIST BOMBINGS IN ISRAEL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. GILMAN. Mr. Speaker, The two simultaneous barbarous homicide bombing attacks that struck Tel Aviv last night, claiming the lives of 3 innocent civilians, took place in the immediate aftermath of Tuesday's terrorist ambush of an Israeli bus carrying civilians outside the Jewish community of Immanuel, claiming the lives of 8 Israelis, including an unborn baby. This attack took the lives of three members of the same family. The military wing of Yasir Arafat's Fatah movement, the Al Aqsa Martyr's Brigade, has taken responsibility for this attack.

As President Bush stated in his June 24 address on the Middle East, as long as Israelis continue to be victimized by terrorists, Israel will continue to defend itself. Any hope that the Palestinian Authority was serious about rejecting terrorism and undergoing serious reform, thereby creating the environment demanded by the President for peace talks to be able to proceed, has been dashed.

Yasir Arafat, and his close associates, who rule tyrannically over their own people while trafficking with terrorists targeting Israel, constitute the root cause of the Middle East violence, as well as the major obstacles to peace. These attacks were designed to coincide with a renewed diplomatic process, specifically the meeting of the Middle East ''quartet'' in New York, which is composed of the United States, the European Union, the United Nations and Russia.

Mr. Speaker, Israel must and will continue to defend itself and its citizens. Israel's military operation in the territories in recent weeks have resulted in the arrests of numerous terrorists, and has undoubtedly prevented countless acts of terror planned against Israeli civilians. Israel's security cannot be entrusted to anyone but Israel. Accordingly, we must support Israel's right to defend itself in the face of these continuing terrorist threats.

We must also make it clear to the Palestinian Authority that their insincere condemnations will not suffice. Those who cavort with terror, those who provide financial support to terrorist groups, and those who knowingly and willingly harbor such organizations while taking no actions against them, are enemies not just of Israel, but of the United States and the rest of the civilized world. They must be treated accordingly.

PAYING TRIBUTE TO DONALD GETZ

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. MCINNIS. Mr. Speaker, I would like to pay tribute to the life and memory of Donald L. Getz, who has contributed selflessly to the betterment of his community and our society. It is my pleasure to applaud Donald's hard work and to honor his achievements before this body of Congress.

Donald was born in October 17, 1931 in Brighton, Colorado where he spent most of his childhood and adolescent years. He was a tremendous athlete, who guided his high school football and basketball teams to the state championship in 1949. Donald enlisted in the United States Navy in 1951, and served this country proudly during the Korean War. His humanitarian efforts during the war earned him respect and honor during his tour of duty. After his service, he returned to Colorado and worked in the trucking. Donald excelled in every aspect of his life, and used his hard work and determination to open the Anchor Bar and Café with his wife in 1974. He operated this very successful business until 1989 when he retired.

Donald was known for his dedication to his family and is survived by his wife Pat and their three children: Gregory, Todd, and Jill. Donald had two wonderful great grandchildren Katie and Nathan who were his pride and joy. Although his community mourns the loss of a great charitable man, they celebrate his great accomplishments and achievements.

Mr. Speaker it is a pleasure to praise the accomplishments to an outstanding individual. I am sure his legacy will live on in the hearts of his community and family. Donald Getz was a man of character and compassion and I take this moment to applaud his character and determination before this distinguished body.

PERSONAL EXPLANATION

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. BEREUTER. Mr. Speaker, on July 17, 2002, an event at the White House to which this Member was invited caused this Member to unavoidably miss 4 roll call votes on H.R. 5093, a bill to provide FY2003 appropriations for the Department of the Interior. Had this Member been present, he would have voted in the following manner:

Rollcall vote number 315—''no'' (the amendment offered by the gentlelady from California, Mrs. Capps); Rollcall vote number 316—''aye'' (the amendment offered by the gentleman from Oregon, Mr. Blumenauer); Rollcall vote number 317—''aye'' (the amendment offered by the gentleman from Arizona, Mr. Shadegg); and Rollcall vote number 3 18—''aye'' (final passage of H.R. 5093).

SHANE BENNETT

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. BRADY of Texas. Mr. Speaker, I rise today to honor Shane Bennett, a courageous Sheriff's Deputy from my district who gave his life so that others may live.

In the months since September 11, we have seen countless acts of bravery performed by our military, law enforcement officers and firefighters. Shane Bennett added his name to the list of those who paid the ultimate price to protect the people of this country.

Officer Bennett, a resident of Montgomery, Texas, in the 8th Congressional District, was a nine-year veteran of the Harris County Sheriff's Department. Killed June 12 in a shootout after he responded to a home invasion, Officer Bennett saved the lives of a Houston man, his stepdaughters and his 3-month-old grandson.

Shane Bennett left behind his wife of six years, Teresa, and their 20-month-old daughter Alyssa.

The bravery that this young man displayed isn't the only character trait that describes his life. At his funeral, he was described as ''caring, loving and compassionate.'' Teresa described him as ''one of the most perfect people you will ever meet.''

The sacrifice Shane displayed was not only evident in his final moments on this earth but countless times during his life. When he and Teresa first learned they were pregnant, he quit riding motorcycles because he didn't want to get in an accident. He always wanted his little girl to have her daddy.

When Alyssa was born, he took a month off of work to spend time with her and help his wife.

Teresa also recalls that he never hesitated to help friends and neighbors in need, either. ''He would do anything for anybody,'' Teresa said. This was evident in Shane's last selfless act before he died.

Friends and colleagues remembered Shane as ''everybody's friend'' and that he was proud to be a sheriff's deputy. Harris County Sheriff's Deputy Bobby Davison said, ''He was always there for his partners. Always there to back you up. He always had a smile on his face.''

Mr. Speaker, the world would be a better place with more people like Shane Bennett, loving husband and father and a role model for law enforcement officers everywhere.

CONGRATULATIONS TO MONICAL'S PIZZA CORPORATION

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. WELLER. Mr. Speaker, I rise today to honor the Monical's Pizza Corporation for receiving the 2002 Employer of Choice Award from the National Restaurant Association Educational Foundation. Monical's Pizza Corporation (Monical's,) is located in Bradley, Illinois and is within my 11th Congressional District.

The Employer of Choice Awards are a component of the Industry of Choice Program. The initiative identifies critical areas to he be addressed in the restaurant and food service industry to improve retention and operating performance. The winners of the award are recognized for their ''best practices'' and are held up as models for others to follow.

Monical's employs 950 people in over 50 locations located throughout Central Illinois with three in Indiana and one in Wisconsin. In 1997, Harry Bond, President of Monical's, began restructuring the company based on Harvard Business School's ''Service Profit Chain''. The ''Service Profit Chain'' is based on the idea of employee and guest satisfaction as the key to success and continued growth. Team leaders, support staff, restaurant managers as well as employees, have embraced the guest, and employee focused idea. Monical's has one of the lowest turnover rates in the industry. Many of their employees have been with them for over two decades.

According to President Harry Bond, ''The company is constantly striving to improve planning and operations with the help of team members and their ideas. The best ideas come from our own staff. Monical's believes in hiring the best people and keeping them happy and productive.''

Mr. Speaker, I urge this body to identify and recognize other companies in their own districts whose actions have so greatly benefitted and strengthened America's communities and workforce.

TRIBUTE TO THE HIGH SCHOOL BOY'S ATHLETIC TEAMS IN PITTSBURG, KANSAS

HON. JIM RYUN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. RYUN of Kansas. Mr. Speaker, I rise today to recognize the accomplishments of the high school boy's athletic teams in Pittsburg, Kansas.

Last fall, the St. Mary's-Colgan Panthers began their school year by taking the state championship in football. They followed that by winning the state basketball championship in double overtime.

The eyes of people all over Kansas turned to this small school recognizing their amazing accomplishment. The Panthers then attempted to complete the trifecta with a baseball championship. They finished the state baseball tournament a respectable second.

However, the Panthers already had a rich baseball tradition, including state championships in four of the past six years.

As a former Olympian, I can appreciate the hard work, perseverance and grit that it takes to reach this level of athletic achievement.

I want to add my congratulations to this outstanding school and let them know that I, along with the rest of Kansas, eagerly anticipate their next season.

PAYING TRIBUTE TO BOB WALLACE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. McINNIS. Mr. Speaker, tonight I rise to pay tribute to the accomplishments of Bob Wallace. It is a great pleasure of mine to honor his hard work and determination, which led to the establishment of the Wallace Oil Company in 1962. Mr. Wallace contributed selflessly to the betterment of his community, which is why he is deserving of our admiration.

Bob Wallace graduated from Regis College in Denver, where he was an All-American on the school's basketball team. Following his graduation, he spent 15 months in the Air Force, where he was stationed at Tinker Air Force Base in Oklahoma and was ranked as an All-American in the 1952 AAU Tournament. Mr. Wallace later participated in the Phillips company basketball team, the '66ers,' where he played at least 60 games a season.

Mr. Wallace created the Wallace Oil Company in 1962 from nothing more than $15,000

in savings and a loan of $10,000. After fifty years of devotion and hard work, Bob is officially retiring as an independent distributor, although he frequently consults with his sons who now own the company.

Mr. Speaker, I stand before you to offer my appreciation to Mr. Wallace for being an outstanding inspiration for the Wallace Oil Company. I wish him the best with all of his future endeavors and applaud the many efforts he has made over the years to provide leadership and guidance to the La Junta community—he is an invaluable citizen! I wish Bob the best of luck in his future endeavors.

H.R. 4691

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. PITTS. Mr. Speaker, last week, the Health Subcommittee held a hearing on the Abortion Non-Discrimination Act, H.R. 4691. The bill clarifies existing federal conscience protections that prohibit discrimination against health care entities that object to participating in abortion. This bill has the support of both faith-based and secular health care providers.

At the hearing, the subcommittee heard testimony from Karen Vosburgh, who serves on the board of Valley Hospital in Palmer, Alaska. Valley Hospital is a private non-sectarian hospital. But in 1997, the Alaska Supreme Court held that Valley Hospital was a ''quasi-public hospital'' and ordered it to open its doors for elective second trimester abortions.

Most hospitals do not participate in abortions. According to the Alan Guttmacher Institute, 86% of all hospitals choose not to get involved in abortions. These are religious hospitals of all denominations, non-religious private hospitals, and even public hospitals. There is a reason why: abortion is not health care. It is elective surgery that takes the life of an unborn child.

Abortion advocates are trying to force hospitals to perform abortions against their will. This is wrong. No hospital should be forced to take the life of an unborn child against its will. Religiously-affiliated hospitals and hospitals that simply don't want to offer the elective procedure shouldn't have to.

I hope the Congress acts quickly to pass the Abortion Non-Discrimination Act, and I urge my colleagues to co-sponsor this legislation. I submit for the record a list of supporting organizations, and letters we have received from two of these organizations: the Catholic Health Association, and the Association of American Physicians and Surgeons.

THE CATHOLIC HEALTH ASSOCIATION
OF THE UNITED STATES,
June 17, 2002.

HON. MICHAEL BILIRAKAS,
Chairman, Subcommittee on Health, Committee on Energy and Commerce, Washington, DC.

DEAR CONGRESSMAN BILIRAKAS: On behalf of the Catholic Health Association of the United States (CHA) I am writing to express our support for HR 4691, the Abortion Non-Discrimination Act. Provisions in this legislation would provide Catholic Health providers safeguards to continue operating in a manner consistent with their moral beliefs and principles.

Increasingly, Catholic and other faith-based health care providers have come under attack for not offering so-called ''reproductive health servicer (e.g.—abortions, etc). In recent years, we have seen orchestrated campaigns to force Catholic health providers to offer services that conflict with our values and moral principles. These campaigns have led to legislation in several states and localities that could force Catholic hospitals to close or substantially reduce their services to the community. These threats continue and fundamentally effect the ability of Catholic Providers to deliver services to their communities.

In several states and for certain federal programs, Catholic and other faith-based providers have been able to secure ''conscience clause'' protection against mandatory provisions of objectionable services. Unfortunately, these approaches are often inadequate and require ''year after year-'' reauthorization. They fail to provide permanent protection and assurances the Catholic providers can continue to operate unencumbered.

In addition to supporting HR 4691, CHA supports legislative efforts to establish a permanent and comprehensive federal conscience clause. We look forward to working with you and the Committee to achieve these ends.

Sincerely,
REV. MICHAEL D. PLACE, STD,
President and Chief Executive Officer.

ORGANIZATIONS SUPPORTING THE ABORTION NON-DISCRIMINATION ACT (ANDA) H.R. 4691/S. 2008

Americans United for Life
Association of American Physicians and Surgeons
Catholic Health Association
Catholic Medical Association
Christian Coalition
Christian Legal Society
Christian Medical Association
Christus Medicus
Concerned Women for America
Democrats for Life of America
Eagle Forum
Ethics & Religious Liberty Commission, Southern Baptist Convention
Family Research Council
Feminists for Life of America
Focus on the Family
Lutherans for Life
National Council of Catholic Women
National Organization of Episcopalians for Life
National Right to Life Committee
Presbyterians Pro-Life
Seamless Garment Network
Seventh Day Adventists, World Headquarters
Susan B. Anthony List
Traditional Values Coalition
United States Conference of Catholic Bishops

HONORING ANDREA MYSLENSKI

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. MANZULLO. Mr. Speaker, I rise today to recognize Andrea Myslenski, a special young girl in my Congressional district who suffers from a very rare and serious disease, ''Post Viral Dysautonomia.'' This is a condition that affects the autonomic nervous system and renders her very tired and unable to go to school or have the normal social life of a 15-year old girl. Andrea was home tutored due to Dysautonomia the second half of eighth grade. She completed all of her work and was awarded the Presidential Award for academic achievement. Andrea began 9th grade with the hope of completing the school year, but a virus caused a relapse of Dysautonomia. She was unable to attend school in October, 2001, and home tutored for the rest of the school year.

Dysautonomia is manifested by symptoms of fatigue, weakness, forgetfulness, brain fog, and mood swings, etc. It has been a very trying time for the family. Perhaps one of the biggest challenges was actually making a definitive diagnosis of Dysautonomia. It took several visits to multiple doctors before a definitive diagnosis was made, making it quite apparent why it is called an ''invisible disease.''

Mr. Speaker, I wish to extend my support to Andrea and many children like her that suffer from Dysautonomia. It is my hope that we become educated about this disease and become strong supporters for the research and treatment of this invisible illness. I am proud to have Andrea as a member of my district and hope that one day a cure for this disease will be found.

COMMENDING THE U.S.–ASIA INSTITUTE

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. OXLEY. Mr. Speaker, I would like to bring to the attention of the House of Representatives the work of the U.S.-Asia Institute, which plays an important role in improving understanding between the United States and China. This nongovernmental organization promotes an ongoing exchange of views between policy makers in the U.S. and China.

Since 1985, a principal vehicle for furthering this dialogue has been the congressional staff delegation visits to the People's Republic of China organized by the U.S.-Asia Institute and hosted by the Chinese People's Institute of Foreign Affairs. These official visits serve to increase awareness, knowledge, and understanding of U.S. and Chinese policies. The 50th delegation will travel to China in August 2002.

To commemorate this milestone, the U.S.-Asia Institute is hosting special events in Washington, D.C. in July 2002. The Chinese People's Institute of Foreign Affairs will reciprocate by hosting special events in Beijing in August 2002.

Since its inception, this program has hosted more than 400 congressional staff members who have traveled throughout China—from Heihe in the north on the Russian border to Hainan Island in the south; from the dynamic coastal cities of Shanghai and Guangzhou to the remote city of Urumqi, an oasis on the ancient Silk Road; from Tibet to Kunming to Beijing and other places in between. Over 150 congressional office and committee staff members have benefitted from fact-finding and the opportunity to discuss in depth issues of mutual interest to our great nations. The progress of the U.S.-Sino relationship rests on dialogue and engagement, and this program provides participants with an unparalleled first-hand view of China, its culture, its government, and its people.

In recognition of a program that promotes understanding, goodwill, and trade between the people of China and the United States, I commend the U.S.-Asia Institute and the Chinese People's Institute of Foreign Affairs for their work and hope that this long-standing partnership will continue for many years to come.

UKRAINIAN LEADERSHIP PROGRAM

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. HINCHEY. Mr. Speaker, I rise today to thank Chairman TAYLOR and Ranking Member MORAN for their diligent work in putting together the FY03 Legislative Appropriations bill. I am particularly pleased that the Committee Report for this bill calls for a study by the Librarian of Congress to determine the feasibility of establishing a Ukrainian Leadership Program (ULP).

The ULP would target young Ukrainian leaders from local and regional governments and give them the opportunity to travel to the United States and meet with federal officials in Washington. The Ukrainian officials would also travel to various congressional districts and meet with local officials. While in local communities, these young leaders would meet with farmers, bankers, educators, and business people. In these meetings, the Ukrainians will be able to observe the critical functions that these groups serve in a democracy. The Ukrainian American community will be actively involved in its implementation and providing logistical support thus reducing the cost to the U.S. government.

The ULP will provide the next generation of local leaders with a better understanding of the relationships between the federal and local governments and the constituencies they represent. These young officials would be able to return to Ukraine with greater knowledge of the inner workings of democracy. This knowledge is critical to implementing further democratic reforms in Ukraine.

Ukraine is at a crossroads. While it has taken great strides towards democracy since its independence in 1991, reforms have slowed over the last few years. As the sixth most populous nation in Europe, the Ukrainian people are people eager for reform. The U.S. can help ensure that democratic reforms are successful by supporting Ukraine's young leaders.

This bill takes a significant step towards the realization of the ULP. We all recognize the large task of establishing such a program. With this study in hand, Congress will have road map with which to move forward on this issue.

The ULP has the support the Ukrainian American community and the young leaders in Ukraine. This step that the Committee has taken is appreciated around the world. Again, I'd like to thank Chairman TAYLOR and Ranking Member MORAN for their hard work on this issue. I look forward to the report and working with my colleagues on this issue.

BIRTHDAY WISHES FOR MRS. SUE SHAFFER

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today to offer best wishes and birthday greetings for a good friend of mine, Mrs. Sue Shaffer, Chairwoman of the Cow Creek Nation. We've worked together for years on issues of importance to tribal governments across the nation. Whenever I speak with tribal leaders around the nation and with lawmakers here in our nation's Capitol about Indian Country, I talk about success stories like those of the Cow Creek Band.

Sue represents the spirit of achievement that so embodies the history of the Cow Creek people. Fighting against a federal government that was at times hostile and at other times indifferent towards them, the people of Cow Creek worked hard from the first treaty with the United States in 1853 until their restoration in 1982 to make a great community for themselves. They've purchased land for themselves and have developed a great business enterprise through the Seven Feathers Casino and other diverse business interests.

Mr. Speaker, what they've done for their community and for all of the non-tribal members they employ is great, and it's in no small part due to the leadership of Chairwoman Shaffer. I'm proud to recognize her as a leader in Indian Country and as a respected Chairwoman in her tribe, but I'm most proud to call her my friend. Thank you for all you've done, Sue. Have a happy 80th birthday and I wish you many more.

HONORING JEANNIE SWEENEY AMBROSE FOR HER COMMITMENT TO VETERANS IN HER COMMUNITY

HON. MICHAEL F. DOYLE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. DOYLE. Mr. Speaker, I rise today to honor United States Air Force Captain Jeannie Sweeney Ambrose, a Vietnam veteran and fellow Pittsburgh Irish-American. Captain Ambrose has served seven years on active service with the Air Force as a nurse and has dedicated much of her life to caring for and honoring all veterans.

Born in Ireland, Captain Ambrose immigrated to the United States in the early 1960s and joined the Air Force after becoming a United States citizen. Captain Ambrose served a tour in Vietnam at Camrahn Bay in a MASH unit, where in her time off, she volunteered her skills as a midwife for impoverished Vietnamese civilians. Following her Vietnam tour, she continued to serve our country in an Air Force Hospital in London where she met her husband, Eddie Ambrose, who has also served his country as a C–131 pilot in Europe.

In addition to compassionately caring for our soldiers during the Vietnam War, Captain Ambrose continues her work of honoring veterans through her poems. Every Memorial Day, veterans gather to hear her touching rendition of a poem she wrote, Flanders Field. Captain Ambrose's efforts on behalf of those who have served our country should be recognized, thus I have included one of her poems ''Take My Hand'' so that my colleagues in Congress and all Americans may share in her compassionate views. I believe that by honoring Captain Ambrose, we are recognizing not only her efforts, but also the efforts and importance of nurses who serve during wartime.

As a son of a World War II veteran, I would like to extend my gratitude to Captain Jeannie Sweeney Ambrose for her kindness and compassion towards our servicemen and women. She is to be commended for her efforts on behalf of Pittsburgh veterans.

TAKE MY HAND

(By Jeannie Sweeney Ambrose)

Here—take hold of my hand, Lad,
I'll try to kill the pain,
You've had your share of fighting this day,
We'll get you well and home again.

Here—take hold of my hand, Lad,
Don't go away from me now,
I'll stop the blood and fix your wounds
But you must stay with me and fight the pain.

Here—take hold of my hand, Lad,
I can't lose more of you now,
We've all come so far, the lot of us,
And I've got to get you to your home again.

Ah—Lad, you must not quit on me now,
I'll not let you go, you hear,
Come, fight with me just once more,
Your mom must not be left to cry.

He had looked at me with one brief smile,
And had asked me my name.
I said call me Jeannie, or call me your mom,
Today it will all be the same.

My lad squeezed my had one more time,
He smiled and then he died,
I closed my eyes to remember his face, and said,
I'll see you each year as we call out the names.

Ah Lad, I still see your face,
And all those we tried to save,
Your face and smile were all we had,
To help get us through those days.

I still remember those lads, they were
Our country's best
They had fought and died for all of us,
In a land so far, far away,
Now they were all gone, now all at rest.

My lads are here and everywhere today,
We must never forget what they gave,
They cannot smile or laugh at war anymore,
But then neither can we who stay.

Ah Lad, if I could just hold your hand once more,
It would help me remember this day,
I cannot forget their faces anymore,
Nor the reasons they died in such pain.

I go to the Wall each year to find my lads,
There are so many of them now,
The Wall grows warm under my hand
As I find and touch their names.
Here Lads, hold my hand,
We're all together again.

WILLIAM BATTERMAN RUGER

HON. JOHN E. SUNUNU

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. SUNUNU. Mr. Speaker, I rise today to express my condolences to the family of William B. Ruger who passed away on July 6 at

his home in Prescott, Arizona, and to celebrate the life of this true American original—inventor, manufacturer and business owner.

Although he was not New Hampshire born, Bill Ruger embodied the best of the Granite State. He blazed his own trail, and in the process, turned his name into a recognizable symbol of ingenuity and workmanship.

A native of Brooklyn, Bill Ruger was interested in firearms for virtually his entire life. He received his first rifle from his father at age 12, and as a teenager, read and studied as much as he could on firearms; the history of firearms, their design and how they are manufactured. Bill carried his passion for firearms to the University of North Carolina where as a student he turned a vacant room into a machine shop. His interest in firearms was so keen that while in his early 20's, Bill developed the preliminary plans for a light machine gun for use by the Army.

After two years at North Carolina, Bill left to work at what he loved. He took a job in a gun factory and eventually opened his own business as a toolmaker; a business which did not succeed. Still, during that time, Bill kept experimenting with firearm designs, eventually perfecting a design for a .22 caliber pistol.

In 1949, with a $50,000 investment from his partner, Alexander Sturm, Bill Ruger founded a firearm manufacturing business in a ''little red barn'' in Southport, Connecticut. As business increased, Sturm, Ruger and Company expanded, opening new plants including a plant in Newport, New Hampshire in 1963 to produce its own firearms components instead of paying others to do the same. Today, Sturm, Ruger and Company is world-renowned for its more than 50 models of revolvers, police sidearms, target pistols, rifles and shotguns, and has developed a reputation for quality in specialized castings for products in the aerospace field, the automobile industry, medicine and the sport of golf. The company has grown to become America's largest firearms manufacturer and one of New Hampshire's largest employers; all under the watchful eye of Bill Ruger.

Bill Ruger valued his employees and their craftsmanship and would never sell a product he would not have been proud to own himself. This attention to excellence is a fact to which generations of firearms owners, police officers and military personnel will attest.

Beyond the success Bill Ruger enjoyed as a firearms manufacturer, he had many other pursuits and interests including his collection of antique firearms, 19th Century Western American art, and antique automobiles and was particularly known as a generous and charitable man who gave of himself and his finances.

The foundation of his life, though, was his family—his son, William Ruger Jr., who now heads the family business; his daughter, Carolyn Vogel; his six grandchildren, and 10 great-grandchildren. Each held a special place in his heart, as did the memory of his lovely wife, Mary Thompson Ruger, who passed away in 1994, and that of his late son, James Thompson (''Tom'') Ruger.

In New Hampshire, Bill Ruger's legacy will remain for decades to come. He was an American original, and those of us fortunate enough to have been able to know Bill will truly miss him.

NEW ALLIES, OLD FORMULA

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. DICKS. Mr. Speaker, I rise to express my deep concern about the undemocratic and totalitarian actions of the President of Kazakhstan, Nursultan Nazarbayev. He has recently banned several opposition parties, arrested and exiled their leaders, and has made the formation of new parties virtually impossible. He has shut down many newspapers and television stations in Kazakhstan, preventing its citizens from having a free press. Furthermore, President Nazarbayev has reportedly placed $1 billion dollars of oil revenue into a secret Swiss bank account.

This behavior should not be tolerated and I believe it is important at this time to focus international attention on this situation. President Nazarbayev needs to allow for all legitimate opposition parties and their leaders to run for public office and allow for all exiled political leaders to return to Kazakhstan. He must also allow for a free press, the foundation of any democracy. President Nazarbayev should be held accountable for widespread corruption, including the placement of government funds into secret Swiss bank accounts. I am asking that we insert into the RECORD a July 12th editorial written by the Washington Post Editorial Board which more fully describes the injustices currently occurring in Kazakhstan. [the article follows]

[The Washington Post—Friday, July 12, 2002]

NEW ALLIES, OLD FORMULA

As the United States rushed to strengthen ties to the countries of Central Asia after Sept. 11, one question that quickly arose was whether the new military agreements and economic packages would serve only to bolster the repressive rule of the region's autocrats or whether U.S. influence would also be used to bring about political and economic reform. Some 10 months later the first answers are in, and they are at best mixed. The region's most repressive ruler, Islam Karimov of Uzbekistan, has also proved to be the one most eager to forge a close relationship with Washington; consequently, his government has responded to concerted pressure from the Bush administration with a few modest concessions and promises of more. Elsewhere, however, a couple of new allies may have concluded that their new utility as U.S. security partners empowers them to repress their domestic opponents all the more forcefully.

Nursultan Nazarbayev, the president of Kazakhstan, certainly seems untroubled by any imperative to accept Western norms of democracy or human rights. Though his huge, oil-rich country once appeared to be leading the former Soviet republics of the region in reforming the old system, it has, since Sept. 11, moved steadily in the opposite direction. Mr. Nazarbayev, a former member of the Soviet Politburo who took over Kazakhstan when it became independent and has ruled it ever since, did not take kindly to the formation of an opposition party by former government officials late last year. He arrested and tried several of its leaders, and recently he had his rubber-stamp parliament pass a new law making the legal formation of such parties virtually impossible. The president also did not like reading reports in the Kazakh media about a secret Swiss bank account in which he deposited $1 billion in oil revenue. A score of newspapers and an equal number of television stations have been forced to shut down in recent months, and a number of journalists have been attacked or threatened.

Mr. Nazarbayev has arrogantly dismissed U.S. complaints about his behavior, just as he has waved off suggestions that he consider allowing more democracy. Instead, he seems to be modeling himself on the long-time U.S. allies in the Persian Gulf. Rather than reform, he signs drilling and pipeline deals that will allow his country to rake in billions in oil income; rather than respect human rights, he offers cooperation with the U.S. military. Just this week his government formalized an agreement with the Bush administration that will allow emergency landings and refuelings for U.S. military planes at Almaty's international airport.

Bush administration officials say they understand that accepting a relationship on such terms is more than a political embarrassment. ''Authoritarian governments and largely unreformed economies,'' Deputy Assistant Secretary of State Lynn Pascoe told a recent congressional hearing, ''create the conditions of repression and poverty that could well become the breeding grounds for further terrorism.'' The question, then, is how to break the old model that Mr. Nazarbayev would renew. As in the Persian Gulf, admonitions from ambassadors, and even rhetoric from the White House, will not be enough; Mr. Nazarbayev must understand that his country's relationship with the United States depends on political change. Does the Pentagon really need another landing arrangement in Central Asia? If such agreements were withheld—or frozen—Mr. Nazarbayev and other Central Asian dictators would be quick to get the message.

CONDOLENCES TO FAMILY AND FRIENDS OF SAMATHA RUNNION

HON. EDWARD R. ROYCE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. ROYCE. Mr. Speaker, I rise today to offer my condolences to the family and friends of Samatha Runnion, and to all those who have been affected by her tragic murder.

Samantha was abducted from her home in Stanton, California, on Monday, July 15. She was sexually assaulted and murdered, and her body was found the next day in Cleveland National Forest.

President George W. Bush has called on Attorney General John Ashcroft and FBI Director Robert Mueller to order that all federal resources necessary be made available to the Orange County sheriff's office. Rewards totaling more than $100,000 have been offered by British Petroleum, which employs Samantha's mother, the Coalition of Police and Sheriffs in Santa Ana and others.

What happened to Samantha is deeply disturbing. Why does something like this have to happen to an innocent child? We shouldn't have to keep children off the streets. They should be allowed to go out and play, without fear of such horrendous acts. Parents shouldn't have to worry about their children disappearing the moment they turn their backs.

Sadly, the television has recently been strewn with alarming news of missing children like Samantha, Elizabeth Smart, Jahi Turner,

and others. We hope that justice will be served, but even finding those accountable gives just a slightly cathartic feeling after such a huge loss. Our hearts go out to Samantha's family, the families of these other children, and anyone else feeling the pain of losing a child.

''WATCH WHAT WE DO, NOT WHAT WE SAY''

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. CONYERS. Mr. Speaker, over the past few months, we have seen one revelation after another about the conflicts of interest rampant among figures of the Bush Administration, from the President and Vice President, themselves, to senior officials in key agencies. We have had a veritable cornucopia of conflicts. Almost every day, the media has uncovered a new one. It reminds me of a prophetic invitation made by John Mitchell, President Nixon's first Attorney General. Before we learned the scope of Watergate, Mitchell asked the American people to:

WATCH WHAT WE DO—NOT WHAT WE SAY

Well we watched what Mr. Mitchell did, as he requested. And John Mitchell went to jail. His advice seems particularly pertinent these days. Practically every senior official of the Bush Administration has made pious speeches about the importance of business ethics, professional integrity and scrupulous avoidance of conflict of interest. That's what they have said.

But when we examine what they have done, the chasm between their sermons and their actions is striking. That sharp contrast angers ordinary citizens who have been laid off, or seen their nest egg investments evaporate, or their pensions become worthless. Why should they be angry? Let me count the ways.

DEPUTY ATTORNEY GENERAL LARRY THOMPSON

The head of the President's so-called ''Swat Team'' on corporate crime is Deputy Attorney General Larry Thompson. He already has rejected my call, months ago, for him to recuse himself from the Department's decisions in the Enron scandal. I did so because Thompson had received benefits from—and might be receiving a pension from—a law firm that has substantially represented Enron. That raised a serious possibility that he could not vigorously pursue the case against Enron. At the least, I asked him to explain his decision if he did not recuse himself.

Now Thompson has pledged to the public that he will hunt down corporate criminals ''with vigor and aggressive manner.'' Yet Thompson was on the board of Providian Financial Corporation and chaired its compliance and audit committee, at a time when—to put it very charitably—Providian was not only unscrupulously enticing and exploiting the poorest class of debtors, but also inflating earnings by excessive charges and by shady lender practices that violated federal and state consumer protection rules. Thompson's spokesman has claimed that he only learned of these practices when regulators made inquiries. His spokesman actually claimed that Thompson was owed applause for helping to settle the claims. Well I'm sorry, Mr. Speaker, but if he was chairman of Providian's compliance committee and was unaware his corporation was badly out of compliance, then I have to wonder if he's fit to manage the Department of Justice.

It's bad enough for someone with the sensitivities Thompson should have, that Providian's growth relied on pursuing customers with poor credit card histories, who have difficulty obtaining further credit, misled them into accepting excessive interest rates and hidden charges, and denied the customary grace period for delinquent credit card payments. Apparently, Thompson, and other executive insiders, dumped large blocks of stock knowing that the reported revenues were overstated because of these unlawful practices. And worse still—just like the Enron officials Thompson is supposed to be investigating—the Providian executives sold their company stock while recommending purchase of large holdings of that stock to the employees 401 K plan. It is true that Thompson would have had to sell his shares in the company in connection with his nomination; but there is no suggestion yet that he was going to act any differently than his Providian colleagues, even before his nomination.

ARMY SECRETARY THOMAS WHITE

Thomas White was Vice President of Enron's Energy Services Unit, one of the company's components engaged in its most egregious accounting practices. In 1981, between June and October he unloaded over $12 million worth of Enron stock. Investigators are assessing whether he violated insider trading laws. In addition he first hid the full number of contacts he had with Enron officials after he had assumed federal office. Then he admitted to having 84 phone calls with company officials in his first 10 months as Army Secretary. He also failed to comply with the ethics laws in divesting himself in a timely manner of all of his Enron shares and options. As in Larry Thompson's case, if White's dubious claims are true that he was unaware of the corporation's phony accounting, it is hard to have confidence in his ability to manage operations and procurement involving billions of dollars.

In sum, I cannot put his offensive situation any better than a New York Times Editorial that said: ''Army Secretary Thomas White has repeatedly pledged that, if questions stemming from his ties to Enron became too much of a distraction, he would resign. They now have and he should.''

PRESIDENT BUSH

The numerous serious questions raised about President's Bush's relationship with Harken Energy while he served on its board have been widely reported in the press. These principally include the circumstances under which he received several loans to purchase company stock; and under which he sold stock with knowledge of negative business news that was about to be made public. Obviously such serious charges require a thorough airing. In the meanwhile, the public will have to make its own judgment as to whether the President's corporate experience makes it inappropriate for him to so sternly lecture the private sector on the importance of the highest ethical standards for American business.

VICE PRESIDENT CHENEY

A major Securities and Exchange Commission investigation is underway of oil services giant Halliburton Corporation. Among other activities at issue are Halliburton accounting practices, which were parallel to those of other corporations now under current public scrutiny. Vice President CHENEY was not merely a vice president or division chief at Halliburton, Mr. Speaker, he was the CEO. He was in charge. Polls have shown that 53 percent of the American people believe he is either lying or hiding something about his involvement in Halliburton's questionable corporate practices. This is hardly surprising since the Nation is already suspicious about Mr. CHENEY's refusal to make public his secret meetings with oil industry executives lobbying his energy policy task force behind the scenes. Yet the Vice President refuses to disclose his records regarding his role in these Halliburton transactions. He won't even talk about this troubling matter, even though there is no law, regulation or rule that he has been able to cite that would prevent him from doing so.

The Vice President says that whenever the SEC asks him for information, he will cooperate fully. . . But that raises a catch 22 problem because the head of the SEC, Chairman Harvey Pitt, himself has two conflicts of interest that are equally serious

HARVEY PITT

First, as is now widely known, Mr. Pitt for years was private lapdog of almost every major accounting firm and numerous banking clients. His bona fides to conduct vigorous investigation of past wrongdoing and oversight of future conduct are highly suspect. This is especially disturbing because his one year ''probation period'' under the Ethics Law is about to end. He then will be free even to participate in cases involving his former clients. To be sure, in recent weeks, Chairman Pitt has missed no opportunity to proclaim how tough he plans to be on corporate criminals. But last fall, he was telling people that what the private sector needed was a ''kinder, gentler SEC.'' This year he strongly lobbied for the far weaker Oxley bill to regulate corporate misbehavior, rather than the tough Sarbanes bill that passed the Senate unanimously last week.

Second, it will not be credible to the American public that Mr. Pitt will really pull out all the stops to investigate wrongdoing by the Halliburton and Harken corporations and ''let the chips fall where they may'' regarding any culpable involvement of the President or the Vice President. As James Madison sagely advised over two hundred years ago, ''If men were angels,'' we would need no government watchdogs. Even if we were convinced that Mr. Pitt is an honorable man, none of us are angels. It is too much to expect that he will supervise investigations which may involve his bosses, President Bush and Vice President CHENEY, without being influenced one iota by their relationship to him. The inherent conflict is just too great.

Therefore, I call on Chairman Pitt to appoint a widely respected Special Counsel to the SEC, clearly independent of Pitt's chain of command authority, to conduct those investigations, as well as any investigation involving Pitt's former clients. Should he and the Department of Justice determine he lacks full authority to do so, then I call on them to present to the House and Senate the necessary legislation to provide that authority, so that we may enact it expeditiously.

Mr. Speaker, I agree with President Bush and the other outspoken Administration officials that it is essential to restore public confidence in American corporate ethics, investor

markets and the operation of our free market system. Appointing a Special Counsel for the SEC to pursue these sensitive cases will help us start to do so right away.

CHAMPION OF HOUSING

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mrs. MYRICK. Mr. Speaker, I rise today to pay tribute to a great leader and a pillar of the community, Rollan Jones.

Founder and Chairman of the Board of R-Anell Housing Group in Denver, North Carolina, Rollan was known as a driving force in the manufactured housing industry until his death on May 29, 2002. His vision and his determination were contributing factors to the growth of manufactured housing in North Carolina and the Southeast. In his 46 years in the manufactured housing industry, he gained expertise in every facet of the business, from production line to Chairman of the Board.

His accomplishments as an innovator and leader in the manufactured housing industry were nationally recognized with his induction into the Hall of Fame in 1994. He was also a founding member and past President of the North Carolina Manufactured Housing Institute, James E. Lavasque Award recipient, and served on the MHI Board of Directors for ten years.

Rollan is credited with pioneering many of the manufacturing processes and technologies in use today. Noted as a champion of design, materials, workmanship and service, he established the core principles required to make R-Anell Housing Group an industry benchmark.

He will be remembered through the countless lives he touched, the friends, family and acquaintances he held so important, and his habit of lending a hand wherever it was needed. In all of his glory, through his tireless efforts in the housing industry, somehow Rollan found the time to be a FINE fisherman as well. He will be sorely missed.

GENERAL BENJAMIN O. DAVIS, JR.

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. BISHOP. Mr. Speaker, I rise today in memory of General Benjamin O. Davis Jr., who departed this life on July 4th, after a distinguished career as our country's first black Air Force general officer.

He will be remembered in history for his command of the Tuskegee Airmen—that amazing squadron that flew more than 10,000 sorties over North Africa and Europe during World War II and never lost a plane! Even more than that, his colleagues in the military recognize him as a truly great leader and warrior throughout his 34 years of uniformed service to his country. And, perhaps most of all, General Davis is known by all as an exemplary public servant and model citizen whose extraordinary success and many contributions have played a big part in turning the tide against official racism. As former Defense Secretary William Cohen has said, he proved that blacks and whites cannot only serve together, they can succeed together.

General Davis, we salute you, Sir, for your great and distinguished service to our great nation.

RECOGNIZING REAR ADMIRAL ROLAND KNAPP

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. DICKS. Mr. Speaker, I rise today to recognize an outstanding naval officer, Rear Admiral Roland Knapp, from Gig Harbor, Washington. Admiral Knapp has served with considerable distinction and dedication for the past 33 years, and I would like to take this opportunity in the House of Representatives to thank him for his service and his contributions to the defense of our great nation.

On July 26, Admiral Knapp will retire from the Navy after 33 years of active service, and he will leave command of the Navy's Executive Office for Aircraft Carriers here in Washington, DC.

During his tenure as Commander of the Navy's Aircraft Carriers Office, Admiral Knapp has overseen the christening of USS *Ronald Reagan*, our newest nuclear aircraft carrier, the complex refueling overhaul of the USS *Nimitz* and the contract awarding of CVN–77. He has also been responsible for all aircraft carrier acquisition and life cycle support programs the past 2½ years. During this tenure his command worked with the fleet to ensure our ''in-service'' carrier force was maintained at the highest possible levels of readiness. Their brilliant dedication to our force was visibly evident during the recent sustained combat-operations conducted during Operation ''Enduring Freedom.'' In addition, Admiral Knapp has ensured the success of our aircraft carrier programs well into the future through his numerous innovative business practices as well as merging the latest technological advances into our carrier fleet.

Mr. Speaker, I am proud to recognize Admiral Knapp and his wife Jean for their honorable service to our nation. I Join my colleagues in the House today in wishing them continued success and the traditional naval wish of ''Fair winds and Following seas'' as Admiral Knapp closes out his distinguished military career.

HONORING PORT CHICAGO ANNIVERSARY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. GEORGE MILLER of California. Mr. Speaker, this week we commemorate the 58th anniversary of the July 17, 1944 disaster that caused the largest Home Front loss of life during World War II: the massive explosion at the Port Chicago Naval Magazine near Concord, California.

Fifty eight years ago this week, 320 sailors, Marines, Coast Guardsmen, Merchant Mariners, and workers were killed in the gigantic explosion of armaments being loaded aboard ships bound for the Pacific theater. Most of the men, who served as munitions loaders, were black. Commanded exclusively by white officers, they were given little training or equipment to assist them in the dangerous and ultimately fatal job of loading high explosives. For years, the exact nature of the explosives they loaded remained secret, concealing the fact that the dangers and the need for training—had been significantly underestimated.

Several days after the explosion—after they had tended the wounded and picked up the shredded remains of their colleagues—the surviving black sailors were ordered back to load more ships without any further training, and before it was even established what had caused the cataclysmic loss of life. Several hundred refused, and ultimately, 50 were tried for mutiny and convicted.

Over the past decade and a half, there has been a great movement to clear the names of these men, who were loyal, brave and dedicated sailors serving a nation that segregated them, exposed them to unreasonable dangers, and railroaded them into prison on trumped up mutiny charges. Over a half century later, the terrible mistreatment of these sailors calls out for justice.

When we began the effort to inform the American people about Port Chicago, it was an almost forgotten chapter in American military and social history. Now, a decade and a half later, there are books, articles, documentaries that have ran repeatedly on cable television, and even a full length television movie. While we have not cleansed the convictions from the records of all the men, the conviction was removed from one record because of congressionally mandated review, and Freddie Meeks, one of the few sailors remaining alive, received a full presidential pardon.

Today, the Port Chicago Naval Magazine National Memorial at the site of the explosion commemorates the men who lost their lives on July 17, 1944, and all those who served at that base. That Memorial, which I was honored to sponsor, was dedicated on the 50th anniversary of the explosion.

For those interested in learning more about this historic story, there are also numerous web pages, including:

www.portchicagomunity.com;
www.cccoe.k12.ca.us/pc/;
www.historychannel.com/exhibits/portchicago/;
www.ibiblio.org/hyperwar/USN/fax/PC/;
www.history.navy.mil/faqs/faq80-1.htm;
www.history.navy.mil/faqs/faq80-4.htm;
www.nps.gov/poch/index.htm.

This year, a team of very talented young people from Bakersfield High School in Bakersfield, California produced an outstanding documentary that won the statewide History Day competition and was submitted to the national competition. I congratulate Dan Ketchell and his entire team, for their outstanding work on the Port Chicago film.

And the Port Chicago story has changed lives. I have been to many of the annual services held at the Port Chicago chapel, and have spoken with the men and women who lost parents, brothers, and other relatives in the explosion: many who never knew the full story of how their loved one perished until reading the story of Port Chicago in a news story or seeing one of the films. And then they came to the site of the explosion, perhaps saw

their relative's name engraved on the marble, and understood something about their family they never really knew before. One daughter of a victim from Texas, Raye Adkins, who was born after her father's death and was named for him, has dedicated herself to researching the families of the victims.

One year ago, several dozen Members of the Congress joined me in sending a letter to President Bush, asking that he examine the Port Chicago case and the impressive record developed in conjunction with the Meeks pardon. We asked him to use his Executive powers to grant clemency to all the sailors prosecuted for protesting the racism under which they were forced to live and work, even as they served their nation during a war against racism and persecution. I am so pleased that the members of Alpha Kappa Alpha, a sorority with more than 140,000 members throughout the nation, has sent dozens upon dozens of names on a petition to the President urging him to accede to this request for his intervention.

The Port Chicago story lives on as an increasingly fascinating piece of U.S. history and as a moving tribute to the men who served and died that terrible night 58 years ago. I know the Members of the House of Representatives join me in honoring all the men of Port Chicago for their selfless service, their courage and their sacrifice.

SPECIAL BIRTHDAY TRIBUTE TO MS. IDA HILL-MOORE

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Ms. LEE. Mr. Speaker, I rise to pay a special birthday tribute to Ms. Ida Hill-Moore, who will be celebrating her 80th birthday on Saturday, July 20th.

Ms. Hill-Moore was born in Columbia, South Carolina and raised in Detroit, Michigan. She attended Detroit Public schools, after which she attended many institutions of higher education.

Ida Hill-Moore has dedicated her life to her family and friends in all of the communities in which she has lived. She loved her two sons, John and Jeffery, very dearly. Sadly, both have passed away.

In 1957, Ms. Hill-Moore moved to Los Angeles, California, where she worked for the Los Angeles Police Department. Afterward, she worked for the prestigious Los Angeles County Museum. Ms. Hill-Moore has a long history of civic duty and continues to remain active in her community. She has served as a Member of the Conference of Concerned Citizens, and she is the current President of Angeles Place residential home.

I am proud to join Ms. Hill-Moore's family and friends as we celebrate her commitment and dedication to her family, friends and humanity itself. Today, I wish you a very happy birthday.

RECOGNIZING THE SAN GABRIEL/POMONA VALLEY C.O.P.E. OF THE LOS ANGELES COUNTY FEDERATION OF LABOR FOR OVER 50 YEARS OF SERVICE AND LEADERSHIP

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Ms. SOLIS. Mr. Speaker, I rise today to honor the San Gabriel/Pomona Valley Council on Political Education (C.O.P.E.) for more than 50 years of leadership and service to the Southern California community.

The San Gabriel/Pomona Valley C.O.P.E. has championed the rights of working men and women throughout the community. Through its large network of dedicated union members and their families, C.O.P.E. has actively worked to improve wages, working conditions, health care, education, and the overall quality of life of every worker.

Much of the success of the San Gabriel/Pomona Valley C.O.P.E. is attributed to the efforts of its membership and the tremendous commitment of its leadership. Today, I would like to recognize the service of past leaders that played an important role in the organization's well-being, namely: Arnold F. Hackman, Meat Cutters Local Union #439; Dallas Jones, formerly of the Los Angeles County Firefighters Local #1014 and now serving as Director of the Governor's Office of Emergency Services for the State of California; William R. Lathrop, United Food & Commercial Workers Union #1167; Jesse Martinez, United Brotherhood of Carpenters and Joiners of America, Local #1976, #309, and #409; Joseph R. Rocha, Laborers International Union of North America Local #1082; Herb Schisler, Los Angeles County Firefighters AFL–CIO Local #1014; and John M. Wolsdorf, hitemational Brotherhood of Electrical Workers AFL–CIO Local #1710.

Therefore, I ask my colleagues to join me in congratulating the San Gabriel/Pomona Valley C.O.P.E. for their work and contributions to this great nation.

COMMENDING THE COMMUNITY OF LAMAR COUNTY, TEXAS, ON THE PURCHASE OF THE OLD PARIS POST OFFICE

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. SANDLIN. Mr. Speaker, I rise today to celebrate the vision and leadership of the leaders of Lamar County, Texas, the commitment of its citizens and the recognition of the success that can occur when the federal and local governments work together for the common good.

Tomorrow, on July 19, 2002, the Lamar County Commissioners Court will save a building in Paris, Texas, that reflects the history of this community. Further, the Court will give the building new life and a new public purpose.

In a matter of hours, Lamar County will approve the purchase of the historical Paris Post Office from the United States Postal Service. This building will be used for courtrooms, office space, and other public purposes. The building will be a center of justice and local government for generations to come.

Our nation is a nation of laws. Our constitution is strong, enduring and based on principles of right and wrong. We believe in freedom, justice and certain unalienable rights that are extended to all people. Many of these issues are considered daily in courthouses all across America.

A courthouse is more than bricks and mortar. A courthouse is a physical testament to the commitment of the American people to the principles we hold dear. Times change. Society changes. Other buildings may come and go.

But a court house remains—visible, strong, and permanent. A courthouse reassures our citizens that our law is here today, was here yesterday and will be here tomorrow.

In addition to being used a courthouse, this historic building will provide the citizens of Paris and Lamar County with additional public space to be used in a way that is deemed appropriate by the community and its leaders. Those uses may change from year to year. This is as it should be. A building such as this recognizes both the stability of our society and the changing needs of that society.

I think it is entirely fitting and proper that the United States House of Representatives recognize and commend Lamar County Judge M.C. Superville, and County Commissioners Michael R. Blackburn, Rodney C. Pollard, Carl L. Steffey, and Jackie Wheeler for their vision in making this opportunity available to the citizens of Lamar County.

The acquisition of this facility by Lamar County is an excellent example of what can be accomplished when we all work together. I appreciate the commitment of the local citizens and the generous attitude of the United States Postal Service. Both were necessary to complete this project.

As a result of their efforts, the public has been well served.

REGARDING H.R. 5067, TO PROVIDE HEALTH CARE COVERAGE FOR CHILDREN AND PREGNANT WOMEN FROM MICRONESIA WHO RESIDE IN THE U.S.

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mrs. MINK of Hawaii. Mr. Speaker, Micronesians residing in the U.S. are classified as lawful non-immigrants and are unable to obtain federal health care services. They cannot obtain Medicaid benefits even though they are members of our local communities and pay taxes.

Citizens of the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palua have made sacrifices for the U.S. The U.S. tested a total of 67 atomic and hydrogen bombs between 1946 and 1958 at the Bikini and Enewetak atolls in the Marshall Islands. The effects of these tests are still felt throughout the region.

Additionally, the Compact of Free Association prevents other countries from entering into

military alliances with the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. Such military alliances could threaten the security of our nation. Between 1918 and 1941, foreign powers did occupy these islands. And as history will recall, many World War II battles were fought in the islands fortified and occupied by Japan. The Compact prevents this from happening again.

In the Compact, the U.S. government promised to assist Micronesians in exchange for their continued sacrifices. The U.S. agreed to foster economic development and help these countries become self-sufficient.

This same treaty allows Micronesians to freely migrate to the U.S. According to the 2000 Census, 115,247 Micronesians are living in the U.S. Most Micronesians do not become citizens, yet they become members of our communities. They are here legally. They pay taxes, attend our schools, and join our military. They work with and for us. Nevertheless, the federal government denies Medicaid health care benefits to noncitizens and lawful non-immigrants.

My bill, H.R. 5067, will give Micronesian children and pregnant women legally residing in the U.S. access to Medicaid and the State Children's Health Insurance Program (SCHIP). Micronesians should be covered because it is in the interest of our nation to improve the public's health, which includes basic health care for poor children and pregnant women regardless of their nationality or citizenship status.

I urge my colleagues to cosponsor H.R. 5067 and help the U.S. fulfill its commitment to our neighbors and coworkers from Micronesia. They made sacrifices to ensure the security of our nation. It is time for our nation to fulfill its promises.

FAITH UNITED METHODIST CHURCH CENTENNIAL ANNIVERSARY

HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. LAMPSON. Mr. Speaker, I am here today to bear witness to the 100th Anniversary of the Faith United Methodist Church in Dickinson, Texas. This extraordinary religious community traces its roots back more than a century to the establishment of the Warren Chapel in the town of Dickinson in 1901. Six years later, the Methodist community in League City founded their own chapel in 1907. These two communities, separated by a mere seven miles shared both the trials and the joys of life together and in June of 1967, the two congregations merged to form the Faith United Methodist Church.

On September 7, this community will commemorate its Centennial with the unveiling of a Texas historical marker celebrating 100 years of faith and community. I ask you to join me in recognizing this remarkable congregation's faith and sense of community that has passed the test of time and remains a shining example of America's strength and unity.

PROTECT CONSUMERS' RIGHT TO TAKE COMPANIES TO COURT WHEN DISAGREEMENTS ARISE

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. GUTIERREZ. Mr. Speaker, today I am introducing the ''Consumer Fairness Act of 2002,'' a bill to address arbitration clauses that are unilaterally imposed on consumers as unfair and deceptive trade practices and prohibit their use in consumer transactions.

Increasingly, companies such as banks and credit card companies, computer makers, insurance firms and car dealers are requiring customers to waive their right to sue when a disagreement occurs. Furthermore, these mandatory arbitration clauses are usually not clearly disclosed in agreements and contracts.

Requiring consumers, as a mandatory condition of providing a service or selling a good, to waive his or her right to pursue a grievance through the United States justice system is problematic for several reasons.

Arbitration can cost more than pursuing a case in court, with fees that often run into the thousands of dollars.

Arbitration limits the evidence that can be used.

Arbitration usually does not allow for appeals.

To address these problems, this Act would prohibit companies from using clauses in contracts and sales agreements that require consumers to agree, in advance, to submit any disagreements to arbitrators. Such clauses ban consumers from suing a company and participating in class action lawsuits. This legislation protects consumers' right to sue and clarifies that consumers can choose to resolve their disputes with companies through arbitration.

Mr. Speaker, I urge my colleagues to support this much-needed legislation for all consumers in America.

RECOGNIZING McQUADE CHILDREN'S SERVICES

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mrs. KELLY. Mr. Speaker, I rise today to recognize McQuade Children's Services, located in New Windsor, NY, for its dedicated service to special needs children of the Hudson Valley. On Sunday, July 21, McQuade Children's services celebrates its 140th birthday.

McQuade's service to Hudson Valley residents dates back to 1862, when it was founded as a home for orphaned or abandoned children. Established by the Newburgh Union Female Guardian Society as the ''Home for the Friendless,'' it was renamed in 1945 to commemorate the life of Dr. Milton Ash McQuade.

Dr. McQuade was an ear, nose and throat specialist who himself was abandoned at a church doorstep as a baby and raised by the Reverend McQaude and his wife. Dr. McQuade emigrated from Canada to Newburgh, NY in 1914 to establish a medical practice and throughout the years, supported the Home and provided free medical care to the children. Upon his death in 1928, Dr. McQuade dedicated much of his estate to the Home, enabling it to continue to provide services throughout difficult times such as the Great Depression.

Today, McQuade Children's Services provides quality care in a variety of settings to 300 children and their families. Its mission, however, has remained one of providing an accepting, nurturing environment for children. Putting ''Children First'' is not just a pledge taken annually by staff, but a philosophy that is truly internalized by all those who help McQuade's succeed.

The services available to children are vast and varied, ranging from therapeutic residential care to special education. McQuade's facilities and programs include: a boys and girls Residential Treatment Center, the Kaplan School for special education, Diagnostic Assessment Centers, and community programs focused on family counseling and independent living skills. Teaching responsibility and imparting values to children, McQuade's staff works tirelessly to provide social, academic, physical and spiritual growth.

McQuade's numerous success stories are a testament to its importance to the Hudson Valley community. The McQuade staff and volunteers share an unparalleled commitment to improving the lives of children in need. Once again, I commend McQuade Children's Services for providing quality care to children for well over a century and I look forward to celebrating their 140th anniversary this coming Sunday, July 21, 2002.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

SPEECH OF

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes:

Ms. WATERS. Mr. Chairman, the United States government has a history of leasing lands belonging to Indian tribes and individual Indians. The government has been receiving grazing, timber and mineral royalties from the lease of these lands—royalties that the government was supposed to hold in trust for the rightful owners of the lands.

Unfortunately, the United States government has admitted that it mismanaged these trust funds for decades and lost the money of our nation's first peoples. Federal courts have ruled that the government owes Indians an historical accounting of all Indian trust funds going back to the date the funds were deposited.

This bill includes provisions to restrict the ability of the Federal government to provide an accounting of Indian trust funds. The bill even presumes that all trust fund records prior to 1985 were correct. These provisions defy court decisions and have no place in an appropriations bill.

I urge my colleagues to strike these unjust provisions and let Native Americans know what happened to their money.

INTRODUCTION OF THE MEDICARE MARKET ACQUISITION DRUG PRICE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. STARK. Mr. Speaker, I rise today to introduce the Medicare Market Acquisition Drug Price Act of 2002. This bill would correct a long-standing and well-documented problem with the way Medicare pays for the few outpatient prescription drugs it covers today. This bill would save taxpayers billions of dollars, without compromising Medicare beneficiaries' access to cancer treatment or other services. Congress should enact this bill immediately.

This problem must be resolved—this year—whether or not we succeed in creating a new Medicare prescription drug benefit. Due to pharmaceutical industry efforts, this problem was not addressed in the prescription drug legislation recently introduced and passed by the House Republican leadership. Despite their neglect of the issue, I believe there is bipartisan consensus that Medicare should not continue to pay exorbitant prices for prescription drugs. I urge my colleagues to join me in supporting this bill.

Medicare currently pays for only a limited number of outpatient drugs, generally ones that a patient cannot self-administer, such as chemotherapy drugs. Medicare spends over $5 billion every year on these drugs. Under current rules, Medicare vastly over-pays for these drugs, because it bases payments on the artificially high ''average wholesale price'' (AWP) reported by the drug's manufacturer—regardless of the actual price a provider pays for the drug. There is abundant evidence that drug manufacturers have boosted their own drug sales and increased their profits, at great taxpayer expense, by manipulating the AWP of their drugs. Simply put, drug manufacturers report inflated prices, sell providers the drugs for much less, and then encourage providers to bill Medicare for the maximum allowable amount—95 percent of the inflated AWP reported by the manufacturer.

This bill offers a straightforward solution to this problem. It would require Medicare payments to be based on the actual market prices at which manufacturers sell their drugs. This price, called the average acquisition price, would be verifiable. The Secretary would have the authority to audit drug companies' reports. Drug companies would be subject to steep fines for deliberately filing false or incomplete information.

Mr. Speaker, the current Medicare AWP rules are a sham and must be changed. Consider the following:

The General Accounting Office has described the AWP as ''neither 'average' nor 'wholesale;' it is simply a number assigned by the product's manufacturer.'' The GAO found that Medicare's payments for physician-administered outpatient drugs were at least $532 million higher than providers' potential acquisition costs in 2000. Similarly, the GAO found that Medicare paid at least $483 million more for supplier-billed drugs than suppliers' potential acquisition costs in 2000. Some drugs were available at prices averaging just 15 percent of the manufacturer's reported AWP, while Medicare continued to pay 95 percent of AWP.

The Office of the Inspector General at the Department of Health and Human Services found that Medicare could save $761 million per year by paying the actual wholesale prices available to physicians and suppliers for just 24 of the outpatient drugs currently covered by Medicare.

Numerous states, consumer groups, and private health plans have sued drug manufacturers for fraudulently inflating Medicare drug prices.

These suits follow on the heels of a record Medicare and Medicaid fraud settlement by TAP Pharmaceutical Products. In October 2001, TAP pleaded guilty to a charge of conspiracy to violate federal law. TAP agreed to pay $875 million—the largest criminal fine ever levied by the government for health care fraud—to settle the suit, in which the government alleged the company artificially inflated the AWP of the company's prostate cancer drug Lupron.

Drug manufacturers have resisted efforts to investigate this problem. For example, last summer the GAO continued its investigation into AWP on Congress' behalf and requested drug price information from many manufacturers. One pharmaceutical company, Pfizer, refused to comply with GAO's request until this January, when GAO subpoenaed the company's CEO, Henry McKinnell.

Mr. Speaker, the problem is well known. The solution is straightforward. Both the GAO and the OIG have recommended that we revise Medicare's drug payment policies to reflect actual market prices, accounting for rebates and other discounts available from manufacturers. That is exactly what this bill does.

Manufacturers would be required to report the actual average market acquisition prices for their drugs as a condition for Medicare coverage of those drugs. Each manufacturer would have to certify the accuracy of its reports and the Secretary of HHS would be empowered to audit price information to verify the accuracy of the reports. Drug manufacturers would be subject to unlimited civil monetary penalties for filing false reports and would be subject to a penalty of $100,000 for each day they fail to provide timely information.

The bill is also carefully crafted to ensure that the reimbursement revisions will not adversely impact Medicare beneficiaries' access to care. First, to ensure these drugs are available in areas of the country where providers must purchase covered drugs at prices above the average, the actual reimbursement level to providers would be set 5 percent above the average acquisition price. Second, Medicare would pay dispensing fees to reflect differences in the costs of dispensing different drugs and biologics. Third, the bill would ensure continued access to cancer treatment. Oncologists have argued that inflated AWP reimbursements are necessary to compensate for the administration of cancer medicines. This bill would correct this anomaly by revising Medicare payments for oncology services to appropriately account for these indirect costs, in accordance with GAO recommendations.

Mr. Speaker, I sincerely hope that Congress will act to provide a meaningful Medicare prescription drug benefit this year. On top of the many other serious concerns I have with the drug benefit passed by the Republican leadership, I am deeply disappointed that it did not address the abuses of the current AWP system. We must not shirk our responsibility to ensure that Medicare properly pays for the limited outpatient prescription drugs it already covers. There is no need for taxpayers to continue to fill pharmaceutical companies' coffers with the ill-gotten gains of the current AWP system. I hope all of my colleagues will join me in passing this important legislation.

HONORING HISPANIC CITIZENS—9TH DISTRICT OF TEXAS

HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. LAMPSON. Mr. Speaker, I rise today to honor local Hispanic citizens from the 9th District of Texas who were chosen for their work in the community. While the dedication of Hispanic leaders is well-known throughout the United States, local citizens, right here in the Southeast Gulf Coast region, are just as important to ensuring equal rights and economic progress for all Texans.

Last month I asked members of the communities in the 9th District to nominate individuals for my ''Henry B. Gonzalez Latino Leadership Award,'' named in honor of the late Congressman Henry B. Gonzalez, that gives special recognition to those who have worked selflessly, often without recognition, and made contributions both in the Hispanic community and the broader society as well. Recipients were chosen because they embodied a giving and sharing spirit, and had made a contribution to our nation.

While their efforts may not make the headlines every day, their service and dedication to our country is nevertheless vital to our entire region. This region of Southeast Texas is not successful in spite of our diversity; we are successful because of it.

Please join me in recognizing and congratulating these leaders for their work and commitment to their communities and to Southeast Texas. It is leaders like these men and women that continue to be a source of pride for Texas. The winners of this years Henry B. Gonzalez Latino Leadership Award'' are:

Alice Flores, Elias de la Cerda, Jr., Ruben F. DeHoyos, John J. DeLeon, Joe Escobedo, Jr., Ella Flores, Roberto C. Flores, Robert D. Gallegos, Tina Garcia, Manuel Guajardo, Manuel R. Gonzalez, Elida Saenz Matthews, Eugenia Rios, Elisa Vasquez, Gilbert Zamora, Jr., Manuel Urbina II, Gilbert Hinojosa, Joseph Cantu, Gregory Flores, Carlos Hernandez, and Jesus Abrego.

Mr. Speaker, the recipients of the ''Henry B. Gonzalez'' award are dedicated and hard-working individuals who have done so much for their neighbors and for this nation as a whole. Today, I stand to recognize their spirit and to say that I am honored to be their Representative.

THE IMPORTANCE OF PUBLIC TRANSIT

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. RAHALL. Mr. Speaker, I am pleased to submit a statement made by Mrs. Faye Thompson of Wayne County, West Virginia before the U.S. Senate Committee on Banking, Housing and Urban Affairs, Subcommittee on Housing and Transportation, on the importance of public transit. Mrs. Thompson is a member of the Wayne County, West Virginia Community Service Organization, Inc. Board of Directors.

Public transit is a vital transportation link for people in rural areas, who do not own their own cars, or cannot find someone to drive them to medical appointments, etc.

In her testimony, Mrs. Thompson told how she went to work as a social worker for the Department of Health and Human Services after her three sons became old enough to go to school. Mrs. Thompson worked with low-income families and said that ''one of the biggest obstacles of obtaining services was the lack of transportation.'' During those years, Wayne County had no public transportation.

At the time, Mrs. Thompson had her own car, and was able to drive anywhere she wanted to go, at any time.

Later in life, Mrs. Thompson's husband passed away. Then she was told she needed to have both knees replaced. Her two older sons live out of state, and her youngest son worked full-time, and was unable to drive her to physical therapy sessions.

Suddenly, Mrs. Thompson realized she was no longer independent and that she was now one of the people who need public transportation. But unlike the earlier years, when she worked to help low-income families who had no access to public transportation, Wayne County now offered public transportation.

As Mrs. Thompson said, ''Thanks to public transportation, I was able to obtain the medical services that I needed.''

Mrs. Thompson was able to look at how tough it was, years ago, for low-income families in Wayne County to be without public transit, and look at how much easier it was for her, while in rehabilitation, to receive physical therapy because she could rely on public transit.

Mrs. Thompson noted that ''Wayne X-Press Public Transit System in Wayne, West Virginia provides transportation services to people for medical appointments, to jobs, job interviews, job training, social activities, senior citizen centers, Adult Day treatment programs, general education training, parenting classes, etc.''

She described public transit as ''the lifeline for the public.''

As a Member of Congress representing the Third Congressional District of West Virginia, I have been working to help low-income, rural West Virginians to enhance their quality of life by providing transportation to medical care, educational facilities and jobs.

Public transit helps to create and build jobs, which is a boost to the economy. We must maintain and expand public transit programs. When we reauthorize the surface transportation legislation in the 108th Congress, I will work to continue to strengthen and expand public transit programs, to ensure ''the lifeline for the public'' continues.

FORT GAY, WEST VIRGINIA
July 16, 2002

UNITED STATES SENATE,
Banking, Housing, and Urban Development, Subcommittee on Housing and Transportation, Washington, DC.

MR. CHAIRMAN AND COMMITTEE MEMBERS: It is an honor to be with you here today to talk about something that is dear to my heart. First, let me tell you something about myself. My late husband and I raised three sons, and that was an experience in itself. After my children got into school, my husband who was employed by the Norfolk and Western Railroad went to work and I started back to school to become an elementary school teacher in a one room schoolhouse in rural Appalachia, West Virginia.

I saw the many challenges of the rural Appalachian people, so I changed careers and became a Social Worker for the Department of Health and Human Resources in rural West Virginia. Throughout my career, I worked with low income families and one of the biggest obstacles of obtaining services was the lack of transportation. At that time there was no public transportation in Wayne County. Throughout my twenty-two years in my career there was always a need for individuals to access, services. Throughout my life I have been a very independent person as you can see, raising a family, starting not just one career but two in my life, and having the priviledge of having my own transportation. Most of us take for granted picking up our car keys, going out of the house, and going anywhere we want to go.

Even though I have always recognized the need for rural transportation. I never thought that it would be something that I would need. After my husband passed away, I lived alone in my home. I then downsized to an apartment. I was still able to go to my homemaker meetings, church activities, Board Member meetings, volunteer work, and continued to meet my friends for lunch and social activities. My physician informed me that I was going to have to have both of my knees replaced. He stated that after my surgery and rehabilitation that I would need to go to physical therapy three times a week for several weeks. My two eldest sons both live out of state and my youngest son works full-time, therefore was unable to take me to my therapy sessions. I then realized that I was one of the people who needed transportation. I was no longer independent and this was quite a shock to me. Thanks to Public Transportation I was able to obtain the medical services that I needed.

Being a member of Wayne County Community Service Organization, Inc. Board of Directors, I can sit here today in front of you and let you know how important the Public Transit System is to the people. How it enables them to access needed services. Wayne X-Press Public Transit System in Wayne, West Virginia provides transportation services to people for medical appointments, to jobs, job interviews, job training, social activities, senior citizen centers, Adult Day treatment programs, general education training, parenting classes, etc. I'm here today to ask you distinguished ladies and gentlemen to continue funding for Public Transit Systems. Why, because it is the lifeline for the public. So I invite all of you to Wayne County, West Virginia to ''hop aboard'' the Wayne X-Press.

FAYE THOMPSON

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

SPEECH OF

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes:

Ms. WATERS. Mr. Chairman, I rise to support the Capps amendment to prohibit the use of funds for new oil drilling on 36 leases off the coast of California.

Oil spills would devastate the sensitive marine environment of California's coast. The Santa Barbara oil spill in 1969 dumped over four million gallons of oil into the sea, killed thousands of animals, blackened beaches and decimated the local marine envirorunent. The coast took years to recover.

California's economy depends upon the health of its coasts. Tourism brings in nearly $30 billion a year to our state, and the fishing industry is also important to our economy. California cannot afford the risks of offshore oil drilling.

The people of California are strongly opposed to offshore oil drilling. Leases off the coasts of Florida, Alaska and North Carolina have already been terminated. It is time to terminate the California leases as well and respect the will of California's people.

I urge my colleagues to support the Capps amendment.

ARGENTINA MUST TAKE ACTION AGAINST TERRORISTS WHO CARRIED OUT THE 1994 AMIA BOMBING

TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. LANTOS. Mr. Speaker, eight years ago today—on July 18, 1994, a car bomb exploded at the AMIA Jewish Community Center in Buenos Aires, Argentina, leaving eighty-five people dead and leveling the building. Now, eight years later, the trial of a handful of suspected accessories to the crime has only barely begun, and the masterminds behind the horrific attack are still unidentified and at-large.

While we recognize that Argentina is currently struggling with serious political and economic crises, the government of President Duhlade must remain focused on the investigation of the AMIA bombing and the trial of the accused. The resolution of this case is critical to demonstrate that Argentine society fully embraces the rule of law and is moving toward the fulfillment of justice. The AMIA case presents Argentina with the opportunity to send a message to the world that terrorism does not pay and that known terrorists will be prosecuted.

Mr. Speaker, the trial has been long in coming and has faced many obstacles, some of which Fernando de la Rua and current President Eduardo Duhlade have addressed. There

is speculation about why the case was not tried and closed years ago.

First, fifteen of the twenty suspects are former Buenos Aires police officers who have been linked to a ring of automobile thieves. Although these are not the individuals who ordered and carried out the attacks, they may have supplied the vehicle used for the bombing, knowing that it was to be used in an attack on the Jewish Community Center. The most prominent of these suspects are former senior police commander Juan Jose Rebelli and local stolen-car dealer Alberto Telleldin. Both were formally charged with multiple homicides in July 1999 in connection to the bombing and are currently standing trial.

Second, the physical evidence from the bombing was handled extremely poorly. Most of the evidence from the crime scene, including personal identification and the remains of the victims, was stuffed haphazardly into bags and abandoned at an open dump for three years before being tossed into the Rio de la Plata. One investigator estimates that less than five percent of the material evidence remains today. Also, a renovation project to make the courtroom large enough to accommodate the anticipated press consumed many months.

After the public trial began on September 24, 2001, the prosecution's case has plodded through a seemingly interminable procession of witnesses. Over 1500 witnesses were called to testify in the trial. Yet, there still has been no clear identification of those responsible for the AMIA bombing. The main question of the trial remains whether the police who were involved with selling the vehicle knew that it would be used for the bombing. So far, the police have denied all charges of wrongdoing.

A number of other anti-Semitic incidents since the 1994 bombing indicate the importance of a prompt and decisive resolution in the AMIA bombing case. After the AMIA Jewish community center was rebuilt, several telephoned bomb threats against the new building, as well as against a Jewish country club and a Jewish theater, have been received. Once again, no one has claimed responsibility, no evidence has been found, and the Argentine authorities have not produced results from their formal investigations into these bomb threats. In August 1999, two Jewish families were threatened with unidentified bomb threats. One month later, unidentified individuals fired gun shots at a Jewish school. There have been no developments in the investigations of either of these cases as well.

Mr. Speaker, Argentina faces numerous challenges today, including pursuing both the domestic and international dimensions of the AMIA bombing case. Some of these investigative leads may take Argentine prosecutors to the highest reaches of their society and to state sponsors of terrorism in the Middle East. We in the United States Congress must continue to demonstrate our support for the efforts of non-governmental organizations, such as B'nai B'rith, which are actively working to bring complete closure to the AMIA bombing and other cases of anti-Semitism.

Mr. Speaker, resolution of the AMIA bombing is an integral part of our fight against terrorism. It is essential that the government of Argentina know and understand that the United States government continues to expect appropriate action against all of those who were responsible for perpetrating this outrageous crime.

CONTINUING CRISIS IN FOSTER CARE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. GEORGE MILLER of California. Mr. Speaker, today the ACLU and several child advocacy groups brought a suit requesting the court to hold accountable those county and state officials responsible for oversight of California's foster care system. Plaintiffs charged that negligence, mismanagement, and abuse and neglect of children are routinely committed by the very state agency charged with protecting children and ensuring their safety and well-being.

In the following article in today's Los Angeles Times, one of the plaintiffs reports that the suit will demand all appropriate mental health services; multidisciplinary assessments of the needs of each child; case plans; and providers to ensure that no child will be neglected. Judging from recent news reports, this same lawsuit could be brought against most state child welfare agencies.

The federal child welfare law that I authored in 1980 requires States to comply with a number of core requirements intended to protect children placed in foster care as a condition of receiving Federal foster care funds. Yet twenty years after enactment of P.L. 96–272, many of the same shortcomings as prompted the passage of the law are affecting hundreds of thousands of children in foster care placements, raising serious questions about the diligence of the states and the federal government in enforcing the law and protecting the children.

The situation described in the Times article is not unique to California, which has had a very troubled history in foster care for decades. In Florida, in the District of Columbia, in New York, and in many other jurisdictions, allegations about inappropriate services, improper placements, inadequate staff training and compensation coupled with massive caseloads and staff turnover are commonplace. And yet the Congress has not taken a broad look at how best to assist in the improvement of accountability and services in the nation's foster care system.

The time has come for a broad review that brings together experts and practitioners and advocates to help shape a thoughtful critique of current practice and make recommendations for the federal, state and local governments. This is not only a family crisis and a children's crisis; it is a fiscal crisis, because we are spending billions of dollars a year on a system that, despite efforts at reform, continues to fail the children in its custody. The article follows:

[From the Los Angeles Times, July 18, 2002]

A FOSTER-CARE TRAGEDY WORTHY OF DICKENS

(By Lew Hollman)

Los Angeles has a foster-care system driven by what is available, not what is needed. Children receive too few services too late. Thousands are shuttled to ineffective and expensive institutional care. They are poorly monitored, with no consistent, individualized care. Not surprisingly, many deteriorate in county care, populating our jails, homeless shelters and mental wards after they ''age out'' of a failed system. Many never overcome the effects of the abuse or neglect they have suffered.

At a time when funds for children's services are ever more scarce, we are paying more for less in terms of healthy outcomes. Millions of federal dollars are at risk because of our inability to meet reasonable guidelines for stable placements—through family reunification, adoption or long-term foster care. More important, the children whom the system is intended to protect are being irreparably harmed.

This is not a problem that can be solved simply by changing the person at the top, as L.A. County has done twice in recent years. It requires a philosophical change at all levels—from a system based on what services are available to a system based on earlier intervention and individualized needs.

A suit will be filed today on behalf of foster children put at risk by a failed system. It will demand a wider array of mental health services available under Medi-Cal; multidisciplinary assessments of the needs of each child based on all relevant information; continuity in services and plans for each child; and the development of services and providers to ensure that no child will be rejected.

MacLaren Children's Center in El Monte, the county's emergency shelter for abused and neglected children, is an apt symbol of our failed system. Designated a short-term shelter, it has become instead the county's warehouse for the unwanted. Once a home for wayward girls, it retains its foreboding atmosphere. Such control as exists—in many instances, poor management has led to children being abused, often by other residents—is prison-like.

Some MacLaren residents languish for months beyond the ostensible 30-day limit. Many more are constantly ''recycled'' as foster homes reject them, adding to the trauma that brought the children to the county's care. One plaintiff, removed from her home as a result of sexual and physical abuse by her stepfather, was moved by the county 28 times between the ages of 9 and 13. Another is in a locked facility because of the healthy impulse to find a better life elsewhere. In less than three years, she was moved 25 times.

When Dickensian stories like these are related to the uninformed, they are greeted with incredulity. It is often assumed that lack of resources must be the problem. Of course, no one desires these rootless sojourns through impersonal care. And our society could, no doubt, better invest in the needs of its children. But lack of money is not at the root of these problems.

Inertia and lack of accountability are the culprits. The county has become increasingly defensive about releasing cost estimates.

According to a recently released Los Angeles Grand Jury report, however, costs during the 2001–2002 fiscal year at MacLaren approximated $757 per day for each child—more than $276,000 per year. Group-care facilities, recognized as contrary to the interests of most children, were estimated to cost about $33,000 annually per child five years ago. By contrast, children at risk who can be assisted without removal from the home costs less than $5,000 a year, and foster home and kinship placements less than $10,000 a year.

Medi-Cal, through the early and periodic screening, diagnosis and treatment program and other federal programs, can pay for many of the intensive services that children need. True case management would ensure

the effective use of such services to enable children to remain in—or quickly return to—their homes, be freed for adoption or settled in long-term foster care.

The county recognizes the penny-wise, pound-foolish nature of the system. In addition to grand jury reports, state audits, independent evaluations and testimony before the Board of Supervisors, it brought its own expert in to evaluate and make recommendations in 1998.

Dr. Robert F. Cole, an independent expert nationally recognized for his work with disturbed children, centered his recommendations on an ''integrated delivery system,'' such as ''wrap-around'' care, that would coordinate services and deliver them in a family-like environment, or the child's home, whenever possible.

A successfully tested method, the wrap-around concept is used in other counties in California and in other states, where it has reduced costs and improved the outcomes of children in foster care. The goal is for caseworkers, therapists, health providers and schools to work together to ensure children prompt and stable placements and the early development of a long-term plan to see children reunited with their families, adopted or placed in long-term foster care.

Two years after his initial report, Cole praised the county for being poised to implement coordinated services for foster children. But in that time, the county had contracted with only two providers for wrap-around care, serving two children each. Although additional foster care providers have been found since 2000, wrap-around care and other types of intensive care are virtually unavailable in a system providing services to more than 50,000 children year, with slightly less than 38,000 in county custody. Half of those in custody are estimated to have serious emotional problems. Those problems will become increasingly difficult and expensive to treat if effective care is not provided.

The U.S. Supreme Court has held that due process under the Constitution requires the government to protect from harm any child it takes into its custody.

The Constitution is violated when children deteriorated in county care or are subjected to policies—such as 25 different placements in less than three years—that no disinterested professional would countenance. Federal Medicaid laws are broken when needed medical services for children are not provided.

The lawsuit to be filed today will ask the court to cut the knot of inertia and hold accountable the county and the state officials responsible for oversight.

Daily Digest

HIGHLIGHTS

Senate passed H.R. 5011, Military Construction Appropriations.

The House passed H.R. 5121, Legislative Branch Appropriations.

Senate

Chamber Action

Routine Proceedings, pages S6967–S7091

Measures Introduced: Ten bills and one resolution were introduced, as follows: S. 2750–2759, and S.J. Res. 41. **Page S7033**

Measures Reported:

H.R. 5010, making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, with an amendment in the nature of a substitute. (S. Rept. No. 107–213)

S. Res. 293, designating the week of November 10 through November 16, 2002, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. 862, to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2002 through 2006 to carry out the State Criminal Alien Assistance Program.

S. 2395, to prevent and punish counterfeiting and copyright piracy, with an amendment in the nature of a substitute.

S. 2513, to asses the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence, with an amendment in the nature of a substitute. **Page S7033**

Measures Passed:

Military Construction Appropriations: By 96 yeas to 3 nays (Vote No. 181), Senate passed H.R. 5011, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, as amended. **Pages S6972–76**

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators Feinstein, Inouye, Johnson, Landrieu, Reid, Byrd, Hutchison, Burns, Craig, DeWine, and Stevens. **Page S6976**

Science and Technology Emergency Mobilization Act: Senate passed S. 2037, to mobilize technology and science experts to respond quickly to the threats posed by terrorist attacks and other emergencies, by providing for the establishment of a national emergency technology guard, a technology reliability advisory board, and a center for evaluating antiterrorism and disaster response technology within the National Institute of Standards and Technology, after agreeing to a committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Pages S7081–84**

Reid (for Wyden/Allen) Amendment No. 4311, to ensure that private sector input is considered in the wireless communications capabilities policy options report required by section 6. **Pages S7081–84**

Born-Alive Infants Protection Act: Senate passed H.R. 2175, to protect infants who are born alive, clearing the measure for the President. **Page S7084**

Recognizing Ignacy Jan Paderewski Accomplishments: Committee on Foreign Relations was discharged from further consideration of S. Res. 296, recognizing the accomplishments of Ignacy Jan Paderewski as a musician, composer, statesman, and philanthropist and recognizing the 10th Anniversary of the return of his remains to Poland, and the resolution was then agreed to. **Page S7084**

Greater Access to Affordable Pharmaceuticals Act: Senate continued consideration of S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, taking action on the following amendments proposed thereto: **Pages S6977–S7016, S7019–28**

Adopted:

By 56 yeas to 43 nays (Vote No. 182), Reid (for Stabenow) Modified Amendment No. 4305 (to

Amendment No. 4299), to clarify that section 1927 of the Social Security Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the Medicaid program. **Pages S6977–S7016**

Pending:

Reid (for Dorgan) Amendment No. 4299, to permit commercial importation of prescription drugs from Canada. **Pages S6977–7016, S7019–28**

Graham Amendment No. 4309, to amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drugs under the Medicare program. **Pages S7019–28**

Hatch (for Grassley) Amendment No. 4310, to amend title XVIII of the Social Security Act to provide for a Medicare voluntary prescription drug delivery program under the Medicare program, and to modernize the Medicare program. **Pages S7019–28**

A unanimous-consent agreement was reached providing for Senators Graham and Grassley to offer amendments to the bill, and on Tuesday, July 23, at 2:15 p.m., there be 30 minutes for debate equally divided between Senators Graham and Grassley; that at 2:45 p.m., Senate vote on waiving the Budget Act with respect to Senator Graham's amendment; that following that vote, the Senate vote on waiving the Budget Act with respect to Senator Grassley's amendment; that if the Budget Act is waived for either amendment, the amendment be further debatable and amendable; and that if the Budget Act fails to be waived on either amendment, the amendment be withdrawn. Further, that when the Senate resumes consideration of Reid (for Dorgan) Amendment No. 4299 (listed above), Senator Gregg, or his designee, be recognized to offer a second degree amendment thereto, and that upon disposition of Senator Gregg's amendment, Senator Rockefeller be recognized to offer a second degree amendment to Reid (for Dorgan) Amendment No. 4299. **Pages S7007–08**

Nomination—Cloture Motion Filed: A motion was entered to close further debate on the nomination of Richard H. Carmona, of Arizona, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service, Department of Health and Human Services and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, by unanimous consent, a cloture vote will occur at 10:45 a.m. on Tuesday, July 23, 2002. **Page S7019**

APPOINTMENT:

U.S. Commission on Civil Rights: The Chair, on behalf of the President pro tempore and upon the recommendation of the Republican Leader, pursuant to Public Law 98–183, as amended by Public Law 103–419, reappointed Russell G. Redenbaugh of Pennsylvania to the United States Commission on Civil Rights. **Page S7084**

Nominations Confirmed: Senate confirmed the following nomination:

By a unanimous vote of 98 yeas (Vote No. Ex. 184), Richard R. Clifton, of Hawaii, to be United States Circuit Judge for the Ninth Circuit. **Pages S7016–19, S7091**

Prior to this action, by 97 yeas to 1 nay (Vote No. 183), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close further debate on the nomination of Richard R. Clifton, of Hawaii, to be United States Circuit Judge for the Ninth Circuit. **Page S7016**

Nominations Received: Senate received the following nominations:

Roger P. Nober, of Maryland, to be a Member of the Surface Transportation Board for a term expiring December 31, 2005.

Pamela F. Olson, of Virginia, to be an Assistant Secretary of the Treasury.

S. James Otero, of California, to be United States District Judge for the Central District of California.

Robert G. Klausner, of California, to be United States District Judge for the Central District of California.

Robert A. Junell, of Texas, to be United States District Judge for the Western District of Texas.

James E. Kinkeade, of Texas, to be United States District Judge for the Northern District of Texas.

William E. Smith, of Rhode Island, to be United States District Judge for the District of Rhode Island.

1 Air Force nomination in the rank of general.

Routine lists in the Air Force, Army, Coast Guard. **Pages S7085–91**

Messages From the House: **Page S7033**

Measures Placed on Calendar: **Page S7033**

Additional Cosponsors: **Pages S7033–35**

Statements on Introduced Bills/Resolutions: **Pages S7035–48**

Additional Statements: **Pages S7031–32**

Amendments Submitted: **Pages S7048–80**

Authority for Committees to Meet: **Pages S7080–81**

Privilege of the Floor: **Page S7081**

Record Votes: Four record votes were taken today. (Total—184) **Pages S6976, S7016, S7019**

Adjournment: Senate met at 9:30 a.m., and adjourned at 8:03 p.m., until 9:30 a.m., on Friday, July 19, 2002. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on pages S7084–85).

Committee Meetings

(Committees not listed did not meet)

PESTICIDE HARMONIZATION ACT

Committee on Agriculture, Nutrition, and Forestry: Subcommittee on Production and Price Competitiveness concluded hearings on S. 532, to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit a State to register a Canadian pesticide for distribution and use within that State, after receiving testimony from Senator Dorgan; Representative Pomeroy; William T. Hawks, Under Secretary of Agriculture for Marketing and Regulatory Programs; Stephen L. Johnson, Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances, Environmental Protection Agency; North Dakota Lt. Governor Jack Dalrymple, on behalf of North Dakota Crop Protection Product Harmonization and Registration Board, and Roger Johnson, North Dakota Department of Agriculture, both of Bismarck; Barry Bushue, Oregon Farm Bureau Federation, Boring, on behalf of the American Farm Bureau Federation; and David J. Frederickson, National Farmers Union, and Jay Vroom, CropLife America, both of Washington, D.C.

BUSINESS MEETING

Committee on Appropriations: Committee ordered favorably reported the following bills:

H.R. 5010, making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, with an amendment in the nature of a substitute;

An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2003;

An original bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2003;

An original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2003; and

An original resolution encouraging the Senate Committee on Appropriations to report thirteen, fiscally responsible, bipartisan appropriation bills to the Senate not later than July 31, 2002.

NOMINATIONS

Committee on Banking, Housing, and Urban Affairs: Committee concluded hearings on the nominations of Paul S. Atkins, of Virginia, and Harvey Jerome Goldschmid, of New York, each to be a Member of the Securities and Exchange Commission, after the nominees testified and answered questions in their own behalf. Mr. Atkins was introduced by Senators Allen and Warner.

ENRON ENERGY MARKET MANIPULATION

Committee on Commerce, Science, and Transportation: Committee concluded hearings to examine the role of Enron Energy Services, Inc. (EESI) played in manipulation of western State electricity markets, after receiving testimony from Thomas E. White, Secretary of the Army.

NOMINATIONS

Committee on Commerce, Science, and Transportation: Committee concluded hearings on the nominations of Frederick W. Gregory, of Maryland, to be Deputy Administrator of the National Aeronautics and Space Administration, and Kathie L. Olsen, of Oregon, and Richard M. Russell, of Virginia, each to be an Associate Director of the Office of Science and Technology Policy, after the nominees testified and answered questions in their own behalf. Mr. Gregory was introduced by Senator Bill Nelson, and Mr. Russell was introduced by Senator Allen.

CORPORATE RESPONSIBILITY/CONSUMER PROTECTION

Committee on Commerce, Science, and Transportation: Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism concluded hearings to examine perspectives on improving corporate responsibility and consumer protection, in light of the recent corporate accounting scandals, after receiving testimony from former Senator Howard M. Metzenbaum, Consumer Federation of America, Joan Claybrook, Public Citizen, and Nell Minnow, Corporate Library, all of Washington, D.C.; and Richard H. Moore, North Carolina Department of State Treasurer, Raleigh.

NATIONAL PARKS

Committee on Energy and Natural Resources: Subcommittee on National Parks concluded hearings on S. 1865, to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Lower Los Angeles River and San Gabriel River watersheds in the State of California as a unit of the National Park System, S. 1943, to expand the

boundary of the George Washington Birthplace National Monument, S. 2571, to direct the Secretary of the Interior to conduct a special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area, S. 2595, to authorize the expenditure of funds on private lands and facilities at Mesa Verde National Park, in the State of Colorado, and H.R. 1925, to direct the Secretary of the Interior to study the suitability and feasibility of designating the Waco Mammoth Site Area in Waco, Texas, as a unit of the National Park System, after receiving testimony from Senator Warner; Representatives Schiff and Solis; Durand Jones, Deputy Director, National Park Service, Department of the Interior; and Lori A. Mellon, Mesa Verde Foundation, Mesa Verde, Colorado.

NOMINATIONS

Committee on Environment and Public Works: Committee concluded hearings on the nominations of John S. Bresland, of New Jersey, to be a Member, and Carolyn W. Merritt, of Illinois, to be a Member and Chairperson, both of the Chemical Safety and Hazard Investigation Board, after the nominees testified and answered questions in their own behalf.

BUSINESS MEETING

Committee on Indian Affairs: Committee ordered favorably reported the following bills:

S. 1210, to reauthorize the Native American Housing Assistance and Self-Determination Act of 1996, with an amendment in the nature of a substitute; and

S. 2711, to reauthorize and improve programs relating to Native Americans, with amendments.

INDIAN WATER RIGHTS CLAIMS

Committee on Indian Affairs: Committee held hearings on S. 2743, to approve the settlement of water rights claims of the Zuni Indian Tribe in Apache County, Arizona; receiving testimony from Senator Kyl; Neal McCaleb, Assistant Secretary of the Interior for Indian Affairs; Joe Carter, Arizona Game and Fish Commission, Safford; Malcolm B. Bowekaty, Pueblo of Zuni, Zuni, New Mexico; Norman Ray Brown, Lyman Water Company, St. Johns, Arizona; David Brown, Brown and Brown Law Offices, Pinetop, Arizona; and David C. Roberts, Salt River Project, and John B. Weldon, Jr., Salmon, Lewis, and Weldon, both of Phoenix, Arizona.

Hearings recessed subject to call.

AIR QUALITY CONTROL

Committee on Indian Affairs: Committee held hearings on certain provisions of S. 2065, to provide for the implementation of air quality programs developed pursuant to an intergovernmental Agreement between the Southern Ute Indian Tribes and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, receiving testimony from Renny Fagan, Colorado Deputy Attorney General, Denver; and Leonard C. Burch and Fran King Brown, both of Southern Ute Indian Tribe, Ignacio, Colorado.

Hearings recessed subject to call.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 486, to reduce the risk that innocent persons may be executed, with an amendment in the nature of a substitute;

S. 862, to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2002 through 2006 to carry out the State Criminal Alien Assistance Program;

S. 2395, to prevent and punish counterfeiting and copyright piracy, with an amendment in the nature of a substitute;

S. 2513, to assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence, with an amendment in the nature of a substitute; and

S. Res. 293, designating the week of November 10 through November 16, 2002, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

IDENTITY THEFT

Special Committee on Aging: Committee concluded hearings to examine issues with respect to identify theft and senior citizens, including related provisions of S. 2541, to amend title 18, United States Code, to establish penalties for aggravated identity theft, after receiving testimony from Alice S. Fisher, Deputy Assistant Attorney General, Criminal Division, Department of Justice; James G Huse, Jr., Inspector General, Social Security Administration; Howard Beales, Director, Bureau of Consumer Protection, Federal Trade Commission; Douglas Coombs, Deputy Special Agent in Charge, Financial Crimes Division, U.S. Secret Service, Department of the Treasury; Boris F. Melnikoff, Atlanta, Georgia, on behalf of the American Bankers Association; Stuart K. Pratt, Consumer Data Industry Association, and Dennis Carlton, International Biometric Group, both of Washington, D.C.; Lt. Col. John T. Stevens, Jr., USAF (Ret.), Upper Marlboro, Maryland; and Mari J. Frank, Laguna Niguel, California.

House of Representatives

Chamber Action

Measures Introduced: 14 public bills, H.R. 5155–5168; and 3 resolutions, H. Res. 492–494, were introduced. **Pages H4930–31**

Reports Filed: Reports were filed today as follows:

H.R. 1070, to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to make grants for remediation of sediment contamination in areas of concern and to authorize assistance for research and development of innovative technologies for such purposes, amended (H. Rept. 107–587 Pt. 1);

H.R. 4940, to amend title 38, United States Code, to enact into law eligibility requirements for burial in Arlington National Cemetery (H. Rept. 107–588);

H.R. 5055, to authorize the placement in Arlington National Cemetery of a memorial honoring the World War II veterans who fought in the Battle of the Bulge (H. Rept. 107–589);

H.R. 1701, to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, amended (H. Rept. 107–590 Pt. 1);

H.R. 3215, to amend title 18, United States Code, to expand and modernize the prohibition against interstate gambling, amended (H. Rept. 107–591 Pt. 1); and

H.R. 4628, to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, amended (H. Rept. 107–592). **Page H4930**

Guest Chaplain: The prayer was offered by the guest Chaplain, Rev. Ronald A. Jansen, Pastor, Holy Cross Lutheran Church of Collinsville, Illinois. **Page H4875**

Recess: The House recessed at 10:23 a.m. and reconvened 12:52 p.m. **Page H4878**

Legislative Branch Appropriations: The House passed H.R. 5121, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003 by a yea-and-nay vote of 365 yeas to 49 nays, Roll No. 321. **Pages H4884–H4909**

Rejected the Moran of Virginia amendment that sought to reduce funding for the Joint Committee on Taxation by $590,000 by a recorded vote of 206 ayes to 213 noes, Roll No. 320. **Pages H4905–08**

Points of Order Sustained Against:

Section 110 which transfers disbursing functions of the Capitol Police to the Chief of the Capitol Police; and **Pages H4904–05**

Language of page 11 that withholds $590,000 from the Joint Committee on Taxation until the Committee releases the report on tax evasion by expatriates. **Page H4905**

H. Res. 489, the rule that provided for consideration of bill was agreed to by a yea-and-nay vote of 219 yeas to 206 nays, Roll No. 319. Agreed that during consideration of H.R. 5121, pursuant to the rule, pro forma amendments offered by the Chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate may be offered at any time. **Pages H4878–84**

Late Report—Supplemental Appropriations Conference Report: The Committee on Appropriations received permission to have until midnight, Friday, July 19, 2002, to file a conference report on H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002. **Page H4909**

Late Report—In the Matter of Representative James A. Traficant, Jr.: The Committee on Standards of Official Conduct received permission to have until midnight on Friday, July 19, 2002, to file a privileged resolution and report. **Pages H4916–17**

Late Report—Intelligence Authorization: The Permanent Select committee on Intelligence received permission to have until midnight tonight, July 18, 2002 to file a report on H.R. 4628, to authorize appropriations for fiscal year 2003 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 H4917**

Treasury, Postal Appropriations—Rule Providing for Consideration: The House agreed to H. Res. 488, the rule that is providing for consideration of H.R. 5120, making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003 by a recorded vote of 224 ayes to 188 noes, Roll No. 323. Earlier, agreed to order the previous question on the rule by a yea-and-nay vote of 258 yeas to 156 nays, Roll No. 322. **Pages H4909–16**

Legislative Program: The Majority Leader announced the Legislative Program for the week of July 22. **Pages H4917–18**

Meeting Hour—Monday, July 22: Agreed that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday, July 22 for morning-hour debate. **Page H4918**

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, July 24. **Page H4918**

Senate Messages: Message received from the Senate today appears on page H4884.

Amendments: Amendments ordered printed pursuant to the rule appear on pages H4932–33.

Quorum Calls—Votes: Three yea-and-nay votes and two recorded votes developed during the proceedings of the House today and appears on pages H4883–84, H4908, H4909, H4915–16, and H4916. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 7:13 p.m.

Committee Meetings

STEWARDSHIP CONTRACTING

Committee on Agriculture: Subcommittee on Department Operations, Oversight, Nutrition and Forestry held a hearing on Stewardship Contracting. Testimony was heard from Dale Bosworth, Chief, Forest Service, USDA; and public witnesses.

NATIONAL DEFENSE AUTHORIZATION ACT; EXPRESSING SENSE OF CONGRESS—FUNDS NEEDED TO FIGHT WAR ON TERRORISM

Committee on Armed Services: Ordered reported the following bills: H.R. 4547, National Defense Authorization Act for Fiscal Year 2003; and H.R. 5132, to express the sense of Congress concerning the fiscal year 2003 end strengths needed for the Armed Forces to fight the War on Terrorism.

CIVIL MONETARY PENALTIES

Committee on Education and the Workforce: Subcommittee on Employer-Employee Relations approved for full Committee action, as amended, H.R. 4054, to provide for civil monetary penalties in certain cases.

ONLINE TRAVEL SITES

Committee on Energy and Commerce: Subcommittee on Commerce, Trade and Consumer Protection held a hearing titled ''Are All Online Travel Sites Good for the Consumer: An Examination of Supplier-Owned Online Travel Sites.'' Testimony was heard from public witnesses.

MOLD: A GROWING PROBLEM

Committee on Financial Services: Subcommittee on Oversight and Investigations and the Subcommittee on Housing and Community Opportunity held a joint hearing entitled ''Mold: A Growing Problem.'' Testimony was heard from Stephen Redd, M.D., Chief, Air Pollution and Respiratory Health Branch, National Center for Environmental Health, Centers for Disease Control and Prevention, Department of Health and Human Services; and public witnesses.

SOUTH ASIA—RECENT DEVELOPMENTS

Committee on International Relations: Subcommittee on Middle East and South Asia held a hearing on Recent Developments in South Asia. Testimony was heard from Christina Rocca, Assistant Secretary, Bureau of South Asian Affairs, Department of State.

OVERSIGHT—U.S. PATENT AND TRADEMARK OFFICE

Committee on the Judiciary: Subcommittee on Courts, the Internet, and Intellectual Property held an oversight hearing on ''The U.S. Patent and Trademark Office: Fee Schedule Adjustment and Agency Reform.'' Testimony was heard from James Rogan, Under Secretary, Intellectual Property and Director, U.S. Patent and Trademark Office, Department of Commerce; and public witnesses

LAKE ERIE WESTERN BASIN INTERNATIONAL WILDLIFE REFUGE ESTABLISHMENT ACT

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans held a hearing on H.R. 4722, Lake Erie Western Basin International Wildlife Refuge Establishment Act. Testimony was heard from Representatives Kaptur and Dingell; Barry W. Stieglitz, Deputy Chief, Division on Conservation Planning and Policy, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Department of the Interior; Sam Speck, Director, Department of Natural Resources, State of Ohio; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on National Parks, Recreation and Public Lands approved for full Committee action the following bills: H.R. 2099, amended, to amend the Omnibus Parks and Public Lands Management Act of 1996 to provide adequate funding authorization for the Vancouver National Historic Reserve; H.R. 2748, amended, National War Permanent Tribute Historical Database Act; H.R. 3434, amended, McLoughlin House National

Historic Site Act; H.R. 4622, Gateway Communities Cooperation Act of 2002; H.R. 4874, to direct the Secretary of the Interior to disclaim any Federal interest in lands adjacent to Spirit Lake and Twin Lakes in the State of Idaho resulting from possible omission of lands from an 1880 survey; and H.R. 4968, amended, Federal-Utah State Trust Lands Consolidation Act.

NASA WORKFORCE AND MANAGEMENT CHALLENGES

Committee on Science: Subcommittee on Space and Aeronautics held a hearing on NASA Workforce and Management Challenges. Testimony was heard from David M. Walker, Comptroller General, GAO; Sean O'Keefe, Administrator, NASA; and a public witness.

IN THE MATTER OF REPRESENTATIVE JAMES A. TRAFICANT, JR.

Committee on Standards of Official Conduct: Held a Sanction hearing in the Matter of Representative James A. Traficant, Jr. The Adjudicatory Subcommittee Report containing the recommendation that Representative Traficant be expelled from the House was presented to the Committee by Robert Walker, Staff Director and Chief Counsel.

IN THE MATTER OF REPRESENTATIVE JAMES A. TRAFICANT, JR.

Committee on Standards of Official Conduct: Adjudicatory Subcommittee concluded hearings in the Matter of Representative James A. Traficant, Jr., to determine whether any counts in the Statement of Alleged Violations have been proven by clear and convincing evidence.

The Adjudicatory Subcommittee found Representative Traficant guilty of nine of the 10 counts in the Statement of Alleged Violations.

TRANSITION ASSISTANCE PROGRAM

Committee on Veterans' Affairs: Subcommittee on Benefits held a hearing on the Transition Assistance Program and the Disabled Transition Assistance Program. Testimony was heard from Cynthia Bascetta, Director, Health Education, Workforce, and Income Security, GAO; the following officials of the Department of Defense: John M. Molino, Deputy Assistant Secretary, Military, Community and Family Policy; John McLaurin, Deputy Assistant Secretary, Human Resources, Department of the Army; Anita Blair, Deputy Assistant Secretary, Personnel Programs, Department of the Navy; and Kelly Craven, Deputy Assistant Secretary, Force Management Integration, Department of the Air Force; Rear Adm. Joyce Johnson, USCG, Director, Directorate of Health and Safety, U.S. Coast Guard, Department of Transportation; Robert Epley, Associate Deputy Under Secretary, Policy and Program Management, Veterans Benefits Administration, Department of Veterans Affairs; and Frederico Juarbe, Jr., Assistant Secretary, Veterans' Employment and Training Service, Department of Labor.

DISAPPROVING EXTENSION OF WAIVER AUTHORITY—VIETNAM

Committee on Ways and Means: Adversely reported H.J. Res. 101, disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam.

ADMINISTRATION'S WAIVER FOR VIETNAM

Committee on Ways and Means: Subcommittee on Trade held a hearing on the Administration's Waiver for Vietnam from the Jackson-Vanik Freedom of Emigration Requirements. Testimony was heard from Ralph F. Ives III, Assistant U.S. Trade Representative, Southeast Asia, the Pacific and APEC.; Christopher LaFleur, Acting Assistant Secretary, East Asia and Pacific Affairs, Department of State; and public witnesses.

Joint Meetings

9/11 INTELLIGENCE INVESTIGATION

Joint Hearing: Senate Select Committee on Intelligence held joint closed hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001.

Committees will meet again on Tuesday, July 23.

SUPPLEMENTAL APPROPRIATIONS

Conferees agreed to file a conference report on the Senate and House passed versions of H.R. 4775, making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002.

COMMITTEE MEETINGS FOR FRIDAY, JULY 19, 2002

(Committee meetings are open unless otherwise indicated)

Senate

No meetings/hearings scheduled.

House

Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, hearing titled "A Review of DOE's Accelerated Cleanup Program and State-Based Compliance Agreements," 9:30 a.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on International Monetary Policy and Trade, hearing on the expected authorization request for the U.S. Participation in the World Bank-International Development Association, 9:30 a.m., 2128 Rayburn.

Committee on Government Reform, Subcommittee on the District of Columbia, hearing on Voting Representation in Congress, 12 p.m., 2154 Rayburn.

Select Committee on Homeland Security, to mark up H.R. 5005, Homeland Security Act of 2002, 9:30 a.m., 210 Cannon.

Next Meeting of the SENATE

9:30 a.m., Friday, July 19

Senate Chamber

Program for Friday: Senate will be in a period of morning business until 11:30 a.m.

Next Meeting of the HOUSE OF REPRESENTATIVES

12:30 p.m., Monday, July 22

House Chamber

Program for Monday: To be announced.

Extension of Remarks, as inserted in this issue

HOUSE

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