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House of Representatives

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. SIMPSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 26, 2002.

I hereby appoint the Honorable MICHAEL K. SIMPSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

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

Created in Your image and likeness, Lord God, we are endowed with noble rights and held to certain responsibilities. As this 107th Congress engages in decision-making, which will affect this Nation and the world internationally, help all Members reflect Your image and respect Your likeness in others.

Today we pray for all Americans with disabilities. Bless them with peace and strength. May their efforts to create independent lives for themselves be rewarded as they find their rightful place in the mainstream of American life.

As their brothers and sisters, may all Americans prove to be helpful citizens to those with disabilities and seize every opportunity to protect their rights to access and enjoy their fullest potential in places of worship, of work and learning, as well as on the streets and the public places of this Nation.

We are Yours, one people. We are Your people now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. 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 pro tempore. Will the gentleman from Georgia (Mr. NORWOOD) come forward and lead the House in the Pledge of Allegiance.

Mr. NORWOOD 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.

HOMELAND SECURITY ACT OF 2002

The SPEAKER pro tempore. Pursuant to House Resolution 502 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5005.

□ 0905

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 further consideration of the bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes, with Mr. LINDER (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on the legislative day of Thursday, July 25, 2002, amendment No. 16 printed in House Report 107–615 offered by the gentleman from Connecticut (Mr. SHAYS) had been disposed of.

Pursuant to section 4 of House Resolution 502 and the order of the House of that date, it is now in order to consider amendment No. 3 printed in House Report 107–615.

AMENDMENT NO. 3 OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. WAXMAN:

At the end of the bill add the following new title:

TITLE XI—OFFICE OF HOMELAND SECURITY

SEC. 1101. ESTABLISHMENT.

(a) IN GENERAL.—There is established in the Executive Office of the President an Office of Homeland Security

(b) DIRECTOR.—The head of the Office shall be the Director of Homeland Security, who shall be appointed by the President and advice and consent of the Senate.

SEC. 1102. MISSION.

As provided in Executive Order 13228, the mission of the Office of Homeland Security is to develop and coordinate the implementation of a comprehensive national strategy to secure the United States from terrorist threats or attacks.

SEC. 1103. FUNCTIONS.

As provided in Executive Order 13228, the functions of the Office of Homeland Security shall be to coordinate the executive branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States. Such functions shall include—

(1) working with executive departments and agencies, State and local governments, and private entities to ensure the adequacy of the national strategy for detecting, preparing for, preventing, protecting against, responding to, and recovering from terrorist threats or attacks within the United States and periodically reviewing and coordinating revisions to that strategy as necessary;

(2) identifying priorities and coordinating efforts for collection and analysis of information regarding threats of terrorism against the United States, including ensuring that all executive departments and agencies that have intelligence collection responsibilities have sufficient technological capabilities and resources and that, to the extent permitted by law, all appropriate and necessary intelligence and law enforcement information relating to homeland security is disseminated to and exchanged among appropriate executive departments and agencies;

(3) coordinating national efforts to prepare for and mitigate the consequences of terrorist threats or attacks within the United

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States, including coordinating Federal assistance to State and local authorities and nongovernmental organizations to prepare for and respond to terrorist threats or attacks and ensuring the readiness and coordinated deployment of Federal response teams to respond to terrorist threats or attacks;

(4) coordinating efforts to prevent terrorist attacks within the United States;

(5) coordinating efforts to protect the United States and its critical infrastructure from the consequences of terrorist attacks;

(6) coordinating efforts to respond to and promote recovery from terrorist threats or attacks within the United States;

(7) coordinating the domestic response efforts of all departments and agencies in the event of an imminent terrorist threat and during and in the immediate aftermath of a terrorist attacks within the United States and acting as the principal point of contact for and to the President with respect to coordination of such efforts;

(8) in coordination with the Assistant to the President for National Security Affairs, reviewing plans and preparations for ensuring the continuity of the Federal Government in the event of a terrorist attacks that threatens the safety and security of the United States Government or its leadership;

(9) coordinating the strategy of the executive branch for communicating with the public in the event of a terrorist threats or attacks within the United States and coordinating the development of programs for educating the public about the nature of terrorist threats and appropriate precautions and responses; and

(10) encouraging and inviting the participation of State and local governments and private entities, as appropriate, in carrying out the Offices's functions.

SEC. 1104. ACCESS TO INFORMATION.

As provided in Executive Order 13228, executive agencies, shall, to the extent permitted by law, make available to the Office of Homeland Security all information relating to terrorist threats and activities within the United States.

SEC. 1105. BUDGET APPROVAL.

(a) AUTHORITY.—The Director of the Office of Homeland Security shall—

(1) review the budget requests submitted to the President by all executive agencies with homeland security responsibilities; and

(2) if a budget request fails to conform to the objectives set forth in the national strategy described in section 1102, may disapprove such budget request.

(b) EFFECT OF DISAPPROVAL.—In any case in which a budget request is disapproved under subsection (a)—

(1) the Director shall notify the appropriate Committees of Congress; and

(2) the President may not include such budget request in the annual budget submission to Congress unless the President makes an express determination that including such request is in the national interest.

SEC. 1106. ADMINISTRATION.

As provided in Executive Order 13228, the Office of Administration within the Executive Office of the President shall provide the Office of Homeland Security with such personnel, funding, and administrative support, to the extent permitted by law and subject to the availability of appropriations, as necessary to carry out the provisions of this title.

SEC. 1107. DETAIL AND ASSIGNMENT.

As provided in Executive Order 13228, the heads of executive agencies are authorized, to the extent permitted by law, to detail or assign personnel of such agencies to the Office of Homeland Security upon request of the Director of Homeland Security.

SEC. 1108. OVERSIGHT BY CONGRESS.

The establishment of the Office of Homeland Security within the Executive Office of the President shall not be construed as affecting access by Congress, or any committee of Congress, to—

(1) any information, document, or study in the possession of, or conducted by or at the direction of, the Director; or

(2) personnel of the Office.

The CHAIRMAN pro tempore. Pursuant to the previous order of the House, the gentleman from California (Mr. WAXMAN) and a Member opposed each will control 10 minutes.

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

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would do three things. First, it would codify the Office of Homeland Security in statute and subject it to congressional oversight.

Second, it would require that the director of this office be confirmed by the Senate.

Third, it would provide the director of the office with authority to review the budgets of all agencies involved in homeland security to ensure that they conform to the objectives of the national strategy. If they don't, the director could decertify these budgets. This would prohibit the OMB director from submitting them to Congress unless the President made an express finding that they served the national interest. Decertification would also trigger a requirement to report the deficiencies to relevant committees in the House and Senate.

Mr. Chairman, creating a new department is fine, but the most critical challenge is and will continue to be coordinating the efforts of the entire Federal Government as part of a comprehensive national strategy.

This chart to my right shows the current situation. There are 153 different agencies involved in homeland security.

The chart next to it, to my right, shows what this bill will do. There will be even more agencies involved. In fact, according to the Congressional Budget Office, this new department is so complex it will cost over $4 billion just to organize and manage the department.

As the chart shows, and I am talking about the chart to the far right, the chart shows that many agencies integral to homeland security will remain outside the new department, including the FBI, the CIA, the Defense Department, the National Guard, and many others.

What is urgently needed is an office at the White House level with the mandate and authority to develop a national strategy and unite the government behind it. That is what my amendment would do.

The starting point for this coordination should be the executive order that established the Office of Homeland Security within the White House, which President Bush issued last October. This order appropriately created a White House-level office charged with coordinating intelligence-gathering, preparedness, prevention, protection of critical infrastructure, and response and recovery across the entire country.

The main shortcoming of the executive order, however, is that it did not give the director of the office sufficient authority to implement these functions.

This amendment tracks the executive order, but it also provides additional authority to give the Nation what it needs most: a single office in the White House with the mission and authority needed to develop and implement a comprehensive national strategy for homeland security.

This amendment would do more to protect our national security, I believe, than the rest of the bill combined, and it is a whole lot simpler and less expensive.

I urge Members to vote yes on this amendment.

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

Mr. ARMEY. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. ARMEY) is recognized for 10 minutes.

Mr. ARMEY. Mr. Chairman, I yield 4 minutes to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. Mr. Chairman, I thank the gentleman for yielding time to me, and I thank him for his leadership on this bill.

Mr. Chairman, I say to my colleagues that I thank them for their leadership and their participation in this important effort to secure the homeland.

Mr. Chairman, I rise to address the context in which we consider this amendment. Coming late to this debate, my colleague, the gentleman from California, may not know the issue's history.

His amendment is similar to a bill that I and a bipartisan group introduced last October at a time when we believed the administration would not support a large Department of Homeland Security. We felt, and still do, that there needs to be one integrating strategy across the Federal Government. One person needs to be accountable for budget and coordination. One person needs to be a Cabinet-level official confirmed by the Senate.

The difference between now and last October is that, under H.R. 5005, that person is the Secretary of Homeland Security, who presides over the critical homeland security functions and a large workforce.

Under H.R. 5005, a statutory Homeland Security Council in the White House will coordinate government functions not contained in the new department, just as the National Security Council coordinates defense, foreign policy, and other national security functions.

If the sponsor of this amendment believes that the National Security Advisor lacks the authority to coordinate national security, I am unaware of it.

Mr. Chairman, a long history got us to this concept. As I mentioned, last

October I introduced the Office of Homeland Security Act with the gentleman from Nevada (Mr. GIBBONS) and 34 bipartisan cosponsors. The sponsor of this pending amendment was not one of them.

The organizing principle of that bill was included in legislation introduced by the gentleman from New Jersey (Mr. MENENDEZ) and 117 members of the Democratic Caucus. The language was modified to accommodate concerns of our colleagues on the Committee on the Budget and the Committee on Armed Services.

The sponsor of this pending amendment did not participate in these negotiations and did not cosponsor the task force bill. Further, his amendment, the one we are considering today, disregards the careful budget process that our colleagues, the gentleman from South Carolina (Mr. SPRATT), the gentleman from Missouri (Mr. SKELTON), and the gentleman from Texas (Mr. TURNER) helped construct.

When a bipartisan, bicameral group developed and introduced H.R. 4660, which combined the White House coordination and Department of Homeland Security functions, and which is the precursor of the bill we are considering today, the principal sponsor of this amendment did not participate.

On May 21, the minority leader supported this bill, our bill, H.R. 4660, at a press conference, where we were joined by the ranking member of the Committee on Appropriations, the gentleman from Wisconsin (Mr. OBEY).

This issue has been my principal focus for this term in Congress. My position has adapted as the context has changed, and I believe that careful consideration will show that the gentleman's amendment would hurt rather than help coordination.

Finally, I urge our colleagues to note that this amendment would cut OMB completely out of the budget process for homeland security. The Director of Homeland Security in this amendment is given the power to reject unilaterally homeland security budgets from any department, tying even the hands of the President.

Mr. Chairman, there is a better concept than this amendment, and it is in the base bill. The bipartisan process that developed that language should be respected.

I urge our colleagues to consider the context in which this amendment arises and to reject it.

Mr. WAXMAN. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding time to me; and I thank him for his leadership as a ranking member on the Committee on Government Reform and for his thorough understanding of the challenge that we have before us today.

I also want to commend the gentlewoman from California (Ms. HARMAN) for her leadership over the past year on this issue of homeland security. I want to take my lead from her when she said we must consider the context within which this amendment will be judged, because I believe the context within which this amendment will be judged is the context of a very big bill to establish a department, which we all agree we need, but the size of which and the approach to which harkens back to the 1950s, rather than into the future.

It is not a department for this new century. It is old and fashioned in a very old-fashioned way. It does not utilize to the maximum extent the technologies, and instead depends on locating 170,000 people. That is the low estimate. GAO says it could be as many as 200,000 people.

Mr. Chairman, there are 85,000 jurisdictions in our country, cities, towns, governments, of one kind or another, that this homeland security initiative must communicate with. Of that 85,000, only about 120 are larger than this proposed department. Cities like Salt Lake City; Providence, Rhode Island; Portsmouth, Maine; Reno, Nevada; and the list goes on and on, have fewer people than this Department of Homeland Security will have. The CBO says it will cost $4.5 billion to set this up, it is so large.

We will pay any price to protect our people, but that money might be better spent protecting our people than to go down this path of big government, a bureaucratic approach. We want that secretary of a lean department to be able to use his or her thinking about how to protect the American people, rather than spend time managing a department larger than most cities and towns in our country.

But the main point that I want to make is that the GAO, the Government Accounting Office, has said that it will take 5 to 10 years to have a Department of this size up and running. We simply cannot wait that long. Nothing less than the safety and security of the American people depend on us being, from day one, ready to protect them in the strongest possible way.

I have supported the amendment of the gentlewoman from California (Ms. HARMAN) to codify the Office of Homeland Security in the White House. I think that is a good idea. I think it is a better idea to make that department stronger, at least for the time that it takes to set up this department.

That is why I support the gentleman's amendment. I commend him for tracking the President's executive order, and I hope that he will be open to some compromise so that we can get this part of the bill moving and to have it signed.

I urge our colleagues to support the Waxman amendment. I support him, and I commend the gentlewoman from California (Ms. HARMAN) for her leadership.

Mr. ARMEY. Mr. Chairman, I yield 4½ minutes to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Chairman, I thank the Chair of the Select Committee on Homeland Security for yielding time to me.

Mr. Chairman, I am very eager to talk on this proposal this morning.

First of all, I would like to say to the gentleman from California (Mr. WAXMAN) that I know he is well-intended, I know that his proposal is sincere, and I know we share the same goal, but I strongly believe that the structure he has laid out will fail.

I also strongly believe that he does not understand the design and the purpose of this new department. I want to start by talking a bit about that.

The chart we had up here earlier looked a little like the health care plan we saw a few years ago, and it does look very complicated. It is very bureaucratic, when we look at all the different agencies and departments now involved in combatting terrorism.

That is the point. We do have over 100 different agencies. We have everyone in charge and no one in charge. We need to bring accountability to this. We need to align authority with responsibility, with very aggressive congressional oversight.

The gentleman has been very good at that over the years, and I would hope that, through Democrat and Republican administrations alike, this Congress and this gentleman, as long as he is here, will provide that oversight so we have real accountability. That is what this is about. It is not about creating a 1950s-size organization. It is about streamlining and consolidation.

The chart the gentleman held up showed a lot of different boxes and agencies and departments. This is the new Department of Homeland Security. This is the proposal the President sent us. This is the proposal that got through the various select committees. This is the proposal of the standing committees and now the select committee.

It has only four areas. One, the vast majority, almost all of the employees, will be in border and transportation security. The whole notion here is to streamline and consolidate; and to get the synergies out of that consolidation and streamlining in one new department, where we have real accountability, where somebody is in charge, that is the only way we are going to protect the homeland.

He has talked a lot about the CBO study, as has my friend, the gentlewoman from California (Ms. PELOSI). I hope they read it. I hope all my colleagues will read this CBO study. At least look at the summary of it.

They say this will cost $4.5 billion, and $2.2 billion is in existing departments in the Department of Defense. I don't know where they come up with that $2.2 billion. The remaining part of this for administrative costs for start-up is less than 1 percent of the budget of this department.

Finally, they take absolutely no account of any savings. They have no offsets at all for the consolidation and streamlining.

Again, with all due respect, the Congressional Budget Office is a 20th century budget-scoring organization trying to score a 21st century idea. This merger will create synergies and will create, over time, I am convinced, cost savings if we do it right and if the Congress provides the needed oversight.

I think there will be some start-up costs, but they will be minor. The more important thing is in the mid-term and long term there will be substantial efficiencies, and we will now have accountability and be able to protect our kids and grandkids from the threat of terrorism that faces us in this new century, the most important thing.

One of the ironies in this debate to me is that the very people who are saying, gee, this is going to be a big, new, 20th-century bureaucracy, 1950s bureaucracy, are the same people who say we cannot give the President and this new department the kind of flexibilities they need to manage this new agency.

Managerial, budget, and personnel flexibilities are absolutely critical to make this work. I agree that we need to provide those.

Today we will have an opportunity to discuss that further as a number of amendments will be offered to try to take the select committee product, which is a streamlined, consolidated, 21st century agency, and try to take it back to the 1950s. We need to reject that.

Finally, the President's proposal does include a coordinating council. He has already done that. He has set up a Homeland Security Council by executive order.

In the select committee, on a bipartisan basis, in fact, all four Democrats and three of us Republicans decided to support the gentlewoman from California (Ms. HARMAN) and her proposal she has worked on, not just for weeks or months but for years, to establish a coordinating council in the White House by statute.

Why is that important? Because this administration has shown that it is going to prioritize fighting terrorism by executive order. We want to ensure in Congress that future administrations will do the same. We do need to have this coordinating council.

Mr. Chairman, this is the right way to go for 3 quick reasons.

One, this allows the President to have an actual advisor. Otherwise, if you have Mr. WAXMAN's proposal, this advisor has to come up and testify before Congress, has to be confirmed by the Senate, the President will not rely on that person for candid advice, period.

Number two, it has no teeth. Look at the Council on Environmental Quality, if you are interested in the environment as the gentleman from California (Mr. WAXMAN) is, and tell me whether the CEQ has been effective in telling agencies how to prioritize budgets. Tell me if the drug czar has been effective. That is the other model. These are not the right models.

Third, the right model is there. It is the National Security Council. That is the one the gentlewoman from California (Ms. HARMAN) proposes. It has teeth. Let us reject the toothless alternative. Let us go with the real thing.

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we might have some difference about how this office ought to function in the White House. The proposal that I am offering is not something that I alone am supporting. It is, by the way, the proposal that has reached bipartisan support in the Senate. Senator LIEBERMAN's committee has supported this concept. The Brookings Institution, this is the core idea of their recommendation.

The General Accounting Office said that we need a stronger director in the White House with the tools to be able to do the job of coordinating these activities.

Evidently, none of the three of them talked to my colleague, the gentlewoman from California (Ms. HARMAN), but they came to a different conclusion, as have I, than her recommendation.

I must say that I do not think that what we are proposing is inconsistent with what the gentleman from Ohio (Mr. PORTMAN) offered to create this Homeland Security Council to advise the President of homeland security matters and work in consultation with OMB on a homeland security budget.

The difference we have is the Council would have much weaker powers than the Director of Homeland Security under the current amendment. For example, the Council would not be permitted to decertify an agency's budget submission. It would not prohibit the Office of Management and Budget Director from submitting the decertified budgets to the Congress without the President's review and approval, and it would not be required to report deficiencies to the Congress.

In other words, the Director of Homeland Security would have far fewer tools to coordinate the dozens and dozens of agencies that remain outside the new department. Passing this amendment in addition to the Portman language would not be inconsistent. Both could be included in the final bill.

Mr. Chairman, we are all trying to make this whole business work of trying to protect our country, and we are talking on a bipartisan basis about a department and strengthening the coordination at the White House.

I would submit that my amendment, which is the amendment that has been recommended by think tanks that have been involved in these organizational questions for many years, is a sound way for us to proceed. It gives the President the flexibility and the tools to have someone in the White House be able to do the job. I fear that with all the rearranging of the bureaucracy, if that is all we do, we will not have done enough.

We may have differences on this matter, and I respect the fact that people can have differences, but let us recognize that all of us are trying to do what we can in the national interest.

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

Mr. ARMEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Nevada (Mr. GIBBONS).

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

Mr. GIBBONS. Mr. Chairman, I rise in opposition to the Waxman amendment.

Mr. Chairman, I have been privileged to work closely with the White House, the House Select Committee on Homeland Security and several of my colleagues on both sides of the aisle on this legislation.

This amendment gives the head of the Office of Homeland Security too much power. It creates the possibility of a turf war between the Director of the Office of Homeland Security and the new Secretary of Homeland Security. I believe it is more appropriate at this time to create in statue the Homeland Security Council that is in the legislation that the Select Committee on Homeland Security reported out.

This council will coordinate with the over 80 government agencies that play a role in Homeland Security that will not be part of the new Department. The council enables key organizations outside the new Department to meet and talk about Homeland Security with the President.

At the center of this council is an advisor, whose role will be similar to that of National Security Advisor Condoleezza Rice. The advisor will coordinate homeland security efforts among federal departments and agencies, update national strategy, and be available to advise and perform other duties that the President may direct.

The establishment of this council is vital to ensure all information is shared with all agencies and not just kept within the new Department. While not a Senate confirmable position, it establishes the position that Governor Ridge currently holds in statue.

Mr. Chairman, as you know, the White House is against this amendment, the House Select Committee on Homeland Security is against this amendment, even the gentleman's own party leadership is against this amendment.

I urge my colleagues to vote against this amendment.

Mr. WAXMAN. Mr. Chairman, I yield my remaining 30 seconds to my colleague, the gentlewoman from California (Ms. PELOSI), the ranking member on the Select Committee on Homeland Security.

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding time to me.

Again, I acknowledge the fine work of the gentlewoman from California (Ms. HARMAN) and the fine work of our ranking member on the Committee on Government Reform, the gentleman from California (Mr. WAXMAN).

I just want to make this final point: I talked earlier about the size of this department and the number of localities in this country that are larger. There are not that many that have more people than this department will have.

The main point about what we do here is about localities, localities, localities, is it not, I ask the leader, and how we communicate with them; how we do it immediately to protect from day one the American people? Those localities need a place to coordinate with that is strong and effective from day one, and not wait 5 to 10 years for the department to be established.

I urge my colleagues to support the amendment.

Mr. ARMEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, absent this legislation that we are considering today, the proposition proposed by the gentleman from California (Mr. WAXMAN) might have been a good idea. I think there was a time it was.

But as soon as we turned ourselves in the direction of establishing a Department of Homeland Security with a Secretary of Homeland Security, this proposition was just simply out of place.

What we are doing with this legislation before us is establishing a Department of Homeland Security with a Secretary of Homeland Security. The Secretary will himself be confirmed by advice and consent in the other body, as will several other deputy under secretaries that relate to that department.

Mr. Chairman, I would submit that the other body will have all the opportunity to advise and consent on the question of homeland security that they can handle, perhaps even more.

The other thing about this that bothers me is it is an imposition against the separation of powers. We in the Congress jealously guard our powers. We would not accept the idea that anyone from the executive branch should tell us how to staff the United States Congress, nor should we try to impose on the White House how it should staff itself.

The President of the United States is perfectly capable, as we have seen in the case of Governor Ridge, to make a decision about what is needed in his White House staff, select the person that can perform the duties that would be assigned to that person, and carry out those, or watch oversight of those duties being carried out.

This amendment is out of step, out of place, and I believe out of line. We ought to vote it down.

Mrs. CHRISTENSEN. Mr. Chairman, I rise in support of the Waxman Amendment to codify and strengthen the White House Office of Homeland Security.

This is the right approach. It is supported by independent research and expert opinion. This amendment is the only way to create the kind of Office of Homeland Defense that can be effective and provide the protection we need, and the people of the United States deserve.

We should not be creating a large unwieldy bureaucracy that undermines the mission of many important agencies as H.R. 5005 would do. The base bill and the agency it creates, passed, will undermine our health, our safety and response to natural disasters, our safety on the seas, and countless other protections that Americans have always counted on to be there.

The approach contained in this amendment is the correct approach, and the only one that would provide homeland security.

The CHAIRMAN pro tempore. All time for debate has expired.

The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

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

RECORDED VOTE

Mr. WAXMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Following this 15-minute vote on the Waxman amendment, pursuant to clause 6 of rule XVIII, proceedings will resume on those amendments on which further proceedings were postponed last night in the following order: Amendment No. 1 offered by the gentleman from Minnesota (Mr. OBERSTAR), amendment No. 8 offered by the gentleman from Maryland (Mr. CARDIN), and amendment No. 14 offered by the gentleman from Kentucky (Mr. ROGERS).

This is a 15-minute vote, and the following three votes will be 5-minute vote.

The vote was taken by electronic device, and there were—ayes 175, noes 248, not voting 11, as follows:

[Roll No. 352]

AYES—175

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Blumenauer
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
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
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Solis
Strickland
Stupak
Tanner
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—248

Aderholt
Akin
Armey
Bachus
Baird
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
Delahunt
DeLay
DeMint
Diaz-Balart
Dooley
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
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
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pascrell
Paul
Pence
Peterson (PA)
Petri
Phelps
Pitts
Platts
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
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauscher
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 (FL)

NOT VOTING—11

Blunt	Meehan	Stark
Clay	Pickering	Waters
Condit	Pombo	Young (AK)
Doolittle	Smith (TX)	

□ 0955

Mrs. TAUSCHER, Mrs. NORTHUP, and Messrs. BARTON of Texas, HASTINGS of Florida, BAIRD, CROWLEY, HEFLEY, BARR of Georgia, MANZULLO, PAUL, and BERRY changed their vote from ''aye'' to ''no.''

Messrs. CUMMINGS, WATT of North Carolina, and SKELTON changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. PICKERING. Mr. Chairman, on rollcall No. 352, I was detained due to traffic. Had I been present, I would have voted "no."

(Ms. PELOSI asked and was given permission to speak out of order.)

CONGRATULATIONS TO CONGRESSMAN MEEHAN AND HIS WIFE, ELLEN, ON THE BIRTH OF DANIEL MARTIN MEEHAN

Ms. PELOSI. Mr. Chairman, as we debate matters of great seriousness today, there is some good news to report, and I think a good omen, and that is that last night MARTY MEEHAN and his wife, Ellen, received God's blessing of Daniel Martin Meehan, 9 pounds, 10 ounces, 22 inches long, in Lawrence, Massachusetts.

I know we all want to congratulate MARTY and Ellen Meehan.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to clause 6, rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time during which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 1 OFFERED BY MR. OBERSTAR

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on amendment No. 1 offered by the gentleman from Minnesota (Mr. OBERSTAR) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. OBERSTAR:

Strike section 402(5) of the bill (and redesignate subsequent paragraphs accordingly).

In section 501(1) of the bill, strike '', major disasters, and other emergencies''.

In the matter preceding subparagraph (A) of section 501(3) of the bill, strike ''and major disasters''.

In section 501(3)(D) of the bill, strike ''or major disaster''.

In section 501(4) of the bill—

(1) strike ''and major disasters'';

(2) strike ''or major disasters''; and

(3) strike ''or disasters''.

In section 501(5) of the bill, strike ''and disasters''.

Strike section 501(6) of the bill and insert the following:

(6) In consultation with the Director of the Federal Emergency Management Agency, consolidating existing Federal Government emergency response plans for terrorist attacks into the Federal Response Plan referred to in section 506(b).

In section 502(1) of the bill, strike the text after ''(1)'' and preceding ''Integrated'' and insert ''The''.

At the end of title V of the bill, insert the following (and conform the table of contents of the bill accordingly):

SEC. 506. ROLE OF FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) IN GENERAL.—The functions of the Federal Emergency Management Agency include, but are not limited to, the following:

(1) All functions and authorities prescribed by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Carrying out its mission to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a comprehensive, risk-based emergency management program—

(A) of mitigation, by taking sustained actions to reduce or eliminate long-term risk to people and property from hazards and their effects;

(B) of preparedness, by building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard by planning, training, and exercising;

(C) of response, by conducting emergency operations to save lives and property through positioning emergency equipment and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services;

(D) of recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards; and

(E) of increased efficiencies, by coordinating efforts relating to preparedness and response activities to maximize efficiencies.

(b) FEDERAL RESPONSE PLAN.—

(1) ROLE OF FEMA.—Notwithstanding any other provision of this Act, the Federal Emergency Management Agency shall remain the lead agency for the Federal Response Plan established under Executive Order 12148 (44 Fed. Reg. 43239) and Executive Order 12656 (53 Fed. Reg. 47491).

(2) REVISION OF RESPONSE PLAN.—Not later than 60 days after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall revise the Federal Response Plan to reflect the establishment of and incorporate the Department.

(3) MEMORANDUM OF UNDERSTANDING.—Not later than 60 days after the date of enactment of this Act, the Secretary and the Director of the Federal Emergency Management Agency shall adopt a memorandum of understanding to address the roles and responsibilities of their respective agencies under this title.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 165, noes 261, not voting 8, as follows:

[Roll No. 353]

AYES—165

Ackerman	Baird	Barcia
Allen	Baldacci	Barrett
Baca	Baldwin	Becerra
Berkley	Hinojosa	Owens
Berman	Honda	Pallone
Berry	Hooley	Pastor
Bishop	Hostettler	Paul
Blagojevich	Inslee	Payne
Blumenauer	Isakson	Pelosi
Boozman	Istook	Peterson (MN)
Borski	Jackson (IL)	Petri
Boswell	Jefferson	Price (NC)
Boucher	Jones (OH)	Rahall
Brown (FL)	Kanjorski	Rangel
Brown (OH)	Kaptur	Reyes
Capps	Kennedy (RI)	Rivers
Capuano	Kilpatrick	Rodriguez
Cardin	Kind (WI)	Roemer
Carson (IN)	Kleczka	Ross
Carson (OK)	Kucinich	Roybal-Allard
Clay	LaFalce	Rush
Clayton	Lampson	Sabo
Clement	Lantos	Sanchez
Clyburn	Larsen (WA)	Sanders
Conyers	LaTourette	Sandlin
Costello	Lee	Sawyer
Coyne	Lewis (GA)	Schakowsky
Crowley	Lipinski	Scott
Cummings	Lowey	Serrano
Davis (CA)	Lynch	Sherman
Davis (FL)	Maloney (NY)	Shows
Davis (IL)	Markey	Skelton
Davis, Jo Ann	Mascara	Slaughter
DeFazio	Matheson	Snyder
DeLauro	Matsui	Solis
Dicks	McCarthy (MO)	Spratt
Dingell	McCarthy (NY)	Strickland
Doyle	McCollum	Stupak
Duncan	McDermott	Thompson (MS)
Engel	McIntyre	Thurman
Eshoo	McKinney	Tierney
Etheridge	McNulty	Towns
Evans	Meek (FL)	Udall (CO)
Farr	Meeks (NY)	Udall (NM)
Fattah	Mica	Velazquez
Filner	Miller, George	Visclosky
Frank	Mink	Waters
Frost	Moore	Watson (CA)
Gephardt	Nadler	Watt (NC)
Gonzalez	Napolitano	Waxman
Gordon	Neal	Weiner
Gutierrez	Oberstar	Wexler
Hall (OH)	Obey	Woolsey
Hilliard	Olver	Wu
Hinchey	Ortiz	Wynn

NOES—261

Abercrombie	Crenshaw	Greenwood
Aderholt	Cubin	Grucci
Akin	Culberson	Gutknecht
Andrews	Cunningham	Hall (TX)
Armey	Davis, Tom	Hansen
Bachus	Deal	Harman
Baker	DeGette	Hart
Ballenger	Delahunt	Hastert
Barr	DeLay	Hastings (FL)
Bartlett	DeMint	Hastings (WA)
Barton	Deutsch	Hayes
Bass	Diaz-Balart	Hayworth
Bentsen	Doggett	Hefley
Bereuter	Dooley	Herger
Biggert	Dreier	Hill
Bilirakis	Dunn	Hilleary
Boehlert	Edwards	Hobson
Boehner	Ehlers	Hoeffel
Bonilla	Ehrlich	Hoekstra
Bonior	Emerson	Holden
Bono	English	Holt
Boyd	Everett	Horn
Brady (PA)	Ferguson	Houghton
Brady (TX)	Flake	Hoyer
Brown (SC)	Fletcher	Hulshof
Bryant	Foley	Hunter
Burr	Forbes	Hyde
Burton	Ford	Israel
Buyer	Fossella	Issa
Callahan	Frelinghuysen	Jackson-Lee (TX)
Calvert	Gallegly	Jenkins
Camp	Ganske	John
Cannon	Gekas	Johnson (CT)
Cantor	Gibbons	Johnson (IL)
Capito	Gilchrest	Johnson, E. B.
Castle	Gillmor	Johnson, Sam
Chabot	Gilman	Jones (NC)
Chambliss	Goode	Keller
Coble	Goodlatte	Kelly
Collins	Goss	Kennedy (MN)
Combest	Graham	Kerns
Cooksey	Granger	Kildee
Cox	Graves	King (NY)
Cramer	Green (TX)	Kingston
Crane	Green (WI)	

Kirk
Knollenberg
Kolbe
LaHood
Langevin
Larson (CT)
Latham
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
McCrery
McGovern
McHugh
McInnis
McKeon
Menendez
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pascrell
Pence
Peterson (PA)
Phelps
Pickering
Pitts
Platts
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (WA)
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—8

Blunt
Condit
Doolittle
Meehan
Pombo
Smith (TX)
Stark
Young (AK)

□ 1006

Mr. FORD and Mr. DEUTSCH changed their vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. CARDIN

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Maryland (Mr. CARDIN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. CARDIN:

In section 401(1), add the following at the end: ''The functions, personnel, assets, and obligations of the Customs Service so transferred shall be maintained as a distinct entity within the Department.''.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 177, noes 245, not voting 11, as follows:

[Roll No. 354]

AYES—177

Abercrombie
Ackerman
Allen
Baca
Baird
Baldacci
Baldwin
Barcia
Becerra
Bentsen
Berkley
Berman
Bishop
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Houghton
Hoyer
Inslee
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Paul
Payne
Pelosi
Petri
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wu
Wynn

NOES—245

Aderholt
Akin
Andrews
Armey
Bachus
Baker
Ballenger
Barr
Barrett
Bartlett
Barton
Bass
Bereuter
Berry
Biggert
Bilirakis
Blagojevich
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Clay
Coble
Collins
Combest
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dooley
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaFalce
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Manzullo
McCarthy (NY)
McCrery
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pascrell
Pence
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Pitts
Platts
Portman
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Udall (NM)
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—11

Blunt
Condit
Doolittle
Fletcher
Meehan
Morella
Pombo
Pryce (OH)
Smith (TX)
Weldon (FL)
Young (AK)

□ 1014

Mr. BLAGOJEVICH changed his vote from ''aye'' to ''no.''

Mr. FRANK changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Ms. PRYCE of Ohio. Mr. Chairman, on roll-call No. 354, I was inadvertently detained. Had I been present, I would have voted ''no.''

□ 1015

AMENDMENT NO. 14 OFFERED BY MR. ROGERS OF KENTUCKY

The CHAIRMAN pro tempore (Mr. LATHAM). The unfinished business is the demand for a recorded vote on amendment No. 14 offered by the gentleman from Kentucky (Mr. ROGERS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . JOINT INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—The Secretary may establish and operate a permanent Joint Interagency Homeland Security Task Force composed of representatives from military and civilian agencies of the United States Government for the purposes of anticipating terrorist threats against the United States and taking appropriate actions to prevent harm to the United States.

(b) STRUCTURE.—It is the sense of Congress that the Secretary should model the Joint

Interagency Homeland Security Task Force on the approach taken by the Joint Interagency Task Forces for drug interdiction at Key West, Florida and Alameda, California, to the maximum extent feasible and appropriate.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 240, noes 188, not voting 5, as follows:

[Roll No. 355]

AYES—240

Aderholt
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dicks
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Graves
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Hastings (WA)
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Hyde
Isakson
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Issa
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Jenkins
John
Johnson (CT)
Johnson (IL)
Keller
Kelly
Kennedy (MN)
Kerns
Kind (WI)
King (NY)
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Kirk
Knollenberg
Kolbe
LaFalce
LaHood
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Latham
LaTourette
Leach
Lewis (CA)
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Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Maloney (NY)
Manzullo
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
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Pence
Peterson (MN)
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Platts
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Pryce (OH)
Putnam
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Radanovich
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Regula
Rehberg
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Rogers (KY)
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Ros-Lehtinen
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Royce
Ryun (KS)
Saxton
Schaffer
Schrock
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Sessions
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Sherman
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Shimkus
Shuster
Simmons
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Skeen
Smith (MI)
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Souder
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Sununu
Sweeney
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Tiberi
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Upton
Vitter
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Walsh
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Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (FL)

NOES—188

Abercrombie
Ackerman
Akin
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clyburn
Condit
Conyers
Coyne
Crowley
Cummings
Davis (CA)
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DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Dooley
Doyle
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Ford
Frank
Frost
Gonzalez
Granger
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Hostettler
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Lampson
Langevin
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Markey
Mascara
Matheson
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McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shows
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Taylor (NC)
Thompson (CA)
Thompson (MS)
Thornberry
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—5

Blunt
Doolittle
Meehan
Smith (TX)
Young (AK)

□ 1024

Mr. WATT of North Carolina and Mr. LUTHER changed their vote from ''aye'' to ''no''.

Mr. McINTYRE changed his vote from ''no'' to ''aye''.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Mr. BONIOR. Mr. Chairman, on rollcall No. 355, the Rogers amendment to H.R. 5005, I mistakenly cast an ''aye'' vote. I intended to vote no.

(By unanimous consent, Mr. SHAYS was allowed to speak out of order.)

MOMENT OF SILENCE FOR MINERS TRAPPED IN SOMERSET, PENNSYLVANIA

Mr. SHAYS. Mr. Chairman, in consultation with the gentleman from Pennsylvania (Mr. MURTHA) and the gentleman from Pennsylvania (Mr. GEKAS), I ask for a moment of silence for the 9 miners in Somerset, Pennsylvania, trapped 240 feet underground. They have been trapped there for over 48 hours under very extreme conditions.

Mr. Chairman, this is in the district of the gentleman from Pennsylvania (Mr. MURTHA), and he and others in this Chamber request the prayers of the Members of this Chamber for those miners, for their families, and for the heroic work of our rescue workers.

I ask for a moment of silence.

The CHAIRMAN pro tempore. Would all Members please stand.

It is now in order to consider amendment No 17 printed in House Report 107–615.

AMENDMENT NO. 17 OFFERED BY MR. SHAYS

Mr. SHAYS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 17 offered by Mr. SHAYS:

Page 189, after line 7, insert the following (and redesignate succeeding sections and references thereto accordingly):

SEC. 762. LABOR-MANAGEMENT RELATIONS.

(a) LIMITATION ON EXCLUSIONARY AUTHORITY.—

(1) IN GENERAL.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 7103(b)(1) of such title 5 after June 18, 2002, unless—

(A) the mission and responsibilities of the agency (or subdivision) materially change; and

(B) a majority of the employees within such agency (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of such title 5; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) PROVISIONS RELATING TO BARGAINING UNITS.—

(1) LIMITATION RELATING TO APPROPRIATE UNITS.—Each unit which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) LIMITATION RELATING TO POSITIONS OR EMPLOYEES.—No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance

with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of such title 5, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employees first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) HOMELAND SECURITY.—Subsections (a), (b), and (d) of this section shall not apply in circumstances where the President determines in writing that such application would have a substantial adverse impact on the Department's ability to protect homeland security.

(d) COORDINATION RULE.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

The CHAIRMAN pro tempore. Pursuant to House Resolution 502, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from California (Mr. WAXMAN) each will control 10 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is a matter of absolute national security. In creating the Department of Homeland Security, it would be dangerous to leave the President with less authority to act in the interest of national security than he has under current law.

Management powers afforded every President since Jimmy Carter must be available to this President and to future Presidents to preserve the safety and defend the security of this great Nation.

Mr. Chairman, this amendment addresses the heartfelt concerns of the gentlewoman from Maryland (Mrs. MORELLA), our colleague, and others who feel current authority to exclude Federal employees from coverage under the labor laws could be used overbroadly in a department with so broad a security mission.

So we have included the Morella amendment adopted by the Committee on Government Reform, but with a safety valve. The Morella amendment would limit use of current exclusions that might otherwise apply to some Homeland Security Department employees. Existing exclusions could not be used unless the mission and the responsibilities of the affected agency or unit have changed materially and a majority of employees have as their primary duty intelligence, counterintelligence or investigative work directly related to terrorism investigation.

But our amendment also provides an essential safety valve. And safety is the reason we are creating the new Department. Subsection C would allow the President to apply existing exclusion authority in those special circumstances where he determines in writing that labor law coverage of the agency in question would have, quote, ''a substantial adverse impact,'' end of quote, on homeland security.

This puts a new tough new standard on the top of already rigorous tests the President must meet under title 5, chapter 71. To exercise his national security authority under this provision, the President must pass through three gates. First, he must determine that the Department's ability to protect homeland security will be significantly and adversely affected. Then, the current law tests must be met: Employee's primary function is in intelligence, counterintelligence, investigative or national security work; and, there is an incompatibility between labor law coverage and national security in the particular agency.

We believe this approach represents a sensible and workable compromise between permanently diminishing Presidential national security authority, as the Morella amendment alone would do, and providing no new standards for exercise of that authority in the new Department.

This amendment preserves the President's ability to act in the interest of national security while acknowledging the unique circumstance of employees being transferred into this new Department.

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

Mr. WAXMAN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, at the outset, I want to comment on the process under which we are considering this and the Morella amendment. The Republican leadership has rigged the process regarding the Shays and the Morella amendments by denying the gentlewoman from Maryland (Mrs. MORELLA) a clean vote on her amendment.

The Shays and Morella amendments are identical to each other, except that the Shays amendment includes a final paragraph that undoes the rest of the amendment. As a result, if both pass, the Morella amendment will be meaningless. It will do nothing.

The gentlewoman asked for a chance to modify her amendment so that it could strike the offending provision in the Shays amendment, but she was denied the opportunity to do that by her own leadership.

The result is a rigged process. So even if the Morella amendment prevails, she loses if the Shays amendment is also adopted.

Mr. Chairman, I would urge my colleagues who want to support the Morella amendment to vote for the Morella amendment and vote against the Shays amendment. This issue deals with labor management relations. The amendment takes the Morella amendment, which passed out of the Committee on Government Reform on a bipartisan basis, and renders it useless.

Let me explain the situation. Under existing law, the President can strip an agency's employees of collective bargaining rights if he determines that the agency or subdivision's primary function is counterintelligence, investigative or national security work. The amendment offered by the gentlewoman from Maryland provides a very limited exception to this authority. It says that the collective bargaining rights of employees who are currently in unions cannot be eliminated unless their functions change after they are transferred to the new Department.

The Shays amendment states that the Morella amendment would apply, except if the President does not want it to apply. Well, that means the Morella amendment has no meaning to it. Basically, it allows the President to do exactly what the gentlewoman's amendment was seeking to prohibit.

Mr. Chairman, the Morella amendment is carefully crafted. It gives the President broad flexibility to restrict collective bargaining rights when the duties of employees change. Moreover, it does not apply to over two-thirds of the employees in the Department because these employees are not currently in collective bargaining units. And it will not apply to the new units with sensitive responsibilities such as the new intelligence analysis office.

The Morella amendment would not be needed if the President and the administration had a track record of respecting employees' legitimate rights to organize and bargain collectively. Unfortunately, the administration has not respected these rights. Earlier this year, the President striped union rights away from clerical workers in the offices of U.S. Attorneys. Many of these employees had been in unions and they were union members for over 20 years.

So if we do not pass the Morella amendment, the same thing that happened at the offices of the U.S. Attorneys will happen in the new Department. That is why she offered the amendment in committee and why it was adopted.

So I would urge my colleagues to vote against the Shays amendment and then, when the Morella amendment is offered, to support it.

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

Mr. SHAYS. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WELDON.)

(Mr. WELDON of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Mr. Chairman, I rise in a difficult position, but very supportive of the Shays amendment, and let me explain why.

First of all, as most of my colleagues certainly on this side know, I am a strong supporter of the labor movement in this country and I make no bones about it. I coauthored family medical leave with the gentleman from Tennessee (Mr. GORDON) as a compromise many sessions ago and still support that legislation. I opposed

NAFTA. I was one of the few Republicans that opposed my President on trade promotion authority. I supported Davis-Bacon so that our building trades have the kind of support that they need. Pension reform, minimum wage, I have been there and that is because I come from a blue collar background.

Mr. Chairman, I am the youngest of nine kids. My father worked in a factory and was a member of the Textile Workers Union. My job is to try to strike a balance between what is best for business and what is best for the worker.

In this case I have to come down not just on the side of the worker and the right to organize, but in support of our President to deal with the difficult issue of homeland security.

I have looked at this amendment. I have the highest regard for the gentlewoman from Maryland (Mrs. MORELLA), I might add, and she is an absolutely tireless worker for the rights of workers and I have the highest respect for her. But in this case the Shays amendment changes the Morella amendment by one particular issue. It calls for three levels of the process of a President before he can take adverse action, but he must certify that the effect on homeland security must be substantial and adverse. This just cannot be by whim that is put forth by someone in the White House or agency who was opposed to labor rights or the union representation of the workers. It must require our President to take decisive action, go beyond the fact that it is merely incompatible with national security, and must actually determine that the effect is substantial and adverse.

So for these reasons, Mr. Chairman, I think the Shays amendment is a good amendment because it does in fact continue to protect workers, but it also gives the President that important capability that I think he deserves in the new Office of Homeland Security.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland (Mrs. MORELLA), the author of the amendment on this whole subject.

Mrs. MORELLA. Mr. Chairman, I thank the gentleman from California (Mr. WAXMAN) for yielding me this time. I want to recognize the fact that the gentleman from Connecticut (Mr. SHAYS) is my friend. And while I appreciate the fact that the gentleman's amendment mirrors mine almost exactly, unfortunately he has chosen to include one extra sentence which I see as the escape clause which negates the point of my amendment.

In the amendment that I will offer, I allow the union rights of existing employees transferred to the new Department of Homeland Security who have the same duties to remain in place. It kind of grandfathers them in. The Shays amendment has a loophole in that it would allow the union rights to be stripped for ambiguous reasons.

Presently, two sections of title 5 provide for administrative actions to disallow union membership for certain classes of Federal employees. Section 7103 allows the President to issue an executive order taking away title 5 labor management rights, including the right to be in a union for agency or subdivisions for national security reasons.

Section 7112 of title 5 makes the bargaining unit inappropriate for numerous reasons, including the performance of national security duties. Now, because the new homeland security agency's mission could easily all be defined automatically as national security, I am concerned that potentially tens of thousands of employees could be prevented from being members of a union, even though their work and responsibilities have not changed.

This concern is really not groundless because in January, 500 Department of Justice employees had their union rights stripped for national security work even though their responsibilities had not changed. Many of them had belonged to the union for 20 years and many of them had clerical responsibilities.

So my amendment seeks to set a slightly higher standard for the President so that the transferred employees who have the same responsibilities who already are in the union, not new ones, do not see their union rights stripped for the same capricious reasons as those DOJ employees.

Unfortunately, as I reiterate, the amendment offered by the gentleman from Connecticut, though well intentioned, has that escape clause and that renders it unacceptably weak and I urge defeat of the Shays amendment.

Mr. SHAYS. Mr. Chairman, I yield myself 15 seconds, to just point out that what we want is for the President to have the same powers and collective bargaining issues when national security is involved that past presidents from President Carter have had, and yet we are taking the gentlewoman's amendment and adding an additional test so we are making it a little more difficult for this President.

Mr. Chairman, I yield 2½ minutes to the gentleman from New York (Mr. MCHUGH).

Mr. MCHUGH. Mr. Chairman, I would like to engage the distinguished Speaker of the House in a colloquy regarding subsection (c).

Mr. Speaker, clearly this subsection of Mr. SHAYS' amendment adds an additional requirement on the President over and above what currently appears in section 7103 of title 5 before this or any other President would be enabled to exempt an agency or subdivision from the provisions of the Federal Labor Management Relations Act, a very important right, very important protection.

However, and added to the original Morella amendment as the Shays amendment proposed, this could create a methodology by which a President might circumvent the limitations on that section 7103 authority that the original Morella amendment, and I commend the gentlewoman, that would have put in place under the Department.

Accordingly, I believe that subsection (c) authority should, if it ever becomes law, be limited. I believe that it should be crafted in a fashion that each time that the President should invoke authority under subsection (c) of the pending amendment, that the exclusion would only be effective for a period of no more than 24 months. Further, I believe that written notification of substantial adverse impact must be conveyed to both Houses of Congress no less than 30 days prior to the invoking of that subsection (c).

Thereafter, upon any subsequent finding of substantial adverse impact on homeland security, the President could only again, upon written determination, convey to both Houses of Congress no less than 30 days prior to the expiration of that original term of exclusion, extend such a waiver for additional periods not to exceed 24 months each, with written determination and congressional notification for each exclusion as previously described.

And lastly, Mr. Speaker, upon such time as the war is won, conditions even out and waivers are no longer extended, each bargain unit previously recognized should be reinstated with all of its rights as they existed the day before the original waiver. And I would ask would the distinguished Speaker agree with me that we should provide for congressional notification allowing us to consider those issues, make those determinations, not as under current law, but for a determined period, and when the war on terrorism is leveled out or is over and won, the workers and their union organizations should fully return to their previous status and relationship?

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

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

Mr. HASTERT. Mr. Chairman, I think the gentleman makes a good point. This proposal is certainly reasonable. He has my assurance that the bill works its way through the conference with the other body, that I will do my best to make sure that the gentleman's proposal is not only considered carefully by the Congress and both sides but we will take very, very extraordinary methods and work to make sure that this type of concept is incorporated in the bill.

It could form the basis, I think, for an excellent conference agreement.

Mr. MCHUGH. Mr. Chairman, I thank the Speaker for his assurance and I commend him, the gentlewoman from Maryland (Mrs. MORELLA), and the gentleman from Connecticut (Mr. SHAYS), and all the people who have worked so hard on this for their leadership.

Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the gentleman from Texas

(Mr. REYES), who has personal experience on this subject that I think Members ought to know about.

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

Mr. Chairman, I want to offer my personal experience. Back in 1969 when I first joined the Border Patrol as a young officer freshly out of the military after spending 13 months in Vietnam, I went to a station where I was only one of three Latinos. And had it not been for the fact that I was able to join the Border Patrol Union, I would have not had a career in the Border Patrol for 26½ years.

Union protection is vital and important, specifically for minorities, but for all employees. To somehow draw the conclusion that to be able to have bargaining rights would be contrary to this Nation's national security is wrong.

Mr. Chairman, I intend to oppose the Shays amendment and I intend to oppose anything that would put in jeopardy the kinds of rights that gave me the opportunity to serve this country proudly in the United States Border Patrol, both as an agent ultimately retiring as the Chief. So I have been on both sides.

I would rather have our employees have the protection and have to deal with a problem employee as a responsibility of a chief than to subject employees to no protections.

Mr. SHAYS. Mr. Chairman, I yield myself 15 seconds to just respond to the gentleman. We are not trying to do anything with collective bargaining that does not exist in present law. In fact, we are even restricting in some ways the power of the President. Collective bargaining still exists. But like with Jimmy Carter all the way down, if there is a national security issue, the President has the right to take action.

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

Mr. WAXMAN. Mr. Chairman, may I inquire how much time there is on each side?

The CHAIRMAN pro tempore. The gentleman from California (Mr. WAXMAN) has 4 minutes remaining, and the gentleman from Connecticut (Mr. SHAYS) has 2½ minutes remaining.

Mr. WAXMAN. Mr. Chairman, I inquire through the Chair of the gentleman from Connecticut whether he has another speaker other than himself.

Mr. SHAYS. Mr. Chairman, I will have the gentleman from Ohio (Mr. PORTMAN) to close, and I might make a comment after the next speaker. But between me and the gentleman from Ohio, that is it.

Mr. WAXMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, if this were campaign finance reform, the gentleman from Connecticut would have a sheet in our hands saying this amendment is a poison pill designed to undermine the Morella amendment.

Mr. Chairman, this amendment is a wolf in sheep's clothing. It tries to send a reassuring message to Federal employees that their rights will be protected and their collective bargaining rights retained. I want to tell our Federal employees: Do not believe it. This language provides the President with a trap door to deny union representation to anyone in this Department if he determines that it would have a substantial adverse effect on the Department's ability to protect homeland security.

In general, that is the law. Why add this? To provide the trap door to the Morella amendment. When the President removed collective bargaining rights of some 500 Department of Justice employees earlier this year, he said it was in the interest of national security. Yet most of those employees work in clerical jobs and have been union members for over 20 years.

Last month I had the opportunity to question the deputy director of the Office of Personnel Management and I asked him in the last 20 years, in the last 50 years, could he cite me one or two or three instances where union membership ever in any instance at any time adversely affected national security? I got back a two-page letter with 11 pages of attachments. It does not cite one single incident where union membership had any adverse effect on collective bargaining.

Mr. Chairman, this is a windmill that the Republicans are tilting at because they do not believe in collective bargaining. That is their right, but do not be fooled. This amendment undermines and is designed to undermine, I tell my friend from Connecticut, like a poison pill, the effect of the Morella amendment. Do not tell my Federal employees, do not tell the gentlewoman from Maryland (Mrs. MORELLA) that this is some benign offering simply to make it a little better and to give the President a little more flexibility.

Mr. Chairman, I say to my colleagues, read the law. The President has that ability now, and the OPM sent me 11 pages of attachments citing instances where every President, admittedly in small instances, because this is not a problem, made such exemption.

Mr. Chairman, I say to my friends and my friends on the Republican side of the aisle, give the gentlewoman a fair shot. Do not play legislative games with her. Vote the Shays amendment down and then vote for the Morella amendment.

Mr. SHAYS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, this is not campaign finance reform, it is national security. And we want the President of the United States to have the same power previous Presidents have had for national security. This is national security. What the Morella amendment, in my judgment, is is a poison pill to his ability to govern this country under national security, unless we have the safety valve that we have put in there.

Mr. WAXMAN. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, as I told my colleagues, I have an 11-page attachment here from the Office of Personnel Management where Presidents under existing authority, that is not adversely affected, have that ability. No one in this House wants to adversely affect national security.

The point that I am making is that the Office of Personnel Management in direct response to my question cannot cite a single incident. Not one in the history of this country, or at least since we have had collective bargaining for Federal employees where national security was adversely affected.

Mr. SHAYS. Mr. Chairman, I yield myself 15 seconds to point out that before 9/11, we could not cite certain instance of terrorist activity. The bottom line is the Morella amendment restricts the President's ability under national security to take action. We are qualifying her restriction.

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

Mr. WAXMAN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, if Mr. SHAYS and some Republicans do not like the Morella amendment, they should just vote against it. They should not engage in this kind of trick to put in what appears to be the Morella amendment, but then to negate it. If they were being honest about the matter, they would simply oppose the Morella amendment as the gentleman from Connecticut (Mr. SHAYS) did in the Committee on Government Reform.

Mr. Chairman, a majority in that committee supported the Morella amendment. I would urge the House to adopt the Morella amendment and to defeat the Shays amendment, because what it does is negate the Morella amendment.

Mr. SHAYS. Mr. Chairman, I yield the balance of our time to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Chairman, I thank the gentleman from Connecticut, my friend, for yielding me this time.

Mr. Chairman, the gentlewoman from Maryland (Mrs. MORELLA) cares as deeply about national security as any Member of this Chamber, and it has been a pleasure to work with her on this. We were not able to come together, but we tried.

The Shays amendment is identical to the Morella amendment. And by the way, the gentlewoman from Maryland will have an opportunity to offer her amendment. It is specified under the rule. It is a special rule offered in the rule and I am glad she has that right. But the Shays amendment has one additional feature, an extremely important and limited safety valve which would allow the President to use the provisions of existing law to exempt an agency or subdivision from collective bargaining when he determines in writing that it has an adverse and significant impact on homeland security.

Mr. Chairman, it is a tougher standard on top of the already existing standard than any other agency of government. The employees of this Department will have more protections than the employees of any other department of the Federal government. Here at a time when we are trying to address this threat of terrorism, would it not be ironic if we took away existing national security protection that the President can employ through his waiver for the new Department of Homeland Security?

In this amendment, I believe that we have struck a sensible compromise between doing nothing and adopting the amendment of the gentlewoman from Maryland. It makes it harder for the President to exempt anything that existing law would permit. But it has an important safety valve. To make sure that it can deal with homeland security emergencies and critical situations if necessary and that protection of bargaining rights for workers will not imperil the protection of the physical safety and security of all of us as Americans.

Mr. Chairman, I urge a ''yes'' vote on the Shays amendment. I think it is a responsible and a correct compromise. I urge a ''no'' vote on the Morella amendment.

The CHAIRMAN pro tempore. All time has expired. The question is on the amendment offered by the gentleman from Connecticut (Mr. SHAYS).

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

RECORDED VOTE

Mr. WAXMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 229, noes 201, not voting 3, as follows:

[Roll No. 356]

AYES—229

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
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
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
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
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (MS)
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)

NOES—201

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Hunter
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
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
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
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
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—3

Blunt
Meehan
Stump

□ 1118

Messrs. PALLONE, HUNTER, and PETERSON of Minnesota changed their vote from ''aye'' to ''no.''

Messrs. BONILLA, ADERHOLT, BACHUS, and HALL of Texas changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. LATHAM). It is now in order to consider amendment No. 18 printed in House Report 107–615.

AMENDMENT NO. 18 OFFERED BY MRS. MORELLA

Mrs. MORELLA. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 18 offered by Mrs. MORELLA:

In subtitle G of title VII of the bill, insert after section 761 the following (and redesignate succeeding sections and references thereto accordingly):

SEC. 762. LABOR-MANAGEMENT RELATIONS.

(a) LIMITATION ON EXCLUSIONARY AUTHORITY.—

(1) IN GENERAL.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 7103(b)(1) of such title 5 after June 18, 2002, unless—

(A) the mission and responsibilities of the agency (or subdivision) materially change; and

(B) a majority of the employees within such agency (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of such title 5; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) PROVISIONS RELATING TO BARGAINING UNITS.—

(1) LIMITATION RELATING TO APPROPRIATE UNITS.—Each unit which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) LIMITATION RELATING TO POSITIONS OR EMPLOYEES.—No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of such title 5, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employees first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) COORDINATION RULE.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

The CHAIRMAN pro tempore. Pursuant to House Resolution 502, the gentlewoman from Maryland (Mrs. MORELLA) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, I yield myself such time as I may consume.

I am going to offer this amendment despite the fact that the Shays amendment did pass because I believe the integrity of the Committee on Government Reform is important enough so that what they voted on in the full committee should be what is sent over to the conferees and what ultimately will become law.

The amendment that I am offering today is with the gentleman from Illinois (Mr. DAVIS), who is the ranking member of the Subcommittee on Civil Service, Census and Agency Organization, and very much a supporter of Federal employees. What the amendment does is it simply aims to protect the union rights of existing employees transferred to the new Department of Homeland Security who have the same duties.

I want to point out at the onset that the language of my amendment is similar to language that was included in the gentleman from Texas's (Mr. THORNBERRY) original Homeland Security bill and the language that was agreed to on a bipartisan basis by the Senate Committee on Governmental Affairs.

Let me just say one big agency, 22 other agencies become part of Homeland Security; therefore, everything under it is called security. Therefore, it offers an opportunity for arbitrarily saying that some union rights will be taken away from some people. One hundred seventy thousand employees would be part of it. Only 50,000 employees who already belong to unions whose duties have not changed would be able to continue with the functions of their unions and collective bargaining rights. That is all. It is grandfathering those people in.

Why do we need it? Already it has been mentioned, as we discussed the Shays amendment, the fact that in January, 500 employees of the Department of Justice lost their collective bargaining rights. They lost their rights even though many of them were clerical and that even had been part of a union for over 20 years. I do want to say that this House really should reflect, at a time when we have Local Commission No. 2, when we have Partnership for Public Service, when 51 percent of our work force are eligible to retire in 5 years, when 71 percent of the Executive Service are eligible to retire in 5 years and we are trying to recruit and retain, the fact that trust is so very important.

So I ask this body, despite the fact that the Shays amendment passed, that they pass the Morella amendment so we can also send on the intent of the Committee on Government Reform as well as this Congress.

Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I am pleased to join with the gentlewoman from Maryland (Mrs. MORELLA) in cosponsoring this amendment and rise in strong support.

The Morella amendment provides that employees who have elected unions to represent them in collective bargaining, before being transferred into the Department of Homeland Security, should not lose their representation rights. Essentially the Morella amendment is a grandfather clause. All it really does is protect those individuals who have collective bargaining rights and are currently union members.

There are some people who suggest that this is going to undercut the President's authority. Absolutely not. It only deals with those individuals who are currently union members, and it also provides enough flexibility that if individuals' work assignments change significantly, then the President could, in fact, move them around.

We also know that the President issued an executive order barring union representation in U.S. Attorney's offices. Individuals who were doing clerical work were denied the opportunity to be unionized and to have the representation. As a matter of fact, we believe in a strong Presidency. We believe that the flexibility ought to be there. But we also believe that these are hard-won rights that people have struggled to achieve for years and years and years. They should not be diminished. They should not be taken away.

And so I simply urge my colleagues to stand with the American people who believe in Civil Service protection, who believe in the rights of the individuals that work. Stand and support the Morella amendment.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent as the ranking Democrat on the Committee on Government Reform to manage the time on this Morella amendment.

Mr. PORTMAN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Is the gentleman from Ohio seeking time in opposition?

Mr. PORTMAN. Exactly, Mr. Chairman. I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Ohio is recognized to control the time in opposition as a member of the select committee.

Mr. PORTMAN. Mr. Chairman, I yield myself such time as I may consume.

First of all, we have already had a good debate on this issue in the context of the Shays amendment, and I appreciate the fact that the gentlewoman from Maryland comes at this in good faith. As I said earlier, nobody in this Chamber cares more about national security. We do differ on this issue. The gentlewoman from Maryland talked a lot about the Committee on Government Reform and what the Committee on Government Reform thinks about this.

I think it is only appropriate, Mr. Chairman, to yield 2½ minutes to the gentleman from Indiana (Mr. BURTON), chairman of the Committee on Government Reform.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding time.

First of all, let me just say that I have very high regard for the gentlewoman from Maryland. She is a very fine member of our committee. As a matter of fact, I admire her so much, we made her a subcommittee chairman. But we have a strong disagreement on this issue. We are at war, and we are talking about national security, and there is really no evidence that we have a problem. In fact, this very issue has been used very sparingly by past Presidents, both Republican and Democrat, and they have never abused the privilege.

Second, as I said, we are in a war, and the Homeland Security Department is a very, very important part of the President's strategy of dealing with that war. This amendment would give the President less authority over the defense of America, the new Homeland Security Department, less authority than he has over any other department of government. Why would we do that? Why would we give the President less authority over the security of America, the Homeland Security Department, than he has over any other department? It makes no sense.

Regarding this vote, this was one of the most controversial votes we had before our committee. It came right down to the last vote. It passed by one vote. When it went to the select committee, the leadership committee, that issue was reversed by one vote. So this

is a very, very difficult issue for us to deal with. That is why we supported the Shays amendment, because the Shays amendment is an amendment we think that deals with the subject very well.

Finally, let me just say, President Bush is not an antiunion President. He cares about organized labor, and he will work with organized labor. So let us not give the President less authority than he already has over every other agency in dealing with the security of this Nation. It makes absolutely no sense.

I hope Members will all vote against the Morella amendment, not because she is not a lovely lady, but because it is the wrong thing to do.

Mrs. MORELLA. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. WAXMAN), who is the ranking member of the full Committee on Government Reform.

□ 1130

Mr. WAXMAN. Mr. Chairman, I thank the gentlewoman for yielding me time.

At the close of the last amendment by Mr. SHAYS, the gentleman from Ohio (Mr. PORTMAN) said that the gentlewoman from Maryland (Mrs. MORELLA) was being treated fairly because she could offer her amendment.

Now, that is absolutely wrong. She is a senior Member of Congress. She is the author of an amendment that passed in the committee on a bipartisan basis, and she is being demeaned by that previous amendment that makes the vote on this amendment completely meaningless.

I support the Morella amendment. You can vote for it, you can vote against it, but it does not make any difference, because even if it passed, the previous amendment negates it. I just think that is an incredible way to treat somebody in your own party. After all, she gave the Republicans the votes to organize the House. What do they do? They turn around and deny her a fair opportunity to offer her amendment and to try to convince Members to support it and to make it the House position.

Now, if we adopt the Morella amendment it will be the House position, but we have already adopted another amendment that says the Morella amendment is not going to be the House position.

I think that this is a wrong way on the process to treat this matter, and I think it is an unfair way to treat the gentlewoman from Maryland (Mrs. MORELLA). I am going to support the Morella amendment. I asked for the time so we could control it, but we were not even given that courtesy.

This is partisanship in the sneakiest, meanest, narrowest way; and not to me, but to one of their own Members. I commend the gentlewoman from Maryland (Mrs. MORELLA). She offered the amendment in committee, she argued for it, her arguments prevailed and she won on a bipartisan basis. I am going to vote for her amendment. I urge other Members to vote for it. But we all know it is meaningless.

Mr. PORTMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I wholeheartedly agree with the endorsement of the gentlewoman from Maryland (Mrs. MORELLA) by my friend from California and appreciate it. She is a fine Member, and, as I said earlier, no one cares more about national security than her.

I would just make the point very clearly that notwithstanding the fact she would not be able to offer the same amendment to the same section of the bill, this rule was drafted in a way to permit that. I think it is appropriate, and she does have the right to offer her amendment today, and I am glad she does.

Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. TOM DAVIS), a member of the Committee on Government Reform.

Mr. TOM DAVIS of Virginia. Mr. Chairman, let me just add, this is not the end of the legislation. This bill goes to conference. The House vote on this is important in terms of the message it says to conferees, and I think to dispel it is not appropriate.

I also commend my colleague for her work and her courage in standing up to leadership on this particular issue, as she has done so many times during her career. Like her, I have a number of Federal employees and union members in my Congressional district, and I believe strongly that the traditional Federal workforce protections need to be applied and extended to Federal employees as they are transitioned into the new Department of Homeland Security.

But I differ with her on this amendment for this reason: The underlying legislation gives the employees the traditional rights they would enjoy in being able to transfer from one agency to this new agency. The amendment offered by the gentlewoman from Maryland (Mrs. MORELLA) gives them additional rights that they currently do not enjoy under Federal law, and it gives them additional rights at a time when we are at war with global terrorists, where the President has come to us saying this is the organization he needs to be able to win the war on global terrorism, and we are taking away the President's flexibility to deploy people that he enjoys in the Department of Defense, in the FBI, in the CIA and every other Federal agency.

So they are treated under this the same way as they are in those other agencies that help us fight wars, and if this amendment passes, it basically creates a two-tier system and a lot of potential for inequities. For example, at a time of crisis, the President would not be able to treat Department of Justice, CIA, in the same manner as he treats employees at the Department of Homeland Security. That does not make any sense.

Mr. Chairman, section 7103(b) of title IV represents a finely crafted balance between the rights of employees and the duty of the President to act in exceptional times, in exceptional times. Rarely used, in exceptional times with exceptional action. We are at war now, and certainly these are exceptional times.

In my view, we should enact the legislation and give our Commmander-in-Chief the tools he needs to enact the war on terrorism.

Mrs. MORELLA. Mr. Chairman, I yield myself such time as I may consume.

I just want to make a brief statement. I want to thank the gentleman from California (Mr. WAXMAN) for what he had said, but I wants to disagree with him on one issue, because this is not meaningless. If we pass this amendment, this also indicates the intent of the House, the intent of the committee. And the battle has just begun. I will not relent until we do what is best for our Federal employees.

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

Mr. MORAN of Virginia. Mr. Chairman, Congress enacted civil service protections and collective bargaining rights so the U.S. Government could attract the very best to government service. As we stand together to fight terrorism, we should also stand together for the rights and well-being of those people who are on the front lines of that fight.

It is no secret that one of the Federal Government's biggest challenges is recruiting and retaining highly qualified workers. Within 3 short years, the Federal Government will face a mass retirement of Federal employees. Given the composition of the workforce, this is a given.

I support the Morella amendment because it will ensure that Federal employees at the new Department of Homeland Security will retain their rights to belong to unions. This provision would guarantee that the 50,000 employees, only about 25 percent of those expected to be transferred to the new department, who are currently under collective bargaining agreements, retain their union representation.

Let us be clear this amendment would apply only to those who currently have collective bargaining rights and would in no way affect those employees who are not currently members of unions. The need to establish this new department should not be used as a veiled attempt to strip Federal servants of the fundamental protections and collective bargaining rights they enjoy today.

Mr. PORTMAN. Mr. Chairman, I yield 1¼ minutes to the gentleman from Florida (Mr. WELDON), the distinguished chairman of the Subcommittee on Civil Service of the Committee on Government Reform.

Mr. WELDON of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in opposition to the gentlewoman's amendment. I think it is going to be very, very important as we move through the process of consolidating all these agencies together into one unified Homeland Security Department that the President of the United States has the ability to deal with the conflicting union agreements that he is going to have to try to bring together.

I know the President of the United States is going to do everything he can to protect the rights of the workers.

This amendment I think is extremely strange, because it basically is saying that we are going to take the right that the President of the United States has to suspend collective bargaining agreements for national security purposes and deny it to the President of the United States within the Department of Homeland Security.

If this amendment passes, the President of the United States for national security reasons, and this is an authority that Democratic and Republican presidents have exercised authority rarely, and, when they have, they have done it appropriately. To deny it within the Department of Homeland Security to me does not make any sense.

Mr. PORTMAN. Mr. Chairman, I yield 30 seconds to the gentleman from Texas (Mr. THORNBERRY), another distinguished colleague who has been at the forefront of this issue over the last several years, not just weeks or months.

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

Mr. Chairman, earlier this year a bipartisan group of House and Senate Members, a bipartisan group of Members from both bodies, introduced identical bills, and basically we said that this issue of collective bargaining ought to be the same.

That, in my view, is the same as it is now. That, in my view, is what the Shays amendment was. It was unimaginable to us then and it is unimaginable to me now that we would reduce the ability of the President to act in a national security situation. That is why I believe this amendment should be rejected.

Mr. PORTMAN. Mr. Chairman, I yield 30 seconds to my friend, the gentlewoman from Maryland (Mrs. MORELLA). We have more time than she does, and she would like some additional time.

The CHAIRMAN pro tempore (Mr. LATHAM). Without objection, 30 seconds will be yielded to the gentlewoman from Maryland (Mrs. MORELLA).

There was no objection.

The CHAIRMAN pro tempore. The gentlewoman from Maryland (Mrs. MORELLA) has 2 minutes remaining.

Mrs. MORELLA. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York (Mrs. MALONEY).

(Mrs. MALONEY of New York asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY of New York. Mr. Chairman, I rise in strong support of the Morella amendment. We do not make our homeland more secure by undermining job security.

Mr. Chairman, I rise in support of the Morella-Danny Davis amendment to protect federal workers.

As a New Yorker, I care deeply about homeland security.

Even since, Sept. 11th, we have had several security alerts issued by the government.

Everyone wants a strong homeland, but it shouldn't be achieved on the backs of the dedicated and talented men and women of the federal workforce. We should not erode the rights of federal workers.

In the event of a homeland security crisis, do you really believe that anyone would abandon their posts when the clock strikes five?

The Morella amendment is a fair amendment.

It is clear that the government employees who transfer into the new department can keep the rights they already have.

It applies only to those who currently have collective bargaining rights and would in NO WAY affect those employees who do not currently have these rights.

Some of the papers are using the example of a ''druken Border Patrol agent'' as a reason of why they want to take away workers' rights. This is a silly anecdote. I can tell you in New York right now, if this were to happen with one of our officers in the City, such a person would be removed immediately from their post, but due process would still be protected.

We don't make our homeland secure by undermining job security.

Mrs. MORELLA. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, the Japanese attacked us at Pearl Harbor and we fought World War II. We went into Korea, we went into Vietnam, we went into Bosnia, we went into the Persian Gulf. We did not do this. We saw no need to do it, because we saw no threat from collective bargaining.

My colleagues, support the Morella amendment. I agree with her, it does mean something. It says to our employees, we understand that your collective bargaining rights do not in any way, at any time, undermine our national security, for which we all will fight and for which we will all support legislation to protect it.

I rise in favor of the Morella amendment.

Mr. Chairman, we must ensure that ''flexibility'' does not become a code word for favoritism.

Furthermore, we must ensure that ''flexibility'' does not become a euphemism for gutting federal civil servants' rights.

The federal civil service was created for a reason: to prevent arbitrary and capricious employment decisions based on politics and patronage rather than competence and professionalism.

All this amendment does is tell the employees who will be working in the new department, ''If you will be performing the same job as you do now, you will be able to retain the right to collective bargaining rights.''

There is no doubt that certain reforms to our civil service are necessary, but stripping the rights of federal employees behind the curtain of homeland security is not the right approach.

We have an opportunity to turn national tragedy into national triumph by demonstrating to the American people, particularly the generation just entering the workforce, that employment in the Federal Government is not only honorable and patriotic, but also rewarding.

There is absolutely no doubt in my mind that employees currently covered by the full force and affect of title 5 will have no adverse affect on our homeland security as it pertains to employment in this department. I support this amendment and urge my colleagues to vote in favor of it.

Mrs. MORELLA. Mr. Chairman, I yield 30 seconds to my colleague, the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, I rise in strong support of the Morella amendment. I represent 72,000 Federal employees. I think this so-called ''flexibility'' is a great mistake. It abrogates employee rights and ultimately it undermines their moral.

Our greatest asset is our human capital. We cannot expect our fellow employees to protect homeland security if we undermine their employment security. The Morella amendment provides a compromise. It allows the President to say if they are engaged in investigative work relating to counterterrorism, relating to the war on terrorism, they can abrogate those rights. If they do not, if they are performing administrative or clerical functions not relating to investigations, they retain their bargaining rights.

Support the Morella amendment.

Mr. PORTMAN. Mr. Chairman, it is my understanding we have the right to close, is that correct?

The CHAIRMAN pro tempore. The gentleman from Ohio has the right to close.

Mr. PORTMAN. Mr. Chairman, I would like to give the gentlewoman from Maryland (Mrs. MORELLA) the right to close.

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

Mr. Chairman, again, we have had a good debate here today in the context of the Shays amendment and now the Morella amendment. The bottom line is we have a good compromise. It is the Shays amendment. It gives workers in this new department more protection than any workers in any department in government, and yet it retains in the president this extremely important national security authority. It would be ironic if during this time of addressing this new threat of terrorism we were to take away that authority altogether.

I think the compromise makes sense. I strongly urge a no vote on the Morella amendment, which would, according to the President, be the basis for a veto of this legislation.

Mr. Chairman, I yield the balance of my time to the gentleman from Connecticut (Mr. SHAYS).

The CHAIRMAN pro tempore. The gentleman from Connecticut is recognized for 2 minutes.

Mr. SHAYS. Mr. Chairman, in the 3½ years my Subcommittee on National Security has been looking at homeland security, one thing is very clear: We need to know what the threat is, we need to develop a strategy, and we need to do what we are doing today, which is to reorganize our government to meet the terrorist threat.

When the President implements the reorganization of our Federal Government under this law that we will provide him, he needs the same flexibility President Carter had, the same flexibility President Reagan had, the same flexibility President Bush had, the same flexibility President Clinton had. He needs that same flexibility.

It is interesting to note that my colleagues have not sought to limit past presidents in their ability to have this flexibility to deal with national security. You must vote no on the Morella amendment. It is in conflict with the amendment that has passed before. We included all aspects of the Morella amendment, but we had a safety valve.

When you hear of the 500 clerical employees that were impacted, they were under the National Drug Intelligence Center, the U.S. National Central Bureau of Interpol, the Office of Intelligence, Policy and Review, the Criminal Justice Division of DOJ. They were clericals under the professionals. But the law does not give the President the ability to leave the clericals in place, and that is what the Morella amendment should have done. We need to give the President the ability to utilize his power in a way that enables him to impact only the employees we need to.

□ 1145

Our primary concern must be national security; it would be absolutely unbelievable if we would give the President less power to fight terrorism when terrorism is a greater threat. It is not a question of if, but when, where, and what magnitude we will face the potential of chemical, biological, or nuclear attack.

We had people testify before our committee that pointed out a small group of scientists could alter a biological agent and wipe out humanity as we know it. We are talking about a threat to our national security. How can we think that Federal employees are not willing to step up to the plate and live under the same law that has existed under previous presidents? I believe they want this law and the President to have the power that previous presidents have had.

Mrs. MORELLA. Mr. Chairman, I yield myself the remaining time.

I do not see how being in a union would disallow any of those employees from performing their responsibilities.

I think, Mr. Chairman, the crux of this debate comes down to trust. It is for this reason that I simply refuse to buy the argument that we have to matter-of-factly give the administration or any administration as much flexibility as possible. I am a friend of the President, I think he has done a wonderful job guiding the country through this crisis, but on the Federal employee issues, his record is not as laudable as I would like it to be.

So my amendment speaks to those concerns. It speaks to the lack of trust that has been engendered if we have policies that are anti-Federal employee rights, and that is why I feel it is necessary to create a slightly higher standard for this department.

The fact is, I simply cannot take the chance on being wrong on this issue. The President's executive order authority under chapter 7103 has never been overturned, and there are simply too many Federal employees who could lose their rights for the same questionable reason that those 500 DOJ employees did.

I have 78,000 Federal employees living in my district. This issue is important to them, and it is important to the country. I ask my colleagues to vote for the amendment.

Mr. DAVIS of Illinois. Mr. Chairman, as a member of the House Committee on Government Reform, and as the Ranking Member of its Subcommittee on Civil Service, Census, and Agency Organization, I am proud to join my colleague, the gentlewoman from Maryland, Representative MORELLA, in co-sponsoring this amendment to H.R. 5005.

We certainly have come a long way from the days, back in the 1800's, when it would not have been uncommon to find an ad in a Washington newspaper saying: ''WANTED—A GOVERNMENT CLERKSHIP at a salary of not less than $1,000 per annum. Will give $100 to any one securing me such a position.''

We now have a merit-based Federal civilian workforce that is unsurpassed by none. Our civil servants have responded with professionalism to the threats against our borders and assaults against our values. Those 170,000 employees who are identified to become the first employees of our new Department of Homeland Security will coalesce together to ''prevent terrorist attacks within the United States, reduce the vulnerability of the United States to terrorism; and minimize the damage, and assist in the recovery, from terrorist attacks that do occur.'' We are charging much to them—and they are up to the task.

However, just as we are expecting much from these Federal civil servants, they should expect much from a grateful nation. We should safeguard their employment rights to the extent that doing so does not interfere with national security. This amendment that Mrs. MORELLA and I have introduced strikes this delicate balance.

The President and the Federal Labor Relations Authority can presently exempt employees from union membership for ''national security work.'' The President used this authority last year to take away the collective bargaining rights for approximately 500 Justice Department workers, most of whom were clerical employees who had been unionized for twenty years. Their duties had not changed—what had changed was their rights to union membership.

Simply stated, our amendment protects the rights of Federal employees. Those who currently have the right of union membership will retain this right in the new Department of Homeland Security—so long as they are doing the same work. This is no more than what is commonly referred to as a ''grandfather'' clause. Of the approximately 170,000 employees that will be transferred to the new Department, only 50,000 are represented by unions—less than one-third. These are the employees who would be protected under our amendment. We cannot take the risk that thousands of employees could lose their labor rights for ambiguous reasons. If they are doing the same work, they should have the same protections.

This amendment would not change the standard for new employees hired to the Department of Homeland Security or those employees transferred who were not previously allowed union membership. Also, any employee transferred to the new Department, who was previously allowed union membership, but whose responsibilities change significantly, would no longer retain this right.

We have a big challenge ahead of us in shoring up this new Department. Let's protect those who will be protecting us. I urge my colleagues to support Federal employee rights and to pass this amendment.

Thank you, Mr. Speaker.

Mrs. MALONEY of New York. Mr. Chairman, I rise in support of the Morella-Danny Davis amendment to protect federal workers.

As a New Yorker, I care deeply about homeland security.

On September 11th, we should remember that the first responders who rushed to the World Trade Center were civil servants—wonderful, selfless civil servants.

More than 10 months after September 11, the pain from that day has not begun to fade for my constituents in New York. While we have cleaned up the site and begun to focus on rebuilding, no New Yorker can walk past a firehouse or see a police car race across the city without being reminded of the incredible herorism displayed by the 343 firefighters, 37 Port Authority Police and 23 New York City Police who gave their lives to save others that day.

In my own district 25 different fire stations lost people in the terror attacks. One firehouse in my district—the Roosevelt Island based Special—Operations unit lost 10 men. The loss was so great from this facility because a duty change was in progress. Men who were finishing their shift grabbed their equipment and headed to the scene. As a result, twice as many perished as would have otherwise.

These men and women didn't hesitate to respond.

So I ask you, in the event of a future homeland security crisis, do we really believe that any federal worker at the new Department of Homeland Security would abandon their posts when the clock strikes five?

Everyone wants a strong homeland, but it shouldn't be achieved on the backs of the dedicated and talented men and women of the federal workforce.

We should not *erode* the rights of federal workers.

The Morella amendment is a fair amendment.

It is clear that the government employees who transfer into the new department can keep the rights they already have.

The amendment applies only to those who currently have collective bargaining rights and would in NO WAY affect those employees who do not currently have these rights.

Some of the papers are using the example of a ''drunken Border Patrol agent'' as a reason of why they want to take away workers' rights. This is a silly anecdote. I can tell you in New York right now, if this were to happen with one of our officers in the City, such a person would be removed immediately from their post, but due process would still be protected.

We don't make our homeland secure by undermining job security.

Vote for the Morella amendment.

The CHAIRMAN pro tempore (Mr. SUNUNU). The question is on the amendment offered by the gentlewoman from Maryland (Mrs. MORELLA).

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

RECORDED VOTE

Mrs. MORELLA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 208, noes 222, not voting 3, as follows:

[Roll No. 357]

AYES—208

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
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
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Hunter
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
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
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
Simmons
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
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

NOES—222

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Castle
Chabot
Chambliss
Coble
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
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
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
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
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
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)

NOT VOTING—3

Blunt
Collins
Meehan

□ 1207

Mr. CONDIT changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. SUNUNU). It is now in order to consider amendment No. 19 printed in House Report 107–615.

AMENDMENT NO. 19 OFFERED BY MR. QUINN

Mr. QUINN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 19 offered by Mr. QUINN:

In section 761(a) of the bill, redesignate paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and insert after the heading for subsection (a) the following:

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

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

In paragraph (4) of section 9701(b) of title 5, United States Code (as proposed to be added by section 761(a) of the bill), strike all that follows ''by law'' and insert ''; and''.

In section 9701 of title 5, United States Code (as proposed to be added by section 761(a) of the bill), redesignate subsection (e) as subsection (g) and insert after subsection (d) the following:

''(e) PROVISIONS TO ENSURE COLLABORATION WITH EMPLOYEE REPRESENTATIVES.—

''(1) IN GENERAL.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the direct participation of employee representatives in the planning, development, and implementation of any human resources management system or adjustments under this section, the Secretary of Homeland Security and the Director of the Office of Personnel Management shall provide for the following:

''(A) NOTICE OF PROPOSAL, ETC.—The Secretary and the Director shall, with respect to any proposed system or adjustment—

''(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

''(ii) give each representative at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

''(iii) give any recommendations received from any such representative under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

''(B) PRE-IMPLEMENTATION REQUIREMENTS.—If the Secretary and the Director decide to implement a proposal described in subparagraph (A), they shall before implementation—

''(i) give each employee representative details of the decision to implement the proposal, together with the information upon which the decision was based;

''(ii) give each representative an opportunity to make recommendations with respect to the proposal; and

''(iii) give such recommendations full and fair consideration, including the providing of reasons to an employee representative if any of its recommendations are rejected.

''(C) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

''(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

''(ii) give each employee representative adequate access to information to make that participation productive.

''(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly. Such procedures shall include measures to ensure—

''(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

''(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of this subsection; and

''(C) the selection of representatives in a manner consistent with the relative numbers of employees represented by the organizations or other representatives involved.

''(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

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

''(A) employees of the Department of Homeland Security are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

''(B) in prescribing regulations for any such appeals procedures, the Secretary of Homeland Security and the Director of the Office of Personnel Management—

''(i) should ensure that employees of the Department are afforded the protections of due process; and

''(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

''(2) REQUIREMENTS.—Any regulations under this section which relate to any matters within the purview of chapter 77—

''(A) shall be issued only after consultation with the Merit Systems Protection Board; and

''(B) shall ensure the availability of procedures which shall—

''(i) be consistent with requirements of due process; and

''(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department of Homeland Security.

The CHAIRMAN pro tempore. Pursuant to House Resolution 502, the gentleman from New York (Mr. QUINN) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from New York (Mr. QUINN).

Mr. QUINN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the President called on the Congress to create the Department of Homeland Security in an effort to condense the numerous government agencies performing these functions into a single more manageable unit and department.

This massive realignment of people and resources is developed to enhance the protections of our Nation, without eliminating the basic rights of our employees that comprise the Department.

The President needs the flexibility we talked about earlier today to have the right people in the right place at the right time to address rapidly evolving terrorist threats.

His vision is of a performance-based system that rewards employees who provide exemplary service and removes those who are not performing their duties adequately. With the security of our Nation at stake, it is our duty to provide this and future Presidents with that ability.

Mr. Chairman, it is an opportunity for me to also congratulate and thank the gentlewoman from Maryland (Mrs. MORELLA) for her work on this issue, to thank the administration and the President's personal involvement these pass few weeks to get us to this point this morning, to thank my good friend from New York (Mr. MCHUGH), the Speaker, and the gentleman from Ohio (Mr. PORTMAN).

Once we have this system in place, however, it is important we do not compromise the basic employee protections of the workers who perform these functions. Therefore, Mr. Chairman, it is imperative that the House approve the amendment that I offer.

The Quinn amendment as it is outlined is a part of the overall picture that puts this Department in place. We improve the personnel flexibility provisions in the underlying text by expanding and broadening worker protections in the following three ways:

First of all, it ensures the direct participation of employee representatives in the planning, the development, and the implementation of any human resources management system. It accomplishes this goal by requiring that the Secretary of this new Homeland Security and the Director of Personnel Management provide each and every employee, number one, with a written description of the proposed amendments; secondly, 60 days to review the proposal; and, thirdly, a full and fair consideration of those employees' recommendations.

In other words, Mr. Chairman, what this does is it gives the labor unions, the employees a seat at the table from the beginning to the end of the process.

Secondly, with this amendment this morning, it preserves the current appeals rights of employees, emphasizes due process, expedites resolutions, and requires consultation with the merit systems protection board which is already in place.

And, thirdly, it places a sense of Congress language directly into the underlying statute that clearly protects the employee's right to appeal and that due process.

Mr. Chairman, this amendment allows the President to use provisions in current law to exempt an agency from collective bargaining only when he determines in writing that a substantial, adverse impact on the homeland security exists.

This standard is actually more restrictive now than current law. I believe that these protections are absolutely critical to the employees of the new Department. Mr. Chairman, it is an opportunity to point out that these employees of our Federal Government, particularly the example of 9–11, none of them asked when their shift change occurred. None of them asked if they were going to be paid overtime. Nobody said it is my time to return in a time of war, in a time when the President has to have all the tools necessary to fight terrorism and this war.

We know that these employees will respond the way they have always responded. We are proud of their work. We are proud of them as employees. We want to make certain now that the Morella-Shays issue has been settled, that we are able to talk about making certain that this President or any President does not take advantage of these workers, these Federal workers that we are so proud of.

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

Mr. WAXMAN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. WAXMAN) for 10 minutes.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I rise in opposition to this amendment, and I do so because it is actually a step backwards. This is a step backwards by taking away worker rights and protections that Americans have come to cherish.

When you take away chapter 5, you talk about fighting terror, you create terror and strike terror and fear in the hearts of workers because now you are saying to them that they may not be able to get annual cost-of-living increases in their wages. That is no longer automatic. You say to those individuals who work in high-market areas that they may not get adequate compensation if they have to work in places like New York, Chicago, Washington, D.C., places where the cost of living is much greater and much higher than in other places.

□ 1215

It means that we do not have to give employees the right to grieve and to have the protections that every American in the workplace so rightly deserves. So I cannot imagine why it would be necessary to take these protections away under the guise of fighting terror because I can guarantee my colleagues that the people I have been speaking with are terrorized with fear that the rights they have earned will be taken away.

Mr. QUINN. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. SWEENEY), a fellow New Yorker who worked on this package these last couple of weeks, a leader in labor issues, not only in our State of New York but the country.

Mr. SWEENEY. Mr. Chairman, I thank the gentleman for yielding me time, and, Mr. Chairman, I rise in strong support of the gentleman from New York's (Mr. QUINN) amendment that I believe will provide personnel flexibility broadening worker protections.

Mr. Chairman, we have had great discussions this morning and for the last several weeks about the challenges that we face in forming a new Homeland Security Department and providing for the protection of the American people. It seems in the course of those discussions we have needed to find a balance between the needs to provide those protections against terrorist attacks and worker rights, and I submit to my colleagues as the former State labor commissioner of New York State, probably the largest unionized State in the Nation, that that conflict ought not to occur, and I am very proud today that we seem to be moving in a very positive direction, a very positive direction in passing the Shays amendment.

I will note the colloquy that my colleague, the gentleman from New York (Mr. MCHUGH), had with the Speaker of the House and the conversations that we had with the President of the United States in which they made commitments to the basic precepts of collective bargaining and the rights of workers and ensuring that workers' rights would not be abrogated in this process, and, indeed, with this amendment from the gentleman from New York (Mr. QUINN), Mr. Chairman, it is important that we reaffirm those commitments and those rights.

As the gentleman from New York (Mr. QUINN) pointed out on September 11, a shift change had occurred at 8:45 a.m. and two planes flew into the World Trade Center. Unionized firefighters and unionized police officers did not ask whether their shift was beginning or ending, simply charged into those buildings to do their jobs as they have always done their jobs and save American lives.

That is why it is important that this amendment pass. That is why it is important that we keep those commitments first and foremost and forward as we decide and deliberate how to best secure America's borders.

On a personal note, I would like to speak in terms of my commitments to collective bargaining, workers' rights, because my dad, Mr. Chairman, was a labor leader. He fought all his life for collective bargaining issues. I sat at the kitchen table discussing those issues and know, indeed, I would not have been here today representing the people of the 22nd Congressional District in New York had he not won those fights.

This is not about an abrogation of those rights. This is about ensuring that the President of the United States has the flexibility to protect American lives and American people. He has given his commitment that he will do that job and as well will ensure that the workers who fulfill those duties, who we know will fulfill those duties will as well be protected.

I fully, strongly support this amendment and all of the efforts on the part of my colleagues to ensure those rights are protected and that the American public is protected from the terrorist attacks that we face.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Chairman, I want to thank the gentleman for yielding me the time.

Mr. Chairman, I rise today to ask my colleagues to vote against the Quinn amendment. This amendment does not fix the problems in the civil service provisions of the bill. In fact, the Quinn amendment is actually a step backward from the current law.

In the underlying bill, the new Department does not have to comply with essential parts of title V. In fact, the reported bill does not guarantee the Federal employees will receive protections against unfair labor practices, get cost-of-living increases or even locality pay.

Mr. Chairman, as former ranking member of the Committee on Government Reform, Subcommittee on Civil Service, Census and Agency Organization, I firmly believe that it is critical that Federal employees transferred to this new Department retain their civil service protections. Federal employees whose responsibilities are the same today as they were a week ago or even a year ago could lose civil service protections just because the government's organizational chart will change. This is an unfair result that I know my colleagues want to avoid.

Again, I ask my colleagues to vote against the Quinn amendment and support the Waxman-Frost amendment. Civil service protections should not be altered merely because employees are moved to the new Department. The Federal employees in the new mega agency should have the same rights as employees in other agencies.

Mr. QUINN. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. PORTMAN). This discussion these last few weeks has been including a lot of people. The gentleman from Ohio (Mr. PORTMAN), of course, with his expertise and involvement in the House was very, very helpful.

Mr. PORTMAN. Mr. Chairman, I want to say to my friend from Maryland, and he is my friend, that this is a good amendment because it does actually enhance the worker protections in the underlying bill. I understand his concerns with the underlying bill, but this amendment expands them. It does it in a few very specific ways.

I want to commend the gentleman from New York (Mr. QUINN) because he listened. He listened to the 25 percent of the employees who are coming into this new Department who are currently represented by unions, and he listened to the 75 percent of employees coming into this new Department who are not members of the union.

What he did is very simple. He got the unions a place at the table so that when we go through these new flexibilities we are going to talk about in the next amendment, the unions have a voice, and they wanted that.

He makes sure that the Secretary of this new Department could not use a waiver authority to pull union members out of collective bargaining for national security purposes, which is in the underlying bill. He removes that authority, again listening to the concerns of union members and their representatives.

He also preserves the appeal rights for all workers in this new Department to make sure that due process is followed to clarify the underlying language and be sure that the Merit Systems Protection Board is used in the case of appeal, should there be a firing.

He also puts very important language in the amendment to clarify the intent of this entire bill which is exactly what I have heard on the other side of the aisle today by the gentleman from Maryland (Mr. WYNN) and others, to be sure that we prioritize human capital. It is the key. Good morale, working as a team, is the only way this is going to work, and the Federal workers are going be the heroes in this case. They are going to be the ones responding as the first responders. They are going to be the ones protecting our kids and grandkids over time. We need to be sure that this morale and this team effort is taken.

I have heard a lot of comments here today about the underlying draft in the McHugh amendment and that somehow it does not protect worker protections under title V. That is wrong. It does. We have heard, for instance, that the merit system principles are optional. They are not. They are guaranteed in this bill and in the amendment.

The whistleblower protections are guaranteed. Political cronyism is not allowed. In fact, all the language prohibiting political coercion is absolutely in this legislation, explicitly. Veterans' preferences are not eliminated. They are guaranteed. Annual leave, sick leave is totally guaranteed and protected. Diversity hiring is guaranteed. Nepotism prohibition, I have heard that is not in the bill. It is. It is in the bill. It is guaranteed. Arbitrary dismissals are not permitted. It is guaranteed that there is protection against arbitrary dismissals, and finally, health insurance and other retirement benefits are absolutely guaranteed in this legislation.

Mr. Chairman, the Quinn amendment improves, perfects an underlying piece of legislation which gives the President the flexibility he will need to adequately protect our homeland. I strongly support the underlying bill. I support the gentleman from New York's (Mr. QUINN) amendment, and I hope my colleagues will support it as well on a bipartisan basis.

Mr. WAXMAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, let me tell my colleagues what this does not do. The gentleman from Ohio (Mr. PORTMAN) tried to make us think that civil servants were going to be protected. Well, if an annual cost-of-living is going to other employees, there is no guarantee that employees working in this Department will get it. Nor would they be guaranteed the locality pay increases to offset the higher cost of living. The employee is also not protected against the Department if it engaged in unfair labor practices, such as coercing employees or discriminating against employees who assert their collective bargaining right. Rights are not restored. They are not protected anymore.

The employees are at the mercy of the Department, and, in fact, if an agency wanted to take an adverse action against an employee, it does not even have to give them, as existing law, 30 days notice and 7 days to respond, and then if there is an adverse action taken against the employees, there is no provision to give them the right to appeal.

These are current rights that are being taken away, and the gentleman from Ohio (Mr. PORTMAN) does not restore those rights.

Mr. QUINN. Mr. Chairman, could I inquire as to the amount of time remaining.

The CHAIRMAN pro tempore (Mr. SUNUNU). The gentleman from New York (Mr. QUINN) has 30 seconds remaining and the right to close. The gentleman from California (Mr. WAXMAN) has 5½ minutes remaining.

Mr. QUINN. Mr. Chairman, I reserve my time.

Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the gentleman from Maine (Mr. ALLEN).

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

Mr. Chairman, I rise in strong opposition to the Quinn amendment which weakens the already weak civil service provisions of the underlying bill. Federal employees want more than the right to consult with their employers. They want to be partners with the government in the effort to defend our Nation. Workplace rights for employees will not undermine homeland security. After all, if the first responders, the heroes of September 11, can belong to unions and enjoy workplace protections, surely the staff of the Department of Homeland Security can do the same.

Flexibility and consultation rights, with these words, the Republican majority puts lipstick on their attack on existing civil service and collective bargaining rights of Federal employees. If this new Department is to succeed, Federal employees will make it work. We should treat these professionals with the respect they deserve. Defeat the Quinn amendment and support the Waxman-Frost amendment.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

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

Let me offer to say to the gentleman from New York (Mr. QUINN), a good friend, I appreciate the good faith and the good intentions that may be behind the offering of this amendment, but let me, Mr. Chairman, suggest what we are actually seeing here in contrast to what we are supposed to be doing in a bipartisan effort to pass homeland security, and that is, that on this floor today over the last hour, we have seen a change in the method or either the focus of this legislation.

We are supposed to be fighting terrorism, Mr. Chairman. We are now fighting workers, and the reason why I say that is because we are offering legislation contrary to the Frost-Waxman amendment that really implodes longstanding commitments and obligations and responsibilities to the working people of America.

This bill impacts negatively our Federal firefighters, our Federal law enforcement, our military personnel. Is that what we want to say to those first responders, that we do not care about their working rights? That is what this consultation amendment does because it does not allow negotiation.

The reason why I know this House bill poses difficulty for me is because in the morning's presentation that the administration had that many of us did not secure an invitation to—even though we have responsibilities dealing with homeland security, the administration said pointedly that they did not like the other body's bill, why—because the other body had a bill that was fair, that recognized that the thrust of homeland security should be fighting terrorism and not American workers.

I do not believe that disallowing the rights that workers have makes us more secure. I am insulted for this bill to suggest that Americans, when challenged by foreign terroristic acts or domestic terroristic acts, will not come together, will not give up rights and stand united with this administration.

Why are we destroying workers' rights, Mr. Chairman? This is what this amendment does. I would ask my colleagues to defeat it and vote for Frost-Waxman.

Mr. WAXMAN. Mr. Chairman, we have no other requests for time, and we will yield back the balance of our time.

Mr. QUINN. Mr. Chairman, I yield myself the remaining time.

Simply in closing, I would say this. I have spent a career here in the Congress, 10 years now fighting for workers' rights, fighting for labor unions and working families across the country, and I would not be here this morning offering the amendment if I did not think it helped the working families of this country and it helps our President protecting the country, those same workers, not exclusive of each other, but the same people all at the same time, and I would urge, on those merits and the help of a lot of friends in the House, passage.

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

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. QUINN).

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

RECORDED VOTE

Mr. QUINN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 202, not voting 4, as follows:

[Roll No. 358]

AYES—227

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
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
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
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
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
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
Stenholm
Stump

Sullivan
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (MS)
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)

NOES—202

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
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
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
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
Strickland
Stupak
Tanner
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—4

Blunt
Kaptur
Meehan
Radanovich

□ 1250

Messrs. CUMMINGS, BLAGOJEVICH, JOHN, and JEFFERSON and Ms. ROYBAL-ALLARD changed their vote from ''aye'' to ''no.''

Mr. TOM DAVIS of Virginia changed his vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. SUNUNU). It is now in order to consider amendment No. 20 printed in House Report 107–615.

AMENDMENT NO. 20 OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 20 offered by Mr. WAXMAN: Strike section 761 and insert the following:

SEC. 761. HUMAN RESOURCES MANAGEMENT.

(a) AUTHORITY TO ADJUST PAY SCHEDULES.—

(1) IN GENERAL.—Notwithstanding any provision of title 5, United States Code, the Secretary may, under regulations prescribed jointly with the Director of the Office of Personnel Management, provide for such adjustments in rates of basic pay as may be necessary to address inequitable pay disparities among employees within the Department performing similar work in similar circumstances.

(2) APPLICABILITY.—No authority under paragraph (1) may be exercised with respect to any employee who serves in—

(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5.

(3) LIMITATIONS.—Nothing in this subsection shall constitute authority—

(A) to fix pay at a rate greater than the maximum amount of cash compensation allowable under section 5307 of title 5, United States Code, in a year; or

(B) to exempt any employee from the application of such section 5307.

(4) SUNSET PROVISION.—Effective 5 years after the effective date of this Act, all authority to issue regulations under this subsection (including regulations which would modify, supersede, or terminate any regulations previously issued under this subsection) shall cease to be available.

(b) SUSPENSION AND REMOVAL OF EMPLOYEES IN THE INTERESTS OF NATIONAL SECURITY.—The Secretary shall establish procedures consistent with section 7532 of title 5, United States Code, to provide for the suspension and removal of employees of the Department when necessary in the interests of national security or homeland security. Such regulations shall provide for written notice, hearings, and review similar to that provided by such section 7532.

(c) DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Not later than 5 years after the effective date of this Act, the Secretary shall submit to Congress a proposal for a demonstration project, the purpose of which shall be to help attain a human resources management system which in the judgment of the Secretary is necessary in order to enable the Department best to carry out its mission.

(2) REQUIREMENTS.—The proposal shall—

(A) ensure that veterans' preference and whistleblower protection rights are retained;

(B) ensure that existing collective bargaining agreements and rights under chapter 71 of title 5, United States Code, remain unaffected;

(C) ensure the availability of such measures as may be necessary in order to allow the Department to recruit and retain the best persons possible to carry out its mission;

(D) include one or more performance appraisal systems which shall—

(i) provide for periodic appraisals of the performance of covered employees;

(ii) provide for meaningful participation of covered employees in the establishment of employee performance plans; and

(iii) use the results of performance appraisals as a basis for rewarding, reducing in grade, retaining, and removing covered employees; and

(E) contain recommendations for such legislation or other actions by Congress as the Secretary considers necessary.

(3) DEFINITION OF A COVERED EMPLOYEE.—For purposes of paragraph (2)(D), the term ''covered employee'' means a supervisor or management official (as defined in paragraphs (10) and (11) of section 7103(a) of title 5, United States Code, respectively) who occupies a position within the Department which is in the General Schedule.

(d) MERIT SYSTEM PRINCIPLES.—All authorities under subsections (a) and (b) shall be exercised in a manner, and all personnel management flexibilities or authorities proposed under subsection (c) shall be, consistent with merit system principles under section 2301 of title 5, United States Code.

(e) REMEDIES FOR RETALIATION AGAINST WHISTLEBLOWERS.—

Section 7211 of title 5, United States Code, is amended—

(1) by inserting ''(a)'' before ''The right''; and

(2) by adding at the end the following:

''(b) Any employee aggrieved by a violation of subsection (a) may bring a civil action in the appropriate United States district court, within 3 years after the date on which such violation occurs, against any agency, organization, or other person responsible for the violation, for lost wages and benefits, reinstatement, costs and attorney fees, compensatory damages, and equitable, injunctive, or any other relief that the court considers appropriate. Any such action shall, upon request of the party bringing the action, be tried by the court with a jury.

''(c) The same legal burdens of proof in proceedings under subsection (b) shall apply as under sections 1214(b)(4)(B) and 1221(e) in the case of an alleged prohibited personnel practice described in section 2302(b)(8).

''(d) For purposes of this section, the term 'employee' means an employee (as defined by section 2105) and any individual performing services under a personal services contract with the Government (including as an employee of an organization).''.

(f) NONREDUCTION IN PAY.—Nothing in this section shall, with respect to any employee who is transferred to the Department pursuant to this Act, constitute authority to reduce the rate of basic pay (including any comparability pay) payable to such employee below the rate last payable to such employee before the date on which such employee is so transferred.

In section 812(e)(1), strike ''Act; and'' and insert the following: ''Act, except that the rules, procedures, terms, and conditions relating to employment in the Transportation Security Administration before the effective date of this Act may be applied only to the personnel employed by or carrying out the functions of the Transportation Security Administration.''.

In section 812(e)(2), strike ''except'' and insert ''Except''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 502, the gentleman from California (Mr. WAXMAN) and a Member opposed each will control 10 minutes.

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

Mr. WAXMAN. Mr. Chairman, I yield myself 3 minutes and 30 seconds.

I rise in support of the Waxman-Frost amendment on Civil Service. This amendment strikes the flawed section 761 which was reported out of the Select Committee regarding civil service and replaces it with the civil service language reported by the Committee on Government Reform with unanimous bipartisan support.

Our Nation has the most honest, most professional civil service in the world, and the reason is our civil service laws. These civil service laws prevent abuses such as patronage, they guarantee important rights such as appeals to the Merit Systems Protection Board, and they provide for collective bargaining rights.

The President's proposal eliminated these essential protections, but the Committee on Government Reform and the gentleman from Indiana (Chairman BURTON) crafted an amendment that restored the protections of title V to employees of this new Department. His amendment received unanimous bipartisan support from the Members of the committee, and we had other civil service amendments offered by the gentlewoman from the District of Columbia (Ms. NORTON) on preserving pay, the gentleman from Massachusetts (Mr. TIERNEY) for ensuring that TSA procedures do not apply agency-wide, the gentleman from Ohio (Mr. KUCINICH) offered an amendment to protect whistleblowers, and these were all adopted by unanimous bipartisan support.

The amendment I am offering right now is simply the amendment of the gentleman from Indiana (Mr. BURTON) as amplified by the other amendments, adopted without dissent in our committee.

As currently drafted in the bill before us, section 761 does not guarantee Federal employees basic civil service protections. The section preserves some rights. It is an improvement over the President's proposal, but it specifically allows the secretary to waive any of the provisions of chapters 43, 51, 53, 71, 75 and 77 of title V. This is wrong. Civil servants whose responsibilities will be the same today if they are transferred into this new department as they were before the transfer should not lose their civil service protections just because that organizational chart may change.

In essence, the bill before us makes the employees of the new department second-class employees. Degrading the rights of Federal workers in the new Department makes no sense. We want the new department to succeed, but this will not happen if the employees of the new department are stripped of their basic rights.

The Waxman-Frost amendment corrects these problems. It ensures that the basic title V protections apply to the new department, and it does so in exactly the same way that the Committee on Government Reform recommended unanimously. The Committee on Government Reform is the committee of jurisdiction on civil service and public employees' issues.

Mr. Chairman, I am asking, and it is quite rare that I would do this, for the Members of this House to support the amendment of the gentleman from Indiana (Mr. BURTON) that we all supported in committee.

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

Mr. PORTMAN. Mr. Chairman, I rise in opposition to the Waxman amendment.

The CHAIRMAN. The gentleman from Ohio (Mr. PORTMAN) is recognized for 10 minutes.

Mr. PORTMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from California (Mr. WAXMAN) called this the amendment of the gentleman from Indiana (Mr. BURTON), and I think it is only appropriate that the gentleman from Indiana (Mr. BURTON) can explain his position on this amendment and the underlying bill.

Just to make one point, though, what we are talking about here is an underlying draft that does protect title V. It does provide all of the protections that the gentleman referenced, including patronage protections, whistleblower protections, and the other collective bargaining rights that are guarantee in the underlying bill.

Mr. Chairman, I yield 2½ minutes to the gentleman from Indiana (Mr. BURTON), the chairman of the Committee on Government Reform.

Mr. BURTON of Indiana. Mr. Chairman, first let me say that my good friend, the gentleman from California (Mr. WAXMAN), and I did work very closely along with the Democrats on the committee to come up with a product that we can all be proud of, and it did pass by a vote of 30–1.

While I do have some pride of authorship, I believe that the Portman amendment goes a little further and does a little better job than I did in the manager's amendment.

First, in the committee bill we maintained whistleblower protections, veterans' preferences, and we retained collective bargaining rights, not that we thought the administration would in some way violate those things, but we thought they should be in the bill. We wanted to reassure the Federal workforce.

But the Portman language goes even further. It provides against political retaliation regarding the Hatch Act. It retains protections against racial discrimination and gender discrimination. It protects health care benefits, retirement benefits, and it protects workers compensation. Those are things that ought to be in the bill that are not.

Now, putting this department together is a monumental undertaking. We are talking about taking parts of 22 different departments and bringing them together to protect this Nation. It is not an easy job, and the administration is going to have a difficult time getting all of this accomplished, and they have to have flexibility wherever possible in order to make this whole thing work.

One of the things that concerned me was protections against those who may be set aside because there is a possibility there is a national security concern about these people and their jobs and what they may or may not be doing. For that reason, I supported the Quinn amendment that provides due process for those individuals. That was not in the manager's mark or the original bill, but it is now.

I know that Federal employees are very nervous and I know that change is hard and it causes anxiety. But I believe the administration is going to be fair. I believe we are putting as many protections as possible in this legislation, and we are still providing the flexibility that the President needs.

□ 1300

We are talking about protecting every single American, and the President is going to have to have flexibility. I believe that the bill that we passed in the committee, much of which has been talked about here on the floor, does that; and I believe the Portman amendment even improves upon that. I would just like to say that I support the Portman amendment. I did before the Committee on Rules, and for that reason I hope we will defeat this amendment that would take that out.

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

The improvements in the bill are improvements not from the language of the Committee on Government Reform but from the original bill introduced by the President. What we need to do is restore all of the provisions that were adopted by the Committee on Government Reform.

Mr. Chairman, I yield 3½ minutes to the gentleman from Texas (Mr. FROST), the cosponsor of this amendment.

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

Mr. FROST. I thank the gentleman for yielding me this time.

Mr. Chairman, the Waxman-Frost amendment preserves the national security flexibility the President needs without sacrificing the current civil service protections for the new Department. It strikes from the bill a needlessly partisan attack on the civil service system and replaces it with the bipartisan compromise adopted unanimously by the House Committee on Government Reform, the committee with original jurisdiction and expertise on civil service.

The Waxman-Frost amendment is essential because the underlying bill and the Quinn amendment just agreed to contain language that actually turns back the clock on important civil service protections. That may be crucial to the ideology of some on the other side of the aisle, but it will harm the effectiveness of the new Department.

Throughout this process, Mr. Chairman, some Republican leaders have thrown around attacks on worker protections in current law. The truth is the civil service system protects Americans against a ''spoils'' system that would allow politicians to reward their friends and supporters with important government jobs. And it is crucial that the Department of Homeland Security be staffed by professionals, not by the cronies of whichever party happens to hold the White House.

Mr. Chairman, Democrats and Republicans on the Committee on Government Reform recognized this fact, so they voted unanimously to protect the fundamental title V protections of employees in the new Department.

Mr. Chairman, much has been said about flexibility. I want to assure the House that the Waxman-Frost amendment ensures that the Department of Homeland Security has the flexibility to effectively and efficiently carry out its mission to protect the American people.

Mr. Chairman, our Federal employees are our most valuable asset in the Department of Homeland Security. They are our first line of defense. We are entrusting our safety to them because we know they will rise to the challenge and serve the Nation well. So it is critical that the new Department hires and retains the best and the brightest employees to protect our Nation from terrorism. The question is, do we treat these people with the respect and professionalism they deserve? Or do we undermine the morale of these employees, and risk compromising the mission of the new Department, by gutting their most fundamental workplace rights?

I urge Republicans to join Democrats in supporting worker protections and the professionalism of the Department of Homeland Security. Support the Waxman-Frost amendment.

Mr. PORTMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. WATTS), a member of the Select Committee on Homeland Security who has been a leader on protecting the homeland actually long before September 11 and has added considerable value to the work of the select committee and to the debate today.

Mr. WATTS of Oklahoma. I thank my friend from Ohio for yielding me this time.

Mr. Chairman, it is interesting that a terrorist can attack us in a matter of 5 minutes, and then we have got these antiquated systems that it could take us 5 months in order to respond. What the President is asking is for Congress in this new agency to give him the latitude and flexibility to defend our homeland and to do the necessary things in order to respond to these terrorist attacks.

Friends, we are in a new day. I have heard all these things, and I know the gentleman from Ohio (Mr. PORTMAN) talked about this a little earlier, but I think this is worth repeating to just kind of denounce some of the myths and some of the accusations that have been thrown around.

They say the merit system principles, in the new bill that they are optional. The merit system principles are guaranteed.

Whistleblower protections. They say they are eliminated. They are guaranteed in the new bill.

Political cronyism is allowed, they say. There is a prohibition on political coercion and favoritism in our bill. We have got guarantees there.

Veterans preference, they say it is eliminated. They are guaranteed in the legislation.

Sick and annual leave. Unprotected, they say. Sick and annual leave, guaranteed.

Diversity hiring, they say it is optional in this bill. Not true. Minority recruitment and reporting under title V is guaranteed.

Nepotism prohibition is guaranteed. Protection against arbitrary dismissal, guaranteed in this legislation. Health insurance, FEHBP, guaranteed in this legislation.

The President is saying, give me the flexibility and latitude to defend our homeland, and we can still guarantee all these things. Employees will not lose any of these benefits. They are still in place. But give the President the latitude and the flexibility to defend our kids and our grandkids, our families.

Friends, we are in a new world. We need to think outside of the box without thinking outside of the Constitution. This is the right thing to do. Vote down the Waxman-Frost amendment and support the legislation.

Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS).

(Mr. DAVIS of Illinois asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Chairman, I believe that preserving democracy is as important as fighting terrorism. In a democracy, one set of rights ends where the next set begins. We are hearing this business that there is not enough flexibility, that the Secretary cannot deal with individuals who are not prepared to do their job. Absolutely false. Section 7532 of title V provides: ''Notwithstanding other statutes, the head of an agency may suspend without pay an employee of his agency when he considers that action necessary in the interests of national security.'' You cannot be much clearer than that in terms of the ability of the Secretary to function.

The real deal is that we are suspending individual rights and protections. The Waxman-Frost amendment restores those protections. And if we want the agency to function, vote for the amendment.

Mr. PORTMAN. Mr. Chairman, I yield 1½ minutes to the gentleman from Kansas (Mr. RYUN), who has been at the forefront of these issues.

Mr. RYUN of Kansas. Mr. Chairman, the new Department of Homeland Security will be on the front lines in the war on terrorism. The people who will fulfill the Department's mission must be highly qualified, motivated, and effective. In attracting and keeping this team, we will be competing against the private sector. Recognizing these challenges, the President asked the Congress to give him the maximum flexibility in putting together and managing the Department's workforce.

The legislation crafted by the select committee gives the President the flexibility he requested while at the same time preserving a number of important employment protections. This approach represents what is best for both the Nation's security and those who will serve in this new Department.

First of all, the bill allows the Secretary to develop a performance management program that effectively links employee performance with the Department's objectives and mission. Secondly, the Secretary will have the freedom to use a broad approach in making job classifications and will not be bound by our current system that confines Federal workers to 15 artificial grades. Additionally, the Secretary will not be restricted by the current rigid pay system. Rather, the Secretary will be able to meaningfully reward performance.

We are engaged in a different kind of war. We face a new enemy. We must adapt to meet this new threat. This bill ensures that we will adapt to overcome these new threats. I urge my colleagues to support the select committee's bill and vote against Frost-Waxman.

Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH), a very important member of our committee.

Mr. KUCINICH. Mr. Chairman, whistleblower rights are workers' rights. No worker should lose his or her job for exposing waste, cover-up or lies of their supervisors. It is ironic that in a bill designed to fight terrorism, we have a provision designed to terrorize workers. Congress must be able to receive the insights of security guards, border patrol agents, policemen, military and others who may need to expose security weaknesses to Congress. Therefore, the Waxman-Frost amendment improves the law, protecting whistleblowers to ensure the security of our Nation.

It would apply remedies, the right to a civil action in U.S. district court. Remedies available would include lost wages and benefits, reinstatement, costs and attorney fees, compensatory damages and equitable, injunctive or any other relief that the court considers appropriate.

If we really want our Nation to be secure, then let us make sure that the workers who are a part of homeland security are going to be protected when they do the right thing.

Mr. PORTMAN. Mr. Chairman, we have one more speaker to close. Who has the right to close?

The CHAIRMAN pro tempore (Mr. BONILLA). The gentleman from Ohio (Mr. PORTMAN) has the right to close.

PARLIAMENTARY INQUIRY

Mr. WAXMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. WAXMAN. How is it that whenever the amendment is offered on the other side, they get the right to close, and when an amendment is offered on our side, they still get the right to close? When they propose it they close, and when they oppose it they close. Is it a rule or does it just simply go to the majority party?

The CHAIRMAN pro tempore. The manager of the bill in opposition to the amendment has the right to close.

Mr. WAXMAN. Mr. Chairman, that has not been the way that the House has proceeded up to now, because I have been managing opposition to a number of amendments, and I have been told the other side has the right to close on those amendments because they are offering the amendment.

The CHAIRMAN pro tempore. The Member of the committee, the select committee in this case as the only reporting committee opposing ane amendment always has the right to close.

Mr. WAXMAN. I see. I thank the Chair for the clarification.

The CHAIRMAN pro tempore. It is consistent.

Mr. WAXMAN. Mr. Chairman, I yield 30 seconds to the gentleman from Massachusetts (Mr. TIERNEY), who played a very important role in the development of this bill in our committee.

Mr. TIERNEY. I thank the gentleman for yielding me this time.

Mr. Chairman, our colleague from Oklahoma spoke a few moments ago about civil service laws meaning it would take 5 months for a response. It did not take the first responders in New York and Pennsylvania and Virginia 5 months to respond on September 11. It took minutes to respond. It has taken this administration 5 months, or more than 5 months to fulfill its promises to close up the cockpits of airplanes securely and to screen luggage and baggage for passengers.

Civil service protections are not the issue in this homeland security bill. We need to encourage good employees, not treat them as second-class employees. We need to give people an understanding that they are important. This administration and the majority, we should have great concern that they choose a homeland security bill to take on an ideological effort against employees.

Mr. WAXMAN. Mr. Chairman, I yield 30 seconds to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, I rise today in strong support of the Waxman-Frost amendment. It is the exact language that the Committee on Government Reform unanimously adopted. It makes crystal clear that all Federal employees transferred to the new Department will continue to have full title V civil service rights and protections.

While I appreciate that the gentleman from Ohio (Mr. PORTMAN) offered better language in the select committee than what the administration had previously proposed, his language would still allow the new Secretary and the Director of OPM to waive numerous sections of title V. We need to create a new Department that demonstrates the value we place in civil servants and not one that insinuates our distrust of them.

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Mr. WAXMAN. Mr. Chairman, I yield the balance of my time to the gentlewoman from California (Ms. PELOSI), the very distinguished whip.

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding me time and for his outstanding leadership on protecting the civil service. We have a civil service for a reason. It has served our country, indeed, it serves democracy well. We are an example to the world. As we go forward to reduce risk and to protect the American people, we should not do so at the expense of a democratic institution like civil service.

One of the previous speakers said that we are competing with the private sector so we need this flexibility. We are competing with the private sector, and that is precisely why we need to respect our workers and give them the civil service protection that President Bush did in the mark that the President sent to this body.

Support the President's bill. Support the Waxman amendment.

The CHAIRMAN pro tempore (Mr. BONILLA). All time has expired for the gentleman from California (Mr. WAXMAN).

Mr. PORTMAN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we face an unpredictable and unprecedented agile and deadly threat. It is not the Cold War any more, it is not about which side has the most muscle mass, it is not about what the biggest department might be. It is about agility. It is about being able to meet the enemy's agility with our own agility.

As any athlete will tell you, including the gentleman from Kansas (Mr. RYUN) who just spoke, you cannot be agile without being flexible first. The President, and Presidents after him, need this flexibility to be sure that this Department works. We simply cannot work with the 1950s era bureaucratic personnel practices that would otherwise be available to him, and, again, to future Presidents and future Secretaries.

The Waxman-Frost amendment protects the antiquated civil service system in a way that blunts this Department's ability to modernize, to consolidate, to streamline, to bring together 22 different personnel systems into one team.

For instance, the amendment prohibits the Secretary from using innovative compensation plans like incentive pay. There is nothing more important than having a work force with high morale that is focused on a team effort to combat terrorism. This is all about human capital and the workforce. If you cannot provide the kind of incentive pay that the President and the Secretary want to provide to people who are performing, you are not going to have that kind of morale.

It keeps the new agency stuck in the mud of over 100 pay grades, arcane job classifications that make no sense whatsoever, and performance appraisals that are indifferent to the mission of this agency. You want to align the performance with the mission.

On hiring, let me raise a specific example, because it was mentioned earlier that it took 5 seconds for a terrorist to commit an act, or 5 minutes, and 5 months to respond. Here is a specific example of that.

It takes 5 months, conceivably, to hire a bioterrorism expert under current civil service rules, whereas it only takes 5 minutes or 5 seconds to commit that bioterrorist act. Why? Developing the written job description, personnel office, classification, conducting job analysis, developing recruiting strategy, announcing the position, rate application, rank-qualified applications, refer the top three qualified to the interviews, conduct interviews, and so on. Five months. That is a specific example of where this Department otherwise would not have the agility to respond.

Also the Secretary could have a bureaucratic nightmare trying to decide who is a security risk and who is not. If you want to fire somebody under the current rules, it can take, yes, weeks and months. Red tape comes first; homeland security comes second.

The Quinn amendment guaranteed that in the appeals process, that due process will be protected and the Merit System Protection Board would be used. The Quinn amendment made sure people would have that appeal. But matters of national security concern, where there needs to be a severance, must be disposed of immediately when national security is at risk.

It also does not allow the Secretary to rationalize all these different departments coming. Again, 22 different personnel systems. There needs to be one unified, flexible system. Not only does the Waxman-Frost language not provide any needed flexibility, it actually does not provide the ability of the Secretary to develop a human resources system at all. All it says is, unbelievably, that the new Department has to propose to Congress a new personnel system and then Congress has to work its will on it. How long would that take? I do not know. It would go through the committees, it would go through the House, it would go through the Senate. Other agencies and departments do not even have to go through

that process. All it does, this amendment, is allow the Department to propose a system, not even to develop a system.

We want this Department set up and ready to go immediately, and not when we finally get around to it here in Congress.

Finally, while the Waxman-Frost amendment does not offer the flexibility that is absolutely needed, it also does not provide the same civil service protections that the underlying bill provides. Yes, it mentions whistleblowers and veterans, but others it does not mention, including racial discrimination, thrift savings, and so on.

Mr. Chairman, I ask my colleagues to give the President the flexibility he needs to protect the workers' rights at the same time. Support the underlying bill and vote no on the Waxman-Frost amendment.

Mr. RODRIGUEZ. Mr. Chairman, I rise today in strong support of workers' rights. As we meet today to engage in the important work of enacting legislation which would guide the creation of the new Department of Homeland Security (DHS), H.R. 5005, it is disconcerting that we are also put in a position to introduce an amendment to protect the rights of workers who will engage in the important work of protecting our country from terrorists attacks. The Waxman-Frost amendment will ensure that workers are provided full civil service protections as they engage in the important work of securing our homeland.

As we move to reorganize and consolidate our efforts to ensure a strong and efficient DHS it is imperative that we not place in jeopardy the rights of its workers. H.R. 5005, as amended within the Select Committee on Homeland Security, would allow the DHS Secretary to have complete control over pay and classification systems, including whether or not to provide DHS workers with an annual Congressionally-passed pay raise, whether to remove workers from the locality pay system established in 1990, and how to establish the initial pay rate for a particular occupation.

Essentially, we would be asking federal workers, already involuntarily transferred to a new agency, to be completely left at the mercy of an agency head who would not be bound by the pay system under which the employees had previously worked. This places in danger DHS's ability to retain its workforce and to provide for the adequate worker protections available to all civil service employees. This is wrong and dangerous especially given the great need for DHS to be successful. If in the purpose of DHS is to ensure the physical security of America, then included in its charge should also be the economic security of its workforce. Stripping the workforce of their civil service protections, would put in danger the success of this department and ultimately the security of our country.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

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

Mr. WAXMAN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. WAXMAN) will be postponed.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 21 printed in House Report 107–615.

AMENDMENT NO. 21 EN BLOC OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 21 offered by Mr. ARMEY:

Page 13, line 20, strike ''The Secretary'' and insert ''With respect to homeland security, the Secretary''.

Page 22, line 13, strike ''Under the direction of the Secretary, developing'' and insert ''Developing''.

Page 24, lines 10 to 11, strike ''and to other areas of responsibility described in section 101(b)''.

Page 25, lines 9 to 10, strike ''and to other areas of responsibility described in section 101(b)''.

Page 24, line 12, strike ''concerning infrastructure or other vulnerabilities'' and insert ''concerning infrastructure vulnerabilities or other vulnerabilities''.

Page 25, lines 11 to 12, strike ''concerning infrastructure or other vulnerabilities'' and insert ''concerning infrastructure vulnerabilities or other vulnerabilities''.

Page 28, line 14, strike ''(1) and (2)'' and insert ''(2) and (3)''.

Page 19, line 16, strike ''Director of Homeland Security'' and insert ''President''.

Page 43, line 11, strike ''the Congress'' and insert ''the appropriate congressional committees''.

Page 142, line 2, insert ''including'' before ''interventions''.

Page 142, line 4, insert a comma after ''asters''.

In section 811(f)(1)—

(1) insert ''or'' before ''Harbor''; and

(2) strike ''or Oil Spill Liability Trust Fund''.

In section 205(1), strike ''information'' the first place it appears.

In section 205(3) insert ''and regulatory'' after ''legislative''.

In section 302, strike paragraph (1) and redesignate the subsequent paragraphs in order as paragraphs (1) and (2).

In section 305(d), strike ''section 302(2)(D)'' and insert ''302(1)(D)''.

Strike section 906, and redesignate sections 907 through 913 as sections 906 through 912, respectively.

In section 301—

(1) in paragraph (8), strike ''homeland security, including'' and all that follows and insert ''homeland security; and'';

(2) strike paragraph (9); and

(3) redesignate paragraph (10) as paragraph (9).

In title III, add at the end the following section:

SEC. 309. TECHNOLOGY CLEARINGHOUSE TO ENCOURAGE AND SUPPORT INNOVATIVE SOLUTIONS TO ENHANCE HOMELAND SECURITY.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, acting through the Under Secretary for Science and Technology, shall establish and promote a program to encourage technological innovation in facilitating the mission of the Department (as described in section 101).

(b) ELEMENTS OF PROGRAM.—The program described in subsection (a) shall include the following components:

(1) The establishment of a centralized Federal clearinghouse for information relating to technologies that would further the mission of the Department for dissemination, as appropriate, to Federal, State, and local government and private sector entities for additional review, purchase, or use.

(2) The issuance of announcements seeking unique and innovative technologies to advance the mission of the Department.

(3) The establishment of a technical assistance team to assist in screening, as appropriate, proposals submitted to the Secretary (except as provided in subsection (c)(2)) to assess the feasibility, scientific and technical merits, and estimated cost of such proposals, as appropriate.

(4) The provision of guidance, recommendations, and technical assistance, as appropriate, to assist Federal, State, and local government and private sector efforts to evaluate and implement the use of technologies described in paragraph (1) or (2).

(5) The provision of information for persons seeking guidance on how to pursue proposals to develop or deploy technologies that would enhance homeland security, including information relating to Federal funding, regulation, or acquisition.

(c) MISCELLANEOUS PROVISIONS.—

(1) IN GENERAL.—Nothing in this section shall be construed as authorizing the Secretary or the technical assistance team established under subsection (b)(3) to set standards for technology to be used by the Department, any other executive agency, any State or local government entity, or any private sector entity.

(2) CERTAIN PROPOSALS.—The technical assistance team established under subsection (b)(3) shall not consider or evaluate proposals submitted in response to a solicitation for offers for a pending procurement or for a specific agency requirement.

(3) COORDINATION.—In carrying out this section, the Secretary shall coordinate with the Technical Support Working Group (organized under the April 1982 National Security Decision Directive Numbered 30).

In title II, at the end of subtitle A add the following:

SEC. . ENHANCEMENT OF NON-FEDERAL CYBERSECURITY.

In carrying out the responsibilities under section 201, the Under Secretary for Information Analysis and Infrastructure Protection shall—

(1) as appropriate, provide to State and local government entities, and upon request to private entitites that own or operate critical information systems—

(A) analysis and warnings related to threats to, and vulnerabilities of, critical information systems; and

(B) in coordination with the Under Secretary for Emergency Preparedness and Response, crisis management support in response to threats to, or attacks on, critical information systems; and

(2) as appropriate, provide technical assistance, upon request, to the private sector and other government entities, in coordination with the Under Secretary for Emergency Preparedness and Response, with respect to emergency recovery plans to respond to major failures of critical information systems.

At the end of title II add the following:

SEC. . NET GUARD.

The Under Secretary for Information Analysis and Infrastructure Protection may establish a national technology guard, to be known as ''NET Guard'', comprised of local teams of volunteers with expertise in relevant areas of science and technology, to assist local communities to respond and recover from attacks on information systems and communications networks.

Strike section 814.

In section 761—

(1) in the proposed section 9701(b)(3)(D) strike ''title'' and insert ''part''; and

(2) in the proposed section 9701(c), strike ''title'' and insert ''part''.

At the end of title VII, insert the following new section:

SEC. 774. SENSE OF CONGRESS REAFFIRMING THE CONTINUED IMPORTANCE AND APPLICABILITY OF THE POSSE COMITATUS ACT.

(a) FINDINGS.—The Congress finds the following:

(1) Section 1385 of title 18, United States Code (commonly known as the ''Posse Comitatus Act''), prohibits the use of the Armed Forces as a posse comitatus to execute the laws except in cases and under circumstances expressly authorized by the Constitution or Act of Congress.

(2) Enacted in 1878, the Posse Comitatus Act was expressly intended to prevent United States Marshals, on their own initiative, from calling on the Army for assistance in enforcing Federal law.

(3) The Posse Comitatus Act has served the Nation well in limiting the use of the Armed Forces to enforce the law.

(4) Nevertheless, by its express terms, the Posse Comitatus Act is not a complete barrier to the use of the Armed Forces for a range of domestic purposes, including law enforcement functions, when the use of the Armed Forces is authorized by Act of Congress or the President determines that the use of the Armed Forces is required to fulfill the President's obligations under the Constitution to respond promptly in time of war, insurrection, or other serious emergency.

(5) Existing laws, including chapter 15 of title 10, United States Code (commonly known as the ''Insurrection Act''), and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), grant the President broad powers that may be invoked in the event of domestic emergencies, including an attack against the Nation using weapons of mass destruction, and these laws specifically authorize the President to use the Armed Forces to help restore public order.

(b) SENSE OF CONGRESS.—The Congress reaffirms the continued importance of section 1385 of title 18, United States Code, and it is the sense of the Congress that nothing in this Act should be construed to alter the applicability of such section to any use of the Armed Forces as a posse comitatus to execute the laws.

Amend the heading for section 766 to read as follows:

SEC. 766. REGULATORY AUTHORITY AND PREEMPTION.

In section 766—

(1) before the first sentence insert the following: ''(a) ''REGULATORY AUTHORITY.—''; and

(2) at the end of the section add the following:

(b) PREEMPTION OF STATE OR LOCAL LAW.—Except as otherwise provided in this Act, this Act preempts no State or local law, except that any authority to preempt State or local law vested in any Federal agency or official transferred to the Department pursuant to this Act shall be transferred to the Department effective on the date of the transfer to the Department of that Federal agency or official.

Page 31, after line 5, insert the following:

SEC. 207. INFORMATION SECURITY.

In carrying out the responsibilities under section 201, the Under Secretary for Information Analysis and Infrastructure Protection shall—

(1) as appropriate, provide to State and local government entities, and, upon request, to private entities that own or operate critical information systems—

(A) analysis and warnings related to threats to, and vulnerabilities of, critical information systems; and

(B) in coordination with the Under Secretary for Emergency Preparedness and Response, crisis management support in response to threats to, or attacks on, critical information systems; and

(2) as appropriate, provide technical assistance, upon request, to the private sector and with other government entities, in coordination with the Under Secretary for Emergency Preparedness and Response, with respect to emergency recovery plans to respond to major failures of critical information systems.

At the end of the bill add the following new title:

TITLE XI—INFORMATION SECURITY

SEC. 1101. INFORMATION SECURITY.

(a) SHORT TITLE.—The amendments made by this title may be cited as the ''Federal Information Security Management Act of 2002''.

(b) INFORMATION SECURITY.—

(1) IN GENERAL.—Subchapter II of chapter 35 of title 44, United States Code, is amended to read as follows:

''SUBCHAPTER II—INFORMATION SECURITY

''§ 3531. Purposes

''The purposes of this subchapter are to—

''(1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets;

''(2) recognize the highly networked nature of the current Federal computing environment and provide effective governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities;

''(3) provide for development and maintenance of minimum controls required to protect Federal information and information systems;

''(4) provide a mechanism for improved oversight of Federal agency information security programs;

''(5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions, reflecting market solutions for the protection of critical information infrastructures important to the national defense and economic security of the nation that are designed, built, and operated by the private sector; and

''(6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products.''.

''§ 3532. Definitions

''(a) IN GENERAL.—Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

''(b) ADDITIONAL DEFINITIONS.—As used in this subchapter—

''(1) the term 'information security' means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

''(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

''(B) confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information;

''(C) availability, which means ensuring timely and reliable access to and use of information; and

''(D) authentication, which means utilizing digital credentials to assure the identity of users and validate their access;

''(2) the term 'national security system' means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency, the function, operation, or use of which—

''(A) involves intelligence activities;

''(B) involves cryptologic activities related to national security;

''(C) involves command and control of military forces;

''(D) involves equipment that is an integral part of a weapon or weapons system; or

''(E) is critical to the direct fulfillment of military or intelligence missions provided that this definition does not apply to a system that is used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications);

''(3) the term 'information technology' has the meaning given that term in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401); and

''(4) the term 'information system' means any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, and includes—

''(A) computers and computer networks;

''(B) ancillary equipment;

''(C) software, firmware, and related procedures;

''(D) services, including support services; and

''(E) related resources.''.

''§ 3533. Authority and functions of the Director

''(a) The Director shall oversee agency information security policies and practices, by—

''(1) promulgating information security standards under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441);

''(2) overseeing the implementation of policies, principles, standards, and guidelines on information security;

''(3) requiring agencies, consistent with the standards promulgated under such section 5131 and the requirements of this subchapter, to identify and provide information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of—

''(A) information collected or maintained by or on behalf of an agency; or

''(B) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

''(4) coordinating the development of standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) with agencies and offices operating or exercising control of national security systems (including the National Security Agency) to assure, to the maximum extent feasible, that such standards and guidelines are complementary with standards and guidelines developed for national security systems;

''(5) overseeing agency compliance with the requirements of this subchapter, including through any authorized action under section 5113(b)(5) of the Clinger-Cohen Act of 1996 (40 U.S.C. 1413(b)(5)) to enforce accountability for compliance with such requirements;

''(6) reviewing at least annually, and approving or disapproving, agency information security programs required under section 3534(b);

''(7) coordinating information security policies and procedures with related information resources management policies and procedures; and

''(8) reporting to Congress no later than March 1 of each year on agency compliance with the requirements of this subchapter, including—

''(A) a summary of the findings of evaluations required by section 3535;

''(B) significant deficiencies in agency information security practices;

''(C) planned remedial action to address such deficiencies; and

''(D) a summary of, and the views of the Director on, the report prepared by the National Institute of Standards and Technology under section 20(e)(7) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).''.

''(b) Except for the authorities described in paragraphs (4) and (7) of subsection (a), the authorities of the Director under this section shall not apply to national security systems.

''§ 3534. Federal agency responsibilities

''(a) The head of each agency shall—

''(1) be responsible for—

''(A) providing information security protections commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of—

''(i) information collected or maintained by or on behalf of the agency; and

''(ii) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

''(B) complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines, including—

''(i) information security standards promulgated by the Director under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441); and

''(ii) information security standards and guidelines for national security systems issued in accordance with law and as directed by the President; and

''(C) ensuring that information security management processes are integrated with agency strategic and operational planning processes;

''(2) ensure that senior agency officials provide information security for the information and information systems that support the operations and assets under their control, including through—

''(A) assessing the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of such information or information systems;

''(B) determining the levels of information security appropriate to protect such information and information systems in accordance with standards promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) for information security classifications and related requirements;

''(C) implementing policies and procedures to cost-effectively reduce risks to an acceptable level; and

''(D) periodically testing and evaluating information security controls and techniques to ensure that they are effectively implemented;

''(3) delegate to the agency Chief Information Officer established under section 3506 (or comparable official in an agency not covered by such section) the authority to ensure compliance with the requirements imposed on the agency under this subchapter, including—

''(A) designating a senior agency information security officer who shall—

''(i) carry out the Chief Information Officer's responsibilities under this section;

''(ii) possess professional qualifications, including training and experience, required to administer the functions described under this section;

''(iii) have information security duties as that official's primary duty; and

''(iv) head an office with the mission and resources to assist in ensuring agency compliance with this section;

''(B) developing and maintaining an agencywide information security program as required by subsection (b);

''(C) developing and maintaining information security policies, procedures, and control techniques to address all applicable requirements, including those issued under section 3533 of this title, and section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441);

''(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

''(E) assisting senior agency officials concerning their responsibilities under subparagraph (2);

''(4) ensure that the agency has trained personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines; and

''(5) ensure that the agency Chief Information Officer, in coordination with other senior agency officials, reports annually to the agency head on the effectiveness of the agency information security program, including progress of remedial actions.

''(b) Each agency shall develop, document, and implement an agencywide information security program, approved by the Director under section 3533(a)(5), to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source, that includes—

''(1) periodic assessments of the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the agency;

''(2) policies and procedures that—

''(A) are based on the risk assessments required by subparagraph (1);

''(B) cost-effectively reduce information security risks to an acceptable level;

''(C) ensure that information security is addressed throughout the life cycle of each agency information system; and

''(D) ensure compliance with—

''(i) the requirements of this subchapter;

''(ii) policies and procedures as may be prescribed by the Director, and information security standards promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441);

''(iii) minimally acceptable system configuration requirements, as determined by the agency; and

''(iv) any other applicable requirements, including standards and guidelines for national security systems issued in accordance with law and as directed by the President;

''(3) subordinate plans for providing adequate information security for networks, facilities, and systems or groups of information systems, as appropriate;

''(4) security awareness training to inform personnel, including contractors and other users of information systems that support the operations and assets of the agency, of—

''(A) information security risks associated with their activities; and

''(B) their responsibilities in complying with agency policies and procedures designed to reduce these risks;

''(5) periodic testing and evaluation of the effectiveness of information security policies, procedures, and practices, to be performed with a frequency depending on risk, but no less than annually, of which such testing—

''(A) shall include testing of management, operational, and technical controls of every information system identified in the inventory required under section 3505(c); and

''(B) may include testing relied on in a evaluation under section 3535;

''(6) a process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices of the agency;

''(7) procedures for detecting, reporting, and responding to security incidents, including—

''(A) mitigating risks associated with such incidents before substantial damage is done; and

''(B) notifying and consulting with, as appropriate—

''(i) law enforcement agencies and relevant Offices of Inspector General;

''(ii) an office designated by the President for any incident involving a national security system; and

''(iii) any other agency or office, in accordance with law or as directed by the President; and

''(8) plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the agency.

''(c) Each agency shall—

''(1) report annually to the Director, the Committees on Government Reform and Science of the House of Representatives, the Committees on Governmental Affairs and Commerce, Science, and Transportation of the Senate, the appropriate authorization and appropriations committees of Congress, and the Comptroller General on the adequacy and effectiveness of information security policies, procedures, and practices, and compliance with the requirements of this subchapter, including compliance with each requirement of subsection (b);

''(2) address the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

''(A) annual agency budgets;

''(B) information resources management under subchapter 1 of this chapter;

''(C) information technology management under the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.);

''(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 and 2805 of title 39;

''(E) financial management under chapter 9 of title 31, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101–576) (and the amendments made by that Act);

''(F) financial management systems under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note); and

''(G) internal accounting and administrative controls under section 3512 of title 31, United States Code, (known as the 'Federal Managers Financial Integrity Act'); and

''(3) report any significant deficiency in a policy, procedure, or practice identified under paragraph (1) or (2)—

''(A) as a material weakness in reporting under section 3512 of title 31, United States Code; and

''(B) if relating to financial management systems, as an instance of a lack of substantial compliance under the Federal Financial

Management Improvement Act (31 U.S.C. 3512 note).

''(d)(1) In addition to the requirements of subsection (c), each agency, in consultation with the Director, shall include as part of the performance plan required under section 1115 of title 31 a description of—

''(A) the time periods, and

''(B) the resources, including budget, staffing, and training,

that are necessary to implement the program required under subsection (b).

''(2) The description under paragraph (1) shall be based on the risk assessments required under subsection (b)(2)(1).

''(e) Each agency shall provide the public with timely notice and opportunities for comment on proposed information security policies and procedures to the extent that such policies and procedures affect communication with the public.

''§ 3535. Annual independent evaluation

''(a)(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency to determine the effectiveness of such program and practices.

''(2) Each evaluation by an agency under this section shall include—

''(A) testing of the effectiveness of information security policies, procedures, and practices of a representative subset of the agency's information systems;

''(B) an assessment (made on the basis of the results of the testing) of compliance with—

''(i) the requirements of this subchapter; and

''(ii) related information security policies, procedures, standards, and guidelines; and

''(C) separate presentations, as appropriate, regarding information security relating to national security systems.

''(b) Subject to subsection (c)—

''(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978, the annual evaluation required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

''(2) for each agency to which paragraph (1) does not apply, the head of the agency shall engage an independent external auditor to perform the evaluation.

''(c) For each agency operating or exercising control of a national security system, that portion of the evaluation required by this section directly relating to a national security system shall be performed—

''(1) only by an entity designated by the agency head; and

''(2) in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

''(d) The evaluation required by this section—

''(1) shall be performed in accordance with generally accepted government auditing standards; and

''(2) may be based in whole or in part on an audit, evaluation, or report relating to programs or practices of the applicable agency.

''(e) Each year, not later than such date established by the Director, the head of each agency shall submit to the Director the results of the evaluation required under this section.

''(f) Agencies and evaluators shall take appropriate steps to ensure the protection of information which, if disclosed, may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws and regulations.

''(g)(1) The Director shall summarize the results of the evaluations conducted under this section in the report to Congress required under section 3533(a)(8).

''(2) The Director's report to Congress under this subsection shall summarize information regarding information security relating to national security systems in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

''(3) Evaluations and any other descriptions of information systems under the authority and control of the Director of Central Intelligence or of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available to Congress only through the appropriate oversight committees of Congress, in accordance with applicable laws.

''(h) The Comptroller General shall periodically evaluate and report to Congress on—

''(1) the adequacy and effectiveness of agency information security policies and practices; and

''(2) implementation of the requirements of this subchapter.

''§ 3536. National security systems

''The head of each agency operating or exercising control of a national security system shall be responsible for ensuring that the agency—

''(1) provides information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of the information contained in such system;

''(2) implements information security policies and practices as required by standards and guidelines for national security systems, issued in accordance with law and as directed by the President; and

''(3) complies with the requirements of this subchapter.

''§ 3537. Authorization of appropriations

''There are authorized to be appropriated to carry out the provisions of this subchapter such sums as may be necessary for each of fiscal years 2003 through 2007.

''§ 3538. Effect on existing law

''Nothing in this subchapter, section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), or section 20 of the National Standards and Technology Act (15 U.S.C. 278g–3) may be construed as affecting the authority of the President, the Office of Management and Budget or the Director thereof, the National Institute of Standards and Technology, or the head of any agency, with respect to the authorized use or disclosure of information, including with regard to the protection of personal privacy under section 552a of title 5, the disclosure of information under section 552 of title 5, the management and disposition of records under chapters 29, 31, or 33 of title 44, the management of information resources under subchapter I of chapter 35 of this title, or the disclosure of information to the Congress or the Comptroller General of the United States.''.

(2) CLERICAL AMENDMENT.—The items in the table of sections at the beginning of such chapter 35 under the heading ''SUBCHAPTER II'' are amended to read as follows:

''3531. Purposes.
''3532. Definitions.
''3533. Authority and functions of the Director.
''3534. Federal agency responsibilities.
''3535. Annual independent evaluation.
''3536. National security systems.
''3537. Authorization of appropriations.
''3538. Effect on existing law.''.

(c) INFORMATION SECURITY RESPONSIBILITIES OF CERTAIN AGENCIES.—

(1) NATIONAL SECURITY RESPONSIBILITIES.—(A) Nothing in this Act (including any amendment made by this Act) shall supersede any authority of the Secretary of Defense, the Director of Central Intelligence, or other agency head, as authorized by law and as directed by the President, with regard to the operation, control, or management of national security systems, as defined by section 3532(3) of title 44, United States Code.

(B) Section 2224 of title 10, United States Code, is amended—

(i) in subsection 2224(b), by striking ''(b) OBJECTIVES AND MINIMUM REQUIREMENTS.—(1)'' and inserting ''(b) OBJECTIVES OF THE PROGRAM.—'';

(ii) in subsection 2224(b), by striking ''(2) the program shall at a minimum meet the requirements of section 3534 and 3535 of title 44, United States Code.''; and

(iii) in subsection 2224(c), by inserting '', including through compliance with subtitle II of chapter 35 of title 44'' after ''infrastructure''.

(2) ATOMIC ENERGY ACT OF 1954.—Nothing in this Act shall supersede any requirement made by or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Restricted Data or Formerly Restricted Data shall be handled, protected, classified, downgraded, and declassified in conformity with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 1102. MANAGEMENT OF INFORMATION TECHNOLOGY.

Section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) is amended to read as follows:

''SEC. 5131. RESPONSIBILITIES FOR FEDERAL INFORMATION SYSTEMS STANDARDS.

''(a)(1)(A) Except as provided under paragraph (2), the Director of the Office of Management and Budget shall, on the basis of proposed standards developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)) and in consultation with the Secretary of Homeland Security, promulgate information security standards pertaining to Federal information systems.

''(B) Standards promulgated under subparagraph (A) shall include—

''(i) standards that provide minimum information security requirements as determined under section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(b)); and

''(ii) such standards that are otherwise necessary to improve the efficiency of operation or security of Federal information systems.

''(C) Information security standards described under subparagraph (B) shall be compulsory and binding.

''(2) Standards and guidelines for national security systems, as defined under section 3532(3) of title 44, United States Code, shall be developed, promulgated, enforced, and overseen as otherwise authorized by law and as directed by the President.

''(b) The head of an agency may employ standards for the cost-effective information security for all operations and assets within or under the supervision of that agency that are more stringent than the standards promulgated by the Director under this section, if such standards—

''(1) contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Director; and

''(2) are otherwise consistent with policies and guidelines issued under section 3533 of title 44, United States Code.

''(c)(1) The decision regarding the promulgation of any standard by the Director under subsection (a) shall occur not later than 6 months after the submission of the proposed standard to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).

''(2) A decision by the Director to significantly modify, or not promulgate, a proposed standard submitted to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), shall be made after the public is given an opportunity to comment on the Director's proposed decision.''.

''(d) In this section, the term 'information security' has the meaning given that term in section 3532(b)(1) of title 44, United States Code.''.

SEC. 1103. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), is amended by striking the text and inserting the following:

''(a) The Institute shall—

''(1) have the mission of developing standards, guidelines, and associated methods and techniques for information systems;

''(2) develop standards and guidelines, including minimum requirements, for information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency, other than national security systems (as defined in section 3532(b)(2) of title 44, United States Code);

''(3) develop standards and guidelines, including minimum requirements, for providing adequate information security for all agency operations and assets, but such standards and guidelines shall not apply to national security systems; and

''(4) carry out the responsibilities described in paragraph (3) through the Computer Security Division.

''(b) The standards and guidelines required by subsection (a) shall include, at a minimum—

''(1)(A) standards to be used by all agencies to categorize all information and information systems collected or maintained by or on behalf of each agency based on the objectives of providing appropriate levels of information security according to a range of risk levels;

''(B) guidelines recommending the types of information and information systems to be included in each such category; and

''(C) minimum information security requirements for information and information systems in each such category;

''(2) a definition of and guidelines concerning detection and handling of information security incidents; and

''(3) guidelines developed in coordination with the National Security Agency for identifying an information system as a national security system consistent with applicable requirements for national security systems, issued in accordance with law and as directed by the President.

''(c) In developing standards and guidelines required by subsections (a) and (b), the Institute shall—

''(1) consult with other agencies and offices (including, but not limited to, the Director of the Office of Management and Budget, the Departments of Defense and Energy, the National Security Agency, the General Accounting Office, and the Secretary of Homeland Security) to assure—

''(A) use of appropriate information security policies, procedures, and techniques, in order to improve information security and avoid unnecessary and costly duplication of effort; and

''(B) that such standards and guidelines are complementary with standards and guidelines employed for the protection of national security systems and information contained in such systems;

''(2) provide the public with an opportunity to comment on proposed standards and guidelines;

''(3) submit to the Director of the Office of Management and Budget for promulgation under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441)—

''(A) standards, as required under subsection (b)(1)(A), no later than 12 months after the date of the enactment of this section; and

''(B) minimum information security requirements for each category, as required under subsection (b)(1)(C), no later than 36 months after the date of the enactment of this section;

''(4) issue guidelines as required under subsection (b)(1)(B), no later than 18 months after the date of the enactment of this Act;

''(5) ensure that such standards and guidelines do not require specific technological solutions or products, including any specific hardware or software security solutions;

''(6) ensure that such standards and guidelines provide for sufficient flexibility to permit alternative solutions to provide equivalent levels of protection for identified information security risks; and

''(7) use flexible, performance-based standards and guidelines that, to the greatest extent possible, permit the use of off-the-shelf commercially developed information security products.''

''(d) The Institute shall—

''(1) submit standards developed pursuant to subsection (a), along with recommendations as to the extent to which these should be made compulsory and binding, to the Director of the Office of Management and Budget for promulgation under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441);

''(2) provide assistance to agencies regarding—

''(A) compliance with the standards and guidelines developed under subsection (a);

''(B) detecting and handling information security incidents; and

''(C) information security policies, procedures, and practices;

''(3) conduct research, as needed, to determine the nature and extent of information security vulnerabilities and techniques for providing cost-effective information security;

''(4) develop and periodically revise performance indicators and measures for agency information security policies and practices;

''(5) evaluate private sector information security policies and practices and commercially available information technologies to assess potential application by agencies to strengthen information security;

''(6) evaluate security policies and practices developed for national security systems to assess potential application by agencies to strengthen information security;

''(7) periodically assess the effectiveness of standards and guidelines developed under this section and undertake revisions as appropriate;

''(8) solicit and consider the recommendations of the Information Security and Privacy Advisory Board, established by section 21, regarding standards and guidelines developed under subsection (a) and submit such recommendations to the Director of the Office of Management and Budget with such standards submitted to the Director; and

''(9) prepare an annual public report on activities undertaken in the previous year, and planned for the coming year, to carry out responsibilities under this section.

''(e) As used in this section—

''(1) the term 'agency' has the same meaning as provided in section 3502(1) of title 44, United States Code;

''(2) the term 'information security' has the same meaning as provided in section 3532(1) of such title;

''(3) the term 'information system' has the same meaning as provided in section 3502(8) of such title;

''(4) the term 'information technology' has the same meaning as provided in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401); and

''(5) the term 'national security system' has the same meaning as provided in section 3532(b)(2) of such title.''.

SEC. 1104. INFORMATION SECURITY AND PRIVACY ADVISORY BOARD.

Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–4), is amended—

(1) in subsection (a), by striking ''Computer System Security and Privacy Advisory Board'' and inserting ''Information Security and Privacy Advisory Board'';

(2) in subsection (a)(1), by striking ''computer or telecommunications'' and inserting ''information technology'';

(3) in subsection (a)(2)—

(A) by striking ''computer or telecommunications technology'' and inserting ''information technology''; and

(B) by striking ''computer or telecommunications equipment'' and inserting ''information technology'';

(4) in subsection (a)(3)—

(A) by striking ''computer systems'' and inserting ''information system''; and

(B) by striking ''computer systems security'' and inserting ''information security'';

(5) in subsection (b)(1) by striking ''computer systems security'' and inserting ''information security'';

(6) in subsection (b) by striking paragraph (2) and inserting the following:

''(2) to advise the Institute and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems, including through review of proposed standards and guidelines developed under section 20; and'';

(7) in subsection (b)(3) by inserting ''annually'' after ''report'';

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

''(f) The Board shall hold meetings at such locations and at such time and place as determined by a majority of the Board.'';

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(10) by striking subsection (h), as redesignated by paragraph (9), and inserting the following:

''(h) As used in this section, the terms ''information system'' and ''information technology'' have the meanings given in section 20.''.

SEC. 1105. TECHNICAL AND CONFORMING AMENDMENTS.

(a) COMPUTER SECURITY ACT.—Sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 1441 note) are repealed.

(b) FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001.—The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) is amended by striking subtitle G of title X.

(c) PAPERWORK REDUCTION ACT.—(1) Section 3504(g) of title 44, United States Code, is amended—

(A) by adding ''and'' at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking ''sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note)'' and inserting ''subchapter II of this title''; and

(ii) by striking the semicolon and inserting a period; and

(C) by striking paragraph (3).

(2) Section 3505 of such title is amended by adding at the end—

''(c)(1) The head of each agency shall develop and maintain an inventory of the information systems (including national security systems) operated by or under the control of such agency;

''(2) The identification of information systems in an inventory under this subsection shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency;

''(3) Such inventory shall be—

''(A) updated at least annually;

''(B) made available to the Comptroller General; and

''(C) used to support information resources management, including—

''(i) preparation and maintenance of the inventory of information resources under section 3506(b)(4);

''(ii) information technology planning, budgeting, acquisition, and management under section 3506(h), the Clinger-Cohen Act of 1996, and related laws and guidance;

''(iii) monitoring, testing, and evaluation of information security controls under subchapter II;

''(iv) preparation of the index of major information systems required under section 552(g) of title 5, United States Code; and

''(v) preparation of information system inventories required for records management under chapters 21, 29, 31, and 33.

''(4) The Director shall issue guidance for and oversee the implementation of the requirements of this subsection.''.

(3) Section 3506(g) of such title is amended—

(A) by adding ''and'' at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking ''the Computer Security Act of 1987 (40 U.S.C. 759 note)'' and inserting ''subchapter II of this title''; and

(ii) by striking the semicolon and inserting a period; and

(C) by striking paragraph (3).

SEC. 1106. CONSTRUCTION.

Nothing in this Act, or the amendments made by this Act, affects the authority of the National Institute of Standards and Technology or the Department of Commerce relating to the development and promulgation of standards or guidelines under paragraphs (1) and (2) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)).

In section 752(b)(1), strike ''and extensive''.

In section 752(b)(1), strike ''and'' and insert ''or''.

In section 752(b)(6), strike ''evaluation'' and insert ''Evaluation''.

At the end of section 752(b), insert:

(7) Anti-terrorism technology that would be effective in facilitating the defense against acts of terrorism.

In section 753(d)(1), insert ''or other'' after ''liability''.

In section 753(d)(3), strike ''those products'' and insert ''anti-terrorism technology''.

In section 753(d)(3), strike ''product'' and insert ''anti-terrorism technology''.

In section 754(a)(1), strike, ''to non-federal'' and insert ''to Federal and non-Federal''.

In section 754(a)(1), insert ''and certified by the Secretary'' after ''section''.

In section 755(1), strike ''device, or technology designed, developed, or modified'' and insert ''equipment, service (including support services), device, or technology (including information technology) designed, developed, modified, or procured''.

Page 182, line 2, strike ''and'' and insert ''or''.

At the end of subtitle G of title VII of the bill, add the following (and conform the table of contents of the bill accordingly):

SEC. 774. AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT AMENDMENTS.

The Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in section 408 by striking the last sentence of subsection (c); and

(2) in section 402 by striking paragraph (1) and inserting the following:

''(1) AIR CARRIER.—The term 'air carrier' means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation and includes employees and agents (including persons engaged in the business of providing air transportation security and their affiliates) of such citizen. For purposes of the preceding sentence, the term 'agent', as applied to persons engaged in the business of providing air transportation security, shall only include persons that have contracted directly with the Federal Aviation Administration on or after February 17, 2002, to provide such security, or are not debarred.''.

Page 12, line 5, strike ''and''.

Page 12, line 9, strike the period and insert ''; and''.

Page 12, after line 9, insert the following:

(G) monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking.

Page 195, line 16, after ''terrorism.'' insert: ''Such official shall—

(1) ensure the adequacy of resources within the Department for illicit drug interdiction; and

(2) serve as the United States Interdiction Coordinator for the Director of National Drug Control Policy.''.

In section 307(b)(1)—

(1) strike ''and'' at the end of subparagraph (A);

(2) redesignate subparagraph (B) as subparagraph (C); and

(3) after subparagraph (A), insert the following new subparagraph:

(B) ensure that the research funded is of high quality, as determined through merit review processes developed under section 301(10); and

In section 766 of the bill, insert ''sections 305(c) and 752(c) of'' after ''provided in''.

Add at the end of title V of the bill the following section:

SEC. 506. SENSE OF CONGRESS REGARDING FUNDING OF TRAUMA SYSTEMS.

It is the sense of the Congress that States should give particular emphasis to developing and implementing the trauma care and burn center care components of the State plans for the provision of emergency medical services using funds authorized through Public Law 107–188 for grants to improve State, local, and hospital preparedness for and response to bioterrorism and other public health emergencies.

The CHAIRMAN pro tempore. Pursuant to House Resolution 502, the gentleman from Texas (Mr. ARMEY), and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ARMEY).

Mr. ARMEY. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, this is the manager's amendment for the bill. The amendment includes the following: Technical amendments requested by the Committee on Energy and Commerce;

Technical amendments requested by the Committee on Science;

Technical correction regarding Oil Spill Liability Trust Fund requested by Committee on Transportation and Infrastructure;

Technical amendments related to DHS privacy officer;

Technical correction related to the biological agent registration function requested by Committee on Agriculture;

Amendment to create a program to encourage and support innovative solutions to enhance homeland security requested by the gentleman from Virginia (Mr. TOM DAVIS) and the gentlewoman from California (Ms. HARMAN);

Amendment to enforce non-Federal cybersecurity activities of Under Secretary for Information Analysis and Infrastructure Protection requested by the Committee on Science;

An amendment to establish the NET Guard program to promote voluntary activities in support of information technology protection activities requested by the Committee on Science;

An amendment striking Section 814 related to incidental transfers by Director of OMB requested by Committee on Appropriations;

Technical correction to section 761 to insert proper cross references;

Amendment inserting a sense of Congress provision reaffirming our support for the Posse Comitatus Act;

An amendment clarifying that this act preempts no State or local law except that any preemption authority vested in the agencies or officials transferred to DHS shall be transferred to DHS;

Amendment inserting the text of Federal Information Security Management Act of 2002 recommended by Committee on Government Reform at the request of the gentleman from Virginia (Mr. TOM DAVIS). The amendment will achieve several objectives vital to Federal information security. Specifically it will, one, remove the Government Information Security Reform Act's GISRA sunset clause and permanently require a Federal agency-wide, risk-based approach to information security management, with annual independent evaluations of agency and information security practices; two, require that all agencies implement a risk-based management approach to developing and implementing information security measures for all information and information systems; three, streamline and make technical corrections to GISRA to clarify and simplify its requirements; four, strengthen the role of NIST in the standards-setting process; and, five, require OMB to implement

minimum and mandatory standards for Federal information and information systems, and to consult with the Department of Homeland Security regarding the promulgation of these standards.

The amendment to subtitle F of title VII relating to liability management intended to clarify ability of liability protections afforded by this title;

An amendment asserting a new section to reinstate liability cap for aviation screening companies that are under contract with the Transportation Security Administration are not debarred.

Mr. Chairman, let me be very clear about this amendment. It does not reinstate a cap for any company that has been debarred; that is, Argenbright.

Mr. Chairman, I must suggest that we will all be labored to death with fulminations against Argenbright. So let me relate again that this amendment does not reinstate a cap for any company that has been debarred. That is, in particular, Argenbright. We would like that to be considered a fact.

Mr. Chairman, amendments clarifying responsibilities of DHS and the DHS counternarcotics officer with regard to narcotics interdiction requested by the gentleman from Illinois (Mr. HASTERT);

Amendments clarifying eligibility criteria for participation in certain extramural research programs of the Department requested by the gentleman from California (Mr. DREIER);

Technical amendment to section 766 regarding regulatory authority requested by the Committee on Energy and Commerce;

Amendment adding a new section expressing the sense of Congress regarding funding of trauma systems consisting of language originally offered by the gentlewoman from California (Ms. HARMAN).

Mr. Chairman, you can see that the manager's amendment is a final, full, comprehensive and respectful regard to our colleagues in their standing committees of jurisdiction and as Members of this body who wish consideration in this bill.

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

Ms. PELOSI. Mr. Chairman, I rise in opposition to the en bloc amendment and request the time in opposition.

The CHAIRMAN pro tempore. The gentlewoman from California is recognized for 20 minutes.

Ms. PELOSI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, throughout the course of all of this we have striven to find our areas of agreement, and we have made some successes in that regard. Every now and then something will come along that just really takes your breath away. That happened last week when we had the markup of the bill when the majority tried to give an indefinite extension for the installation of detection devices for explosives in baggage and when the distinguished leader put into his mark a total immunity, a total immunity, for those who were guilty of wrongdoing and jeopardizing the safety of the American people.

So here we now have today an en bloc amendment, the en bloc amendment of the chairman, which we would all love to support. The chairman has worked hard on this bill and he has some technicalities he would like to correct, and we would like to support him. Except, once again, out of the blue, comes an amendment that fatally flaws this en bloc amendment. Let us dissect that.

This amendment is fatally flawed. That means it has a flaw that kills it. It is fundamentally flawed. It is flawed in a way that undermines any reason why anyone should vote for it.

The Armey amendment takes a bad provision, which gives immunity to corporate wrongdoers, and makes it even worse. I am going to have more to say on this subject as we go along.

Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Michigan (Mr. CONYERS), the distinguished ranking member on the Committee on the Judiciary.

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

Mr. CONYERS. Mr. Chairman, we have got a bit of a dilemma here. According to the General Services Administration, excluded parties listing system, page 5, Argenbright Security, Incorporated. They will be excluded. Term date, 14 October 2002.

So I say to the distinguished majority leader, if that is what you call debarment, that is what I call somebody getting rolled in the House this afternoon. They are debarred for exactly 2 months, and they are back in business.

□ 1330

So I rise in support of the gentlewoman's objection to this en bloc manager's amendment, because notwithstanding all of the concern about corporate accountability that has been raised to the roof here on both sides of the Capitol, the last thing we need to do is to pass a special interest law which protects negligent airport screening companies at the expense of victims of the September 11 tragedy.

Do we know what we are doing here? Two of these screening companies have been criminally convicted for falsely certifying that they made criminal background checks of their employees when they did not. Two of these companies have been convicted for knowingly hiring convicted felons, and last November when we passed the Aviation Security Act, we expressly decided that private screening companies should not be relieved of liability.

That is because we evaluated airline security in the wake of September 11, and it was obvious on both sides of the aisle that the private companies conducting airline screening, in general, had done a woefully inadequate job.

So now, I should be shocked that the Republican leadership would use an en bloc manager's amendment to the homeland security bill as a vehicle to further harm the victims of the September 11 terrorist attack. Yet, that is precisely what this amendment does.

It not only protects Argenbright, but it protects their parent company as well, totally shielding them from liability for letting terrorist and terrorist weapons through checkpoints on September 11. So those responsible for providing staff at, for example, Logan Airport in Boston, would receive liability protection. Even the notorious screening company that I have already named, which provided security at Dulles and Newark Airports and has been cited for more security violations than any other company, would benefit from the Army language.

Mr. Chairman, I urge my colleagues to reject this en bloc manager's amendment that is before us now.

EXCLUDED PARTIES LISTING SYSTEM

NO. OF DEBAR TRANSACTIONS: 3

Name: Argenbright Holdings, Limited
Class: Firm
Record Type: Primary
Exclusion Type: Reciprocal
DUNS:
Address: 3465 North Desert, Atlanta, GA, 30344
Description:
CT Actions—
1. Action Date: 20–MAR–2001
Term Date: Indef.
CT Code: A1
Agency: GSA
2. Action Data: 20–MAR–2001
Term Date: Indef.
CT Code: J1
Agency: GSA
Cr. Ref. Names:
1: AHL Services, Inc.
2: Fields, Helen
3: Lawrence, Sandra H.
4: Suller, Steven E.

Name: Argenbright, Security, Inc.
Class: Firm
Record Type: Primary
Exclusion Type: Reciprocial
DUNS:
Address: 3465 North Desert Dr., Atlanta, GA 30344
Description:
CT Action—
Action Date: 18–MAR–2002
Term Date: 14–OCT–2002
CT Code: A
Agency: STATE
Cr. Ref. Name: Argenbright, Frank A., Jr.

Name: Argenbright, Frank Jr..
Class: Individual
Record Type: Cross-Reference
Exclusion Type: Reciprocial
DUNS:
Address: 3553 Peachtree Rd., NE, Suite 1120, Atlanta, GA 30326
Description:
CT Action—
Action Date: 18–MAR–2002
Term Date: 14–OCT–2002
CT Code: A
Agency: STATE
Primary Name: Argenbright Security, Inc.

Mr. ARMEY. Mr. Chairman, I yield myself such time as I may consume.

Let me first observe that the officials at Argenbright would be much comforted by the gentleman's speech since they called my office viciously angry and upset, disappointed that they are

not included in this amendment. So obviously, they clearly understand themselves to be not included in this coverage, and whether or not they take comfort from the remarks we just heard I do not know.

Mr. Chairman, that being as it is, I yield 3 minutes to the distinguished gentleman from North Carolina (Mr. COBLE), my classmate and a subcommittee chairman of the Committee on the Judiciary.

Mr. COBLE. Mr. Chairman, I thank the leader for yielding me this time.

The manager's amendment as just presented by the gentleman from Texas (Mr. ARMEY) is technical for the most part, so I am going to direct my attention generally to the bill before us.

Mr. Chairman, I traditionally oppose the capping or prohibition of damages. It is my belief that generally speaking, the matter of awarding damages should be an exclusive assignment to be discharged by the jury. When first the State legislature, then the Congress, then this third party or that third party began inserting their oars into the jury's waters regarding damages, potential problems rear their respective, troublesome heads. Invasions of the jury's province should be pursued very delicately, very deliberately, and very infrequently.

The homeland security legislation directs our attention to plaguing, unrelenting threats imposed by terrorism, and that is the hook on which I hang my departure from long-held views in opposing capping or restricting damages.

This bill proposes the elimination of damages in certain instances, and given the 9–11 attack by those wicked messengers of evil, I believe this justifies capping or prohibiting damages. Terrorism, my friends, is not our traditional adversary. Terrorists punish the innocent. Terrorists recklessly and needlessly destroy property. Terrorists are wicked and evil people and, given this set of circumstances, I believe our addressing damages is, therefore, justified.

I do not believe I am compromising my beliefs. I hold to my strongly-held belief that the province of the jury is close to sacred ground but, in this instance, I believe the proposals presented in the homeland security legislation justify my support of this bill, including the matter of damages.

Mr. Chairman, there will be a subsequent amendment that will involve near universal indemnification. We can ill-afford to authorize the negotiation of blank checks. After 9–11, I believe, Mr. Chairman, that this House proved that we will not leave helpless victims behind, but we must generously lace our proposals with prudence in lieu of fiscal recklessness.

Finally, I say to the distinguished gentleman from Texas, our majority leader, I think he has done a good job in crafting a responsible piece of legislation, and I urge its support.

Ms. PELOSI. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentleman from California (Mr. WAXMAN), ranking member of the Committee on Government Reform.

Mr. WAXMAN. Mr. Chairman, I really cannot believe this. Yesterday, the Republicans were forced, kicking and screaming, to vote for legislation on corporate responsibility and today, they are proposing legislation that would give a green light to corporate irresponsibility.

Now, do you remember when they passed under the Contract for America the Private Securities Litigation Reform Act? It said to accountants, they did not have to be responsible anymore, they could not be sued. So what happened? We got Enron. We got all of these scandals.

This bill exempts from liability a company that would make a defective smallpox vaccine. It would exempt from liability a seller of what was supposed to be antiterrorism technology that did not work. They would allow people who are supposed to be doing the work of protecting the people and who are negligent in doing it not to even be held responsible. Even worse, if somebody was grossly negligent and acted intentionally, they would still not be held liable.

Let me give another example. A company that is supposed to screen for our protection at an airport can hire a known felon and maybe someone that if they had checked and used reasonable due care could have found out that person was a terrorist, and they would hire them and a terrible tragedy could occur, but the company would not be responsible. They are not held to legal liability because they are given this exemption from any legal liability under the Armey proposal.

This is a green light to corporations to cut corners, to not have the incentive to do the job right because they are going to be second-guessed and held accountable in the courts if they do it wrong. The biggest problem they might have is they might not have their contract renewed. But do you know what? If they violate their contract, they cannot even be sued to do their part of the agreement because they are exempt from liability even under contract law.

Mr. Chairman, this is the most irresponsible provision I can imagine, and if anything, we have to wonder, how could they do this? It must be a payoff to corporations to get a lot of campaign money. How else could anybody come up with something so irresponsible in light of what this country has gone through in the last few years and all that our economy is suffering from.

Mr. ARMEY. Mr. Chairman, I would like to believe the gentleman from California could rise above the kind of sophomorish allegation that there are payoffs in the legislative process. I have been many times disappointed by the gentleman from California, but this is the first time I have been embarrassed for him.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Ohio (Ms. PRYCE), a jurist and member of the committee.

Ms. PRYCE of Ohio. Mr. Chairman, I thank the gentleman for yielding, and I compliment him once again on the job he has done with putting this together.

Mr. Chairman, the claims arising out of the deployment of qualified antiterrorism technologies would be covered by litigation management provisions that simply provide for this; once again, very simply. A consolidation of claims in Federal court. That makes perfect sense.

The requirement that any noneconomic damages be awarded only in the proportion to a party's percentage of fault. That makes perfect sense.

A ban on punitive damages. A ban on punitive damages that so often are disproportionate to any real claim or harm done. A ban on punitive damages. Once again, perfect sense.

Offsets of awards based on receipt of collateral source benefits. We can only get paid once, not twice or 3 times.

A reasonable, very reasonable limit on attorneys' fees, once again, perfect sense.

Mr. Chairman, the Safety Act provisions of this en bloc manager's amendment are vital to ensuring that the American people are protected by the most reliable and up-to-date antiterrorism technology available. Unfortunately, the flaws in our current tort system keep that from happening right now. We need the life-saving and life-protecting technologies that are out there close to being developed.

But one company, for instance, based in my home State of Ohio, produces a state of the art technology that is vital to decontamination following an anthrax attack. Yet, they are prevented from using this technology to assist in the cleanup of any infected areas or buildings by the daunting and limitless liability that they could face if their patriotic efforts failed for some reason.

The Safety Act provisions certainly do not provide immunity in any way from any lawsuit; they simply place reasonable and sensible limits on lawsuits so that America's leading technology innovators will be able to deploy solutions to thwart terrorist attacks.

The alternative solution of indemnification is no solution at all. It is fiscally irresponsible; it will attempt to put the Treasury and, through it, the U.S. taxpayers and their deep pockets at risk by those, the very people that exploit the technology producers who join in the fight against terrorism.

Mr. Chairman, this is common sense. The time is right for it to happen. The threat of liability has a chilling effect, both on technological advances and the implementation of any new technology. I think it is a perfect place for it in the en bloc amendment; it is reasonable, it makes sense. The time is right for it. We need it now.

Ms. PELOSI. Mr. Chairman, it is my privilege to yield 4 minutes to the distinguished gentleman from Minnesota

(Mr. OBERSTAR), the ranking member of the Committee on Transportation and Infrastructure.

Mr. OBERSTAR. Mr. Chairman, I thank the gentlewoman for yielding me this time, and I compliment her on her management of the time on our side and on this whole process, and for her splendid work on the Select Committee on Homeland Security.

For whatever valid reasons there may be to extend liability to other functions, as have already been discussed and debated and without entering into those merits, I cannot, for the life of me, imagine a reason, a valid reason for extending liability to the screener companies.

□ 1345

We debated this issue at length last October and November in consideration of the Aviation and Transportation Security Act that is now law. We discussed it in the Committee on Transportation and Infrastructure. We debated it in the House Senate Conference Committee. We discussed it at great length and rejected any suggestion, and there were suggestions, any proposals for extension of liability limitation and immunization for the airport screening companies. It is their possible negligence that may have contributed to the September 11 attack. Why would you want to excuse them?

In the amendment offered by the gentleman, buried in this amendment is what I might call mirage language. Whether by design or by inadvertence, Mr. Chairman, I do know and I do not want to ascribe motives, it is just that here it is. The language intends to on its face exclude any screening company that is debarred under Federal contracts. However, the infamous Argenbright Company's debarment is over in October, 2002. It then becomes eligible for liability protection under the gentleman's en bloc amendment. Furthermore, the parent company of Argenbright, Securicor, is not debarred from any Federal contracts. So they are now covered by this immunization protection. And look at Argenbright. Someone last fall in the debate, and I think it was a Member on the Republican side, said Argenbright is the poster child for why we need to have a Federalized screener program.

They were in October of 2000 put on a 36-month probation, ordered to pay $1,600,000 fine for failure to conduct background checks on their employees and hiring convicted felons to staff security screening checkpoints at the Philadelphia Airport between 1995 and 1999. A month after September 11, Argenbright's probation was extended by 2 years because they continued to hire convicted felons and improperly train workers in violation of their probation terms. In the 5 years before September 11, FAA prosecuted 1,776 cases for screening violations with $8.1 million in civil penalties.

The en bloc vote furthermore extends liability protections, put Argenbright aside, to other airport security firms. Globe Aviation Services and Huntleigh USA Corporation, the security companies responsible for checkpoint security at Logan Airport on September 11 and which continue to hold a contract with the Transportation Security Administration, why would you want to exclude them? These are the same groups whose lobbyists argued last October against the Federal screener program. It does not make sense to now exempt them.

In May of this year, Huntleigh Security Screeners were fired for allowing a man to go through a security checkpoint with two loaded semiautomatic pistols. In February of this year, a Globe security screener fell asleep at a checkpoint. The whole terminal had to be evacuated at Louisville because of that failure. Why in heaven's name do you want to exclude them? This defies imagination. It is the wrong policy. If we could move to strike this provision, I would; but in lieu of that, we ought to defeat the entire en bloc amendment.

Mr. ARMEY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the confusion about Argenbright has nothing to do with my amendment. Argenbright is today debarred. My amendment does not provide coverage to firms that are debarred. If GSA sometime in the future should remove that debarment, the gentleman from Minnesota (Mr. OBERSTAR) would have an argument with GSA, but he has no argument in respect to Argenbright with my amendment. If I were the gentleman from Minnesota, I would take up his case with GSA and plead with them to not lift the debarment on Argenbright, and this gentleman would join the gentleman from Minnesota (Mr. OBERSTAR).

Ms. PELOSI. Mr. Chairman, I yield 30 seconds to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I just want to reaffirm for the distinguished gentleman from Texas (Mr. ARMEY), majority leader, that Argenbright's debarment expires in October of this year. Why would you not extend a prohibition on coverage?

Mr. ARMEY. Mr. Chairman, I yield myself 30 seconds to respond to the proposition that the gentleman from Minnesota (Mr. OBERSTAR) and I differ in our understanding of the facts.

Ms. PELOSI. Mr. Chairman, I yield 2½ minutes to the gentleman from Oregon (Mr. BLUMENAUER), a distinguished member of the Committee on Transportation and Infrastructure.

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentlewoman's courtesy in permitting me to speak and for her hard work on this issue. It is a tough one, but the manager's amendment that is brought before us this afternoon captures my concerns about the legislation, why I am against the amendment and frankly I do not think I will be able to vote for it in its final form.

This is legislation that has been candidly rushed forward. We have an artificial deadline, perhaps to beat the anniversary of September 11, but it is not because this is the best time frame to protect the security of America.

It includes elements that are not necessary and some which may actually hinder both the discharge of the overall concept of the legislation and have critical functions for the American public that suffer. And we have had lots of discussions on this floor about the potential problems for FEMA, for the Coast Guard; indeed, almost all our colleagues on all of the substantive committees of jurisdiction reject the all-encompassing approach that has been suggested here, the people who know something about these functions. And this, frankly, Mr. Chairman, is an area that is where the approach that is being taken is contrary to my experience.

Now, I have not had the range of experience in Congress that some of these people have who have been here for not just years, but decades; and I defer to them. But I have actually done work in government reorganization on the State level and on the local level, city and county. And without exception, reorganization costs money. It is not cost-neutral, let alone with something with tens of thousands of employees. It takes time and there can be short-term dislocations as a result of these functions.

And finally, it is critical when you are dealing with people who are going to be moving in to new structures to be able to have a certainty of working conditions. And some of the proposals that we have had advanced as a part of this are going to produce uncertainty of working conditions, apprehension for tens of thousands of dedicated public employees; and that is going to hurt. It is not going to help.

Finally, the manager's amendment is an example of my underlying concern. Adding the exemption that has been argued by my good friend from Minnesota (Mr. OBERSTAR), not asked for by the President, not asked for by any committees where there are legitimate questions about the logic behind it, it all sums up giving me a bad feeling. I am afraid that serious problems are going to result from the manager's amendment from the underlying bill. I hope I am wrong, but I fear I am right.

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

Ms. PELOSI. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, this presents us with a very interesting situation. First, we are told that the employees of the Homeland Security Department cannot have civil service protection. They cannot be unionized. We want to be flexible with them. If they make any mistakes, we want to throw them out. Yet, at the same time, what do we do with regard to corporate entities that work for the Homeland Security Department? If the Secretary approves any design for any material or

product that they sell to homeland security, so long as the Secretary approves it, that corporation is exempt from any product-liability suits.

The manager's amendment, however, goes even further. It protects corporate wrongdoers from any kind of action whatsoever. If the product does not work, if the product does not work because the corporation was fraudulent in its submission, if the product does not work because they willfully or maliciously made it so that it would not work effectively, nevertheless, they are exempt from any kind of lawsuits.

This situation that we are presented with and asked to vote for is totally absurd. You want to have a circumstance whereby people are going to feel protected and will be protected. And if they are going to be protected, you have to have the ability to have confidence in the corporate entities, the private sector people who are supplying the new homeland security office. Under the provision of this bill and particularly under the amendment, all of that confidence goes out the window.

Why should we have any ounce of confidence if people can produce bad product and not have to be responsible for the product they produce? This is a bad piece of legislation.

Mr. ARMEY. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I rise to thank the Members on both sides of the aisle for the basic decorum that has existed during the past 2 days. I am beginning to feel that tempers are getting a little short, but we do not have much further to go.

I, for one, have been the focus of the majority leader's disappointment sometimes, but I have never ever questioned his sincerity, his fairness, or his motives. They are beyond reproach. And I just would say to the Members there is a danger, obviously, when you have a manager's amendment that has 19 parts. There is going to be something that somebody does not like. That is the risk. Everyone can find some part of a comprehensive amendment they do not like. They can find a reason to vote against it.

There are just too many important parts of this amendment to cause its defeat. We need this manager's amendment.

Having said this I now would like to take the time to express my disappointment that I did not make the manager's amendment, that I did not have an amendment I want called to order. I would like Members to listen to what this was.

My amendment said the ''Director of Central Intelligence shall, to the maximum extent practical, in accordance with the law, render full assistance and support to the Department and the Secretary.''

I am told this was not included because the Permanent Select Committee on Intelligence had a problem with this. That, to me, is the very reason why it should have been included. What is amazing to me is that this very language is the identical language that can be found in the establishment of the Office on the National Drug Control Policy. Implicit in our bill is, obviously, support by the head of the CIA; but nowhere does it state it. I am very, very concerned this is lacking in our legislation.

I am trying to get it in the Senate bill, and I am using this opportunity to lobby the most distinguished gentlewoman from California (Ms. PELOSI) and the most distinguished gentleman from Texas (Mr. ARMEY). I am lobbying them up front and in this Chamber to please include this language when we have the Conference Report and final passage. It is needed. It is the very problem I encountered in my committee on national security. When we wanted the CIA to come and testify about the relationship they had with the FBI, they got a permission slip from the Permanent Select Committee on Intelligence saying they did not have to attend. Months later we had 9–11.

I believe we need to have very explicit language stating that the Director of the Central Intelligence Agency will cooperate with the Department of Homeland Security. I thank the leader for what he and the gentlewoman from California (Ms. PELOSI) have done to shepherd this bill through Congress. I think we are close to passage. It is an extraordinarily fine piece of legislation. I think it will be made better by the manager's amendment.

□ 1400

The CHAIRMAN pro tempore (Mr. BONILLA). At this time, the Chair would inform the managers on both sides that the gentleman from Texas (Mr. ARMEY) has 4 minutes remaining and the gentlewoman from California (Ms. PELOSI) has 4 minutes remaining, and the gentlewoman from California (Ms. PELOSI) does have the right to close.

Mr. ARMEY. Mr. Chairman, I might ask the gentlewoman then how many more speakers she has?

Ms. PELOSI. Mr. Chairman, we will be looking forward to the distinguished leader's remarks, and then I will close.

Mr. ARMEY. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Virginia (Mr. TOM DAVIS), one of the hardest working and quite frankly most able legislators we have in this body, a good friend and Member that has important provisions in this manager's amendment.

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

Mr. TOM DAVIS of Virginia. Mr. Chairman, I thank the gentleman for yielding me the time.

First of all, just to correct a couple of things I keep hearing from the other side about a government contractor not being able to be sued if something goes wrong, nothing could be further from the truth. We do change traditional tort law in that punitive damages are capped and that we have comparative negligence and these kind of items. The reason we do this, of course, in the amendment is to try to hold down the liability and get contractors to be able to share some of their innovations with the government.

Also, on the Argenbright debarment issue, debarment is traditionally done by professionals in the procurement offices in Federal agencies, not by the Congress. Whether it extends or not, I am certain that that will be extended at that level.

I rise today in strong support of this language and the technical innovations language that is included in the gentleman from Texas' (Mr. ARMEY) en bloc amendment. This title is going to strengthen information security management for the Federal Government, and this is critical in the war against terrorism because if we are vulnerable anywhere it is in our critical infrastructures. This language goes a long way towards strengthening that, which seems to me would be a prime target for terrorists.

Poor information security management has persisted in both the public and private sectors long before information technology became ubiquitous engine driving governmental, business and even home activities. As our reliance on technology and our desire for interconnectivity have grown over the past decade, intensifying with the advent of the Internet, our vulnerabilities to attack on Federal information systems has grown exponentially. The high degree of dependence between information systems, both internally and externally, exposes the Federal Government's computer networks to benign and destructive disruptions.

Therefore, the Federal Information Security Management Act of 2002, which I introduced with the gentleman from California (Mr. HORN) is included in this manager's amendment. This requires the agencies utilize information security best practices that could help ensure the integrity, confidentiality and availability of Federal information services and doing a lot of other things as well.

I also want to thank the gentleman from New York (Mr. BOEHLERT), the Committee on Science chairman and the gentleman from Louisiana (Mr. TAUZIN), the Committee on Energy and Commerce chairman, for working on this language. In addition to this, we have technical innovation language in this legislation that will allow the most up-to-date innovations in technology to come forward quickly and be processed by the homeland security agency where they can start looking as they set their requirements and find out what are the latest innovations that we have in technology in this country that we can use to help fight terrorism.

In February, we held a hearing on this, the challenges facing us, and one theme that was expressed unanimously by industry was the need for an organized, cohesive and comprehensive process within the government so we could evaluate private sector solutions to homeland security problems. We have a lot of contractors with great ideas running around, but there is no place to really take them at this point.

This manager's amendment now has a central clearinghouse for these. They are part of the solution. With the creation of the homeland security in the bill before us today the gentleman from Texas (Mr. ARMEY) has included language in this legislation that closes the loop and provides a vehicle to get these solutions into the government and to the front lines in the war against terrorism as soon as possible.

I urge adoption of the manager's amendment.

In ordinary times, primarily because of recent acquisition reforms, the current acquisition system will enable the new Department of Homeland Security to buy what it needs with reasonable efficiency. While we all hope that it will never be needed, we also know that in an emergency the new Department may have to quickly and efficiently acquire the high tech and sophisticated products and services needed for its critical mission. The carefully limited authorities contained in the Homeland Security Act on the floor today are based on the Davis/Turner amendment, which was accepted and incorporated into the Government Reform Committee's version of the Homeland Security bill. The bi-partisan provisions would permit the Department to quickly acquire the emergency goods and services it needs while maintaining safeguards against wasteful spending.

The amendment builds on contracting authorities currently in place, in fact, the procedures appear in Part 13 of the Federal Acquisition Regulation—and provides for an extension of these authorities only upon a determination of the Secretary of Homeland Security or one of his Senatorially confirmed officials that the terror fighting mission of the new Department would be seriously impaired without their use. The new authorities would sunset at the end of fiscal year 2007. The GAO would be required to report to the Committee on Government Reform assessing the extend to which the authorities contributed to the mission of the Department, the extent to which the prices paid reflect best value, and the effectiveness of the safeguards put in place to monitor the use of the new authorities. The current government-wide procurement laws will govern the Department's ''normal'' purchases.

Specifically, the provisions would raise the current micro-purchase threshold from $2,500 to $5,000. It would raise the current $100,000 threshold to $175,000, and permit the application of the current streamlined commercial acquisition procedures and statutory waivers to non-commercial goods and services and increase the current $5,000,000 ceiling on the use of streamlined commercial procedures to $7,500,000 for these goods and services.

How could these new authorities be used?

Well, for example, the increase in the micro-purchase threshold could be used in the event of a terror attack, to permit a Department of Homeland Security official at the scene to rent several floors of a nearby hotel to house rescue workers by simply presenting his Government credit card.

The increase in the simplified acquisition threshold would permit a Department official to quickly enter into a $175,000 contract for specialized medical services for rescue workers responding to a terror attack.

The application of streamlined commercial acquisition procedures would permit the Department to conduct a limited competition among high technology firms for a specialized advisory and assistance services contract valued at $7,500,000 to fight a cyber-attack.

Mr. Chairman, I also rise in strong support of Title XI information security language and the technical innovations language included in Chairman Armey's en bloc amendment. This Title will strengthen the information security management infrastructure of the Federal Government.

The events of September 11th and the ensuing war on terrorism have raised an unprecedented awareness of the vulnerabilities we face. This has naturally focused more attention on security issues, particularly with respect to information security. From my work in the Government Reform Committee, it is clear that the state of federal information security suffers from a lack of coordinated, uniform management. Federal information systems continue to be woefully unprotected from both malevolent attacks and benign interruptions.

Poor information security management has persisted in both the public and private sectors long before IT became the ubiquitous engine driving governmental, business, and even home activities. As our reliance on technology and our desire for interconnectivity have grown over the past decade, intensifying with the advent of the Internet, our vulnerability to attacks on Federal information systems has grown exponentially. The high degree of interdependence between information systems, both internally and externally, exposes the Federal government's computer networks to benign and destructive disruptions.

Therefore, I introduced the Federal Information Security Management Act of 2002 (FISMA) with Congressman Stephen Horn, Chairman of the Government Efficiency, Financial Management and Intergovernmental Relations Subcommittee. FISMA is the basis for Title XI in the Homeland Security bill we are considering today.

FISMA will require that agencies utilize information security best practices that will ensure the integrity, confidentiality, and availability of Federal information systems. It builds on the foundation laid by the Government Information Security Reform Act (GISRA), which requires every Federal agency to develop and implement security policies that include risk assessment, risk-based policies, security awareness training, and periodic reviews. Our Subcommittees held joint legislative hearings on FISMA, and I worked closely with Chairman Horn, industry, and agencies to develop a bill that is satisfactory to all parties.

FISMA will achieve several objectives vital to Federal information security. Specifically, it will:

1. Remove GISRA's sunset clause and permanently require a Federal agency-wide risk-based approach to information security management with annual independent evaluations of agency information security practices;

2. Require that all agencies implement a risk-based management approach to developing and implementing information security measures for all information and information systems;

3. Streamline and make technical corrections to GISRA to clarify and simplify its requirements;

4. Strengthen the role of NIST in the standards-setting process; and

5. Require OMB to implement minimum and mandatory standards for Federal information and information systems, and to consult with the Department of Homeland Security regarding the promulgation of these standards.

At a time when uncertainty threatens confidence in our nation's preparedness, the Federal government must make information security a priority. We demand that in our networked era, where technology is the driver, every Federal information system must be managed in a way that minimizes both the risk that a breach or disruption will occur and the harm that would result should such a disruption take place. Title XI is vitally important to accomplishing our objective. Chairman ARMEY understands this and has shown tremendous leadership by this including this critical language in his en bloc amendment.

I would like to take a moment to thank Science Committee Chairman SHERWOOD BOEHLERT and Energy and Commerce Chairman BILLY TAUZIN for working with the Committee on Government Reform to reach a substantive agreement on Title XI. And I would also like to thank Congresswoman CONNIE MORELLA, Congressman LAMAR SMITH, and Congressman ADAM SMITH for their strong support and invaluable efforts to promote Title XI.

Also, the En Bloc amendment includes language that I developed to allow for reaching out to new technology companies that may not being doing business with the government. We all know that the Federal, State and local governments will spend billions and billions of dollars to fight the war against terror. Contentious floor debates aside, we all support these efforts. But to me, the question isn't simply how much we spend, but how well we spend it.

Since the tragic events of 9/11 the Government, in general, and the Office of Homeland Security, in particular has been overwhelmed by a flood of industry proposals offering various solutions to our homeland security challenges. Because of a lack of staffing expertise, many of these proposals have been sitting unevaluated, perhaps denying the government breakthrough technology.

In February, I held a hearing in my Subcommittee on Technology and Procurement Policy on homeland security challenges facing the government. One theme that was expressed unanimously by industry was the need for an organized, cohesive, comprehensive process within the Government to evaluate private-sector solutions to homeland security problems. Now we have part of the solution, with the creation of the new Department of Homeland Security in the bill on the floor today. Chairman ARMEY at my request included language in a new Section 309 which is based on H.R. 4629, legislation I introduced in May. This language will close the loop and provide a vehicle to get these solutions into government and to the front lines in the war against terror.

Chairman Armey's Manager's amendment included a new section 309 in the Homeland Security Act to the establishment within the Department a program to meet the current challenge faced by the Federal government, as well as by state and local entities, in leveraging private sector innovation in the fight against terror. The amendment would establish a focused effort by:

Creating a centralized Federal clearinghouse in the new Department for information relating to terror-fighting technologies for dissemination to Federal, State, local and private sector entities and to issue announcements to industry seeking unique and innovative anti-terror solutions.

Establishing a technical assistance team to assist in screening proposals for terror-fighting technology to assess their feasibility, scientific and technical merit and cost.

Providing for the new Department to offer guidance, recommendations and technical assistance to Federal, State, local and private efforts to evaluate and use anti-terror technologies and provide information relating to Federal funding, regulation, or acquisition regarding these technologies.

Since September 11, we have all been struggling to understand what changes will occur in our daily lives, in our economy, and within the Government. We now will establish a new Department of Homeland Security to focus and coordinate the war against terror. The new section 309 in this landmark legislation will give the new Department the framework it needs to examine and act on the best innovations the private sector has to offer.

I would also like to offer my thanks to the staff of the Science and Energy and Commerce Committees who collaborated with my staff in crafting this consensus amendment.

And finally, Mr. Chairman, I would also like to thank the Chairman for including my bipartisan legislation that I developed with Congressman JIM MORAN that will promote voluntary information sharing about our nation's critical infrastructure assets. As many of you know, over ninety percent of our nation's critical infrastructure as owned and operated. In Presidential Decision Directive 63 issued by the previous Administration, concerns about the Freedom of Information Act, antitrust, and liability were identified as primary barriers to facilitating information sharing with the private sector.

The critical infrastructure of the United States is largely owned and operated by the private sector. Critical infrastructures are those systems that are essential to the minimum operations of the economy and government. Traditionally, these sectors operated largely independently of one another and coordinated with government to protect themselves against threats posed by traditional warfare. Today, these sectors must learn how to protect themselves against unconventional threats such as terrorist attacks, and cyber intrusions.

We must, as a nation, prepare both our public and private sectors to protect ourselves against such efforts. As we discovered when we went to the caves in Afghanistan, the Al Qaeda groups had copies of GAO reports and other government information obtained through FOIA. While we work to protect our nation's assets in this war against terrorism, we also need to ensure that we are not arming terrorists.

Today, the private sector has established many information sharing organizations (ISOs) for the different sectors of our nation's critical infrastructure. Information regarding potential physical or cyber vulnerabilities is now shared within some industries but it is not shared with the government and it is not shared across industries. The private sector stands ready to expand this model but have also expressed concerns about voluntarily sharing information with the government and the unintended consequences they could face for acting in good faith.

Specifically, there has been concern that industry could potentially face antitrust violations for sharing information with other industry partners, have their shared information be subject to the Freedom of Information Act, or face potential liability concerns for information shared in good faith. My language included in H.R. 5005 will address all three of these concerns. Additionally, consumers and operators will have the confidence they need to know that information will be handled accurately, confidentially, and reliably.

The Critical Infrastructure Information Act procedures are closely modeled after the successful Year 2000 Information and Readiness Disclosure Act by providing a limited FOIA exemption, civil litigation protection for shared information, and a new process for resolving potential antitrust concerns for information shared among private sector companies for the purpose of correcting, avoiding, communicating or disclosing information about a critical infrastructure threat or vulnerability.

This legislation will enable the private sector, including ISOs, to move forward without fear from government so that government and industry may enjoy a mutually cooperative partnership. This will also allow us to get a timely and accurate assessment of the vulnerabilities of each sector to physical and cyber attacks and allow for the formulation of proposals to eliminate these vulnerabilities without increasing government regulation, or expanding unfunded federal mandates on the private sector.

I am disappointed that the final language contained in the bill is different than the Government Reform Committee mark that passed the Committee 30 to 1. My FOIA language passed the Committee by voice vote. However, the language included in the Manager's Amendment only extends the protections to the Department of Homeland Security. My original language gave the Secretary the authority to designate other covered federal agencies to receive and share the information. While the Department would have remained the central repository for this information, it allowed other Departments and agencies involved in fighting the war on terrorism to also receive this voluntarily provided information. I will be offering an amendment later today that will make a technical correction to H.R. 5005 and allow the Secretary to again designate covered federal agencies.

The amendment that I am offering today is supported by every critical infrastructure sector. It is also supported by the Business Roundtable, the U.S. Chamber of Commerce, the Information Technology Association of America, the Financial Services Roundtale, the National Association of Manufacturers, the Edison Electric Institute, and the American Chemical Council. Industry wants to fulfill its' responsibility to the American people, we need to give them the necessary tools to do so.

Mr. ARMEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this manager's amendment exists in 19 parts. Eight of the 19 parts are included in the amendment at the request of the various committees of the House. The remainder are included at the request of different Members of the body from both sides of the aisle.

We have had the opposition to the manager's amendment focused on one of the 19 provisions, a provision that provides liability coverage to providers of services to homeland defense and a provision that has been passed by this House before. It is not something new. The only thing that is different about this provision now, as opposed to the time in which it was passed earlier in this session, is that we now have an identifiable pair of providers within that population who are debarred from providing and would not benefit. They have been identified under it.

The overall manager's amendment conformed to the practices of a select committee and to the commitment of this chairman in that it gave first priority, first preference, first respect to the standing committees and to the Members of this body and their shared commitment to making this Nation safe from terrorism, and I urge its passage.

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

Ms. PELOSI. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, in his closing remarks, our distinguished leader explained how many elements there were to this en bloc amendment and said that we were finding fault with a small part of it. The fact is that we would like to find no fault with an en bloc amendment. There are many provisions in it. I dare say most of us have not the faintest idea what they are, but we trust the Chairman on those technicalities and recommendations from the committee.

This is usually a noncontroversial measure that most Members would expect to support. That is why it is so disappointing that this en bloc amendment is being used to put a very controversial amendment in. To use the engine of an en bloc on technicalities for a substantive change in the bill that is controversial is unusual, and that is why we oppose it, because of the substance of the provisions.

It has been said that this is about protecting the American people. Let us keep our standard before us. How do we protect the American people best? In the bill, and another amendment will come up later, the Turner amendment to strike it, but in the bill, under section 753 of the bill, corporations can submit designs for antiterrorism products to the Homeland Security Department if those designs are approved by the Secretary. Those corporations get total immunity from product liability lawsuits under the government contractor defense of any kind, even if there is wrongdoing, including willful and malicious corporate misconduct.

Imagine that this bill to protect the American people has that provision in it the day after we pass the corporate accountability bill, but this amendment, this en bloc amendment, even does that one worse. This amendment goes further to protect corporate wrongdoers. It extends total immunity to all kinds of lawsuits. Even if a product does not work, they cannot sue for breach of contract, et cetera, but this would give it immunity for willful wrongdoing to corporations that provide services and software.

I have heard people say that this is important so that we can get people to bid. The Turner amendment addresses that next with a wise amendment that addresses the concerns of the private sector in a responsible way.

In this bill, the Armey amendment immunizes airport screening companies whose negligence may have contributed to the September 11 attacks, and I have heard people say here, of course, a person can sue under this bill. Let me just read from the en bloc amendment.

It talks about the presumption and it says, The presumption shall only be overcome, in other words the presumption of innocence, that this presumption shall only be overcome by evidence showing that the seller acted fraudulently or with willful misconduct in submitting information to the Secretary. Only in submitting information to the Secretary. Not in how the person manufactured the product or spelled out how it should be used.

So this, the standard that is set in this bill, is how a person makes their case to the Secretary. Not about how they deliver on the promise to protect the American people.

We all know that in a time leading up to September 11, there were many causes for the tragedy coming our way, and one of them was the fact that the airport screening companies played Russian Roulette with the safety of the American people. Sooner or later there was going to be a tragedy because of their lax approach to safety in the security and the screening process.

This bill that we have before us, on a day when we are discussing how to make the country safer in the best possible way, says that we will make matters worse by passing this en bloc amendment.

I would urge my colleagues to do the responsible thing and reject this en bloc amendment.

Mr. RODRIGUEZ. Mr. Chairman: the debate today should be on improving our homeland defense. We should be focused on finding ways to encourage the responsible development, testing and deployment of new technologies and products that will enhance the protection of the American people.

Mr. Chairman, we hear so much about responsibility in this House. Yet when it comes to corporate responsibility, the Majority seems to run and hide.

The bill crafted by the House majority, and the amendment offered by the Majority Leader, represent a wholesale attack on our long-standing system of justice. They rob the American people of their ability to receive compensation for irresponsible or even grossly negligent conduct. In the name of homeland defense, they conduct a brash assault on our ability to hold corporate wrongdoers accountable for their misconduct or simply their failure to make a product that works.

That's right. The product could fail completely, but the manufacturer would have no liability. The product could backfire, misfire, or not fire at all, yet the company that made it could simply walk away with not even a slap on the wrist.

It is an outrage.

It undermines our security.

One of the foundations of our democracy is the system of checks and balances. Within the world of product development and the provision of services, our legal system is the check on substandard conduct.

Without that check, without the threat of being held accountable, we will seen an increase in poor product design and faulty service delivery. It is simply human nature.

Corporations won't need to worry about making sure their products are safe and effective. They won't have to worry about the potential harm they cause. They won't have incentives to improve their safety. They will simply have blanket immunity. Forever.

Those injured in the process—whether it's our soldiers, police officers, firefighters, homeland defense volunteers, or victims of product failure—will be left out in the cold. With no legal recourse, they and their families will suffer, they will not receive the care they need, they will receive no compensation for the harm caused to them.

This is nothing short of the legalization of corporate irresponsibility.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. ARMEY).

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

Ms. PELOSI. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas (Mr. ARMEY) will be postponed.

It is now in order to consider Amendment No. 22 printed in House Report 107–615.

AMENDMENT NO. 22 OFFERED BY MR. TURNER

Mr. TURNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 22 offered by Mr. TURNER:

Strike subtitle F of title VII and insert the following:

Subtitle F—Risk Sharing and Indemnification

SEC. 751. RISK SHARING AND INDEMNIFICATION.

(a) DEFINITIONS.—Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) is amended by adding at the end the following new paragraphs:

''(16) The term 'anti-terrorism technology and services' means any product, equipment, service or device, including information technology, system integration and any other kind of services (including support services) related to technology, designed, developed, modified or procured for the purpose of preventing, detecting, identifying, or otherwise deterring acts of terrorism.

''(17) The term 'act of terrorism,' means the calculated attack or threat of attack against persons, property or infrastructure to inculcate fear, intimidate or coerce a government, the civilian population, or any segment thereof, in the pursuit of political, religious or ideological grounds.

''(18) The term 'insurance carrier' means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that provides commercial property and casualty insurance. Such term includes any affiliates of a commercial insurance carrier.

''(19) The term 'liability insurance' means insurance for legal liabilities incurred by the insured resulting from—

''(A) loss of or damage to property of others;

''(B) ensuing loss of income or extra expense incurred because of loss of or damage to property of others;

''(C) bodily injury (including death) to persons other than the insured or its employees; or

''(D) loss resulting from debt or default of another.

''(20) The term 'homeland security procurement' means any procurement of anti-terrorism technology and services, as determined by the head of the agency, procured for the purpose of preventing, detecting, or otherwise deterring acts of terrorism.

''(21) The term 'information technology'—

''(A) means any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information;

''(B) includes computers, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources; and

''(C) does not include any equipment that is acquired by a Federal contractor incidental to a Federal contract.''.

(b) FEDERAL RISK SHARING AND INDEMNIFICATION.—The Office of Federal Procurement Policy Act is further amended by adding at the end the following new sections:

''SEC. 40. FEDERAL RISK SHARING AND INDEMNIFICATION.

''(a) When conducting a homeland security procurement the head of an agency may include in a contract an indemnification provision specified in subsection (e) if the head of the agency determines in writing that it is in the best interest of the Government to do so and determines that—

''(1) the anti-terrorism technology and services are needed to protect critical infrastructure services or facilities;

''(2) the anti-terrorism technology and services would be effective in facilitating the defense against acts of terrorism; and

''(3) the supplier of the anti-terrorism technology is unable to secure insurance coverage adequate to make the anti-terrorism technology and services available to the Government.

''(b) The head of the agency may exercise the authority in this section only if authorized by the Director of the Office of Management and Budget to do so.

''(c) In order to be eligible for an indemnification provision specified in this section, any entity that provides anti-terrorism technology and services to an agency identified in this Act shall obtain liability insurance of

such types and in such amounts, to the maximum extent practicable as determined by the agency, to satisfy otherwise compensable third party claims resulting from an act of terrorism when anti-terrorism technologies and services have been deployed in defense against acts of terrorism.

''(d) An indemnification provision included in a contract under the authority of this section shall be without regard to other provisions of law relating to the making, performance, amendment or modification of contracts.

''(e)(1) The indemnification provision to be included in a contract under the authority of this section shall indemnify, in whole or in part, the contractor for liability, including reasonable expenses of litigation and settlement, that is not covered by the insurance required under subsection (c), for:

''(A) Claims by third persons, including employees of the contractor, for death, personal injury, or loss of, damage to, or loss of use of property, or economic losses resulting from an act of terrorism;

''(B) Loss of, damage to, or loss of use of property of the Government; and

''(C) Claims arising (i) from indemnification agreements between the contractor and a subcontractor or subcontractors, or (ii) from such arrangements and further indemnification arrangements between subcontractors at any tier, provided that all such arrangements were entered into pursuant to the terms of this section.

''(2) Liabilities arising out of the contractor's willful misconduct or lack of good faith shall not be entitled to indemnification under the authority of this section.

''(f) An indemnification provision included in a contract under the authority of this section shall be negotiated and signed by the agency contracting officer and an authorized representative of the contractor and approved by the head of the agency prior to the commencement of performance of the contract.

''(g) The authority conferred by this section shall be limited to the following agencies:

''(1) The Department of Homeland Security;

''(2) The Department of Agriculture;

''(3) The Department of Commerce;

''(4) The Department of Defense;

''(5) The Department of Energy;

''(6) The Department of Health and Human Services;

''(7) The Department of the Interior;

''(8) The Department of Justice;

''(9) The Department of State;

''(10) The Department of the Treasury;

''(11) The Department of Transportation;

''(12) The Federal Emergency Management Agency;

''(13) The Federal Reserve System;

''(14) The General Services Administration;

''(15) The National Aeronautics and Space Administration;

''(16) The Tennessee Valley Authority;

''(17) The U.S. Postal Service;

''(18) The Central Intelligence Agency;

''(19) The Architect of the Capitol; and

''(20) Any other agency designated by the Secretary of Homeland Security that engages in homeland security contracting activities.

''(h) If any suit or action is filed or any claim is made against the contractor for any losses to third parties arising out of an act of terrorism when its anti-terrorism technologies and services have been deployed such that the cost and expense of the losses may be indemnified by the United States under this section, the contractor shall—

''(1) immediately notify the Secretary and promptly furnish copies of all pertinent papers received;

''(2) authorize United States Government representatives to collaborate with counsel for the contractor's insurance carrier in settling or defending the claim when the amount of the liability claimed may exceed the amount of insurance coverage; and

''(3) authorize United States Government representatives to settle or defend the claim and to represent the contractor in or to take charge of any litigation, if required by the United States Government, when the liability is not insured.

The contractor may, at its own expense, be associated with the United States Government representatives in any such claim or litigation.''.

(c) STATE AND LOCAL RISK SHARING AND INDEMNIFICATION.—(1) The Secretary may, upon the application of a State or local government, provide for indemnification of contractors who provide anti-terrorism technologies and services to State or local governments if the Secretary determines in writing that—

(A) it is in the best interest of the Government to do so;

(B) the State or local government is unable to provide the required indemnification; and

(C) the anti-terrorism technology and services are needed to protect critical infrastructure services or facilities, would be effective in facilitating the defense against acts of terrorism, and would not be reasonably available absent indemnification.

(2) The Secretary may exercise the authority in this subsection only if authorized by the Director of the Office of Management and Budget to do so.

(3) In order to be eligible for indemnification, any entity that provides anti-terrorism technology and services to a State or local government shall obtain liability insurance of such types and in such amounts to the maximum extent practicable, as determined by the Secretary, to satisfy otherwise compensable third party claims resulting from an act of terrorism when anti-terrorism technologies and services have been deployed in defense against acts of terrorism.

(4) The indemnification provided under the authority of this subsection shall indemnify, in whole or in part, the contractor for liability, including reasonable expenses of litigation and settlement, that is not covered by the insurance required under paragraph (3) for—

(A) claims by third persons, including employees of the contractor, for death, personal injury, or loss of, damage to, or loss of use of property, or economic losses resulting from an act of terrorism;

(B) loss of, damage to, or loss of use of property of the Government; and

(C) claims arising—

(i) from indemnification agreements between the contractor and a subcontractor or subcontractors; or

(ii) from such arrangements and further indemnification arrangements between subcontractors at any tier, provided that all such arrangements were entered into pursuant to the terms of this subsection.

Liabilities arising out of the contractor's willful misconduct or lack of good faith shall not be entitled to indemnification under the authority of this subsection.

(5) If any suit or action is filed or any claim is made against the contractor for any losses to third parties arising out of an act of terrorism when its anti-terrorism technologies and services have been deployed such that the cost and expense of the losses may be indemnified by the United States under this subsection, the contractor shall—

(A) immediately notify the Secretary and promptly furnish copies of all pertinent papers received;

(B) authorize United States Government representatives to collaborate with counsel for the contractor's insurance carrier in settling or defending the claim when the amount of the liability claimed may exceed the amount of insurance coverage; and

(C) authorize United States Government representatives to settle or defend the claim and to represent the contractor in or to take charge of any litigation, if required by the United States Government, when the liability is not insured.

The contractor may, at its own expense, be associated with the United States Government representatives in any such claim or litigation.

(6) In this subsection, the definitions in paragraphs (16) through (21) of section 4 of the Office of Federal Procurement Policy Act shall apply.

(c) IMPLEMENTING REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to ensure consistency between the Federal Acquisition Regulation and this section.

The CHAIRMAN pro tempore. Pursuant to House Resolution 502, the gentleman from Texas (Mr. TURNER) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Chairman, I yield myself 2½ minutes.

Mr. Chairman, the amendment that we are offering here on the floor today is the language that was approved by the Committee on Government Reform that was sent to the special panel. In the Committee on Government Reform it was adopted without opposition, with bipartisan support.

The amendment is very important because it allows the timely deployment of advanced technology in the fight against terrorism, while at the same time preserving the legal rights and remedies that are available to the victims of any terrorist incident.

The amendment extends to the Department of Homeland Security and other agencies that purchase anti-terrorism technologies a common practice of indemnity that has been around for a long, long time at the Department of Defense. In fact, this authority has existed since 1958 when President Eisenhower issued an executive order under law which allowed indemnity to be granted by the Secretary of Defense to certain of our defense contractors.

The concept of indemnity is not only one that has been with us for a while, but has been used most recently by President Bush when he granted the Secretary of Health and Human Services the authority to give indemnity to the manufacturers of Cipro after the anthrax scare.

The language that we offer today came to the attention of the gentleman from Virginia (Mr. TOM DAVIS) as the Chairman of the Subcommittee on Technology and Procurement Policy of the Committee on Government Reform and to me as the ranking member. It was brought to our attention by Federal contractors, a coalition including Lockheed Martin, Northrop Grumman and the Information Technology Association of America.

Our language, which was adopted by the committee, allows discretion in the

Secretary of Homeland Security to grant in whole or in part indemnity against potential liabilities.

□ 1415

It requires that the companies carry insurance up to the amount that they reasonably can.

This legislation is modeled, as I said, after existing law and practice; and as they say, ''If it ain't broke, don't fix it.'' So we are again offering today our language, which we believe is fiscally responsible, which is understandable, and which is supported in a bipartisan way. The language that we have in our amendment protects the Federal Treasury.

It has been suggested by those who support the alternative language that is in the bill that somehow we open the doors of the Treasury if we grant indemnity. Our language makes it very clear that the indemnity offered by the Secretary can be limited, limited in amount, limited in scope. And once the Secretary makes the decision to grant indemnity, it must be approved by the Office of Management and Budget.

We believe this is a much superior way to get technology deployed in a rapid manner, which is what this amendment is all about. The alternative language in the bill is going to slow down the process. It requires an FDA-type approval procedure that would allow the director of Homeland Security to examine the equipment and then certify it. We think that is the wrong approach, and we will urge adoption of our amendment.

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

Mr. ARMEY. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore (Mr. BONILLA). The gentleman from Texas (Mr. ARMEY) is recognized for 20 minutes.

Mr. ARMEY. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. NUSSLE), the distinguished chairman of the Committee on the Budget.

Mr. NUSSLE. Mr. Chairman, I want to thank the distinguished majority leader for his fine work on this piece of legislation and congratulate him on it.

We have a good bill here, my colleagues; and we are about to just blow a hole so wide in the budget we have not seen nothing. In fact, we asked CBO, the Congressional Budget Office, to score this amendment because we wanted to at least be able to nail down a ballpark figure of what this would cost. And even CBO, who has been known from time to time to guess and predict, and sometimes guess incorrectly even, will not even hazard a guess of what this bill costs. In fact, what they tell us in the letter is that they know it is going to cost something, but they have no idea how much.

And why is that? Because none of us can predict the future. But we can predict one thing, and that is that Congress will respond. To just fully indemnify and throw in this blanket blank check into this bill, without recognizing the perspective and the understanding of where we have been this year, would be, I believe, irresponsible.

Let us just review this year. Even before passing the supplemental, we increased homeland security funding this year, already almost by 45 percent in 2001 and 65 percent in 2002. Forty billion dollars, my colleagues, we, in a bipartisan way, spent in response in two supplementals for reconstruction and for the war; $8.4 billion in economic assistance to the aviation industry; almost $200 million in immediate assistance to victims of terrorism; and our 2003 budget included a $35 billion increase for defense to fully fund the President's request.

Just this week, we passed an additional bill for $10 billion in addition to that $35 billion. Just yesterday, we sent to the President a second supplemental where we provided $28.9 billion in emergency funding, $13 billion of which went to defense and $11 billion went to the other agencies. In addition, we provided roughly $75 billion of economic stimulus to help recover from the shock.

Indemnification? I do not know what my colleagues are worried about here. We will respond. But to give a blank check and to put the taxpayers on the hook with absolutely no check from the House of Representatives, with no oversight, with no accountability, and with no understanding of what this will do to the budget, is the wrong thing to do to this very responsible bill.

This bill fits within our budget. Do not pass this amendment or it busts every budget anyone has ever contemplated.

Mr. TURNER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WELDON), a distinguished member of the Committee on Armed Services.

(Mr. WELDON of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Mr. Chairman, I rise in support of this amendment. Why do I rise in support of the amendment? Well, first of all, before coming to Congress, I worked for the insurance industry at the home office of the INA Cigna Corporation. I spent 18 years working on issues involving reinsurance and liability concerns for the American people.

I understand where we do not have enough market capability where the government has to come in, and we in fact are doing that. This legislation that the gentleman from Texas (Mr. TURNER) offers is modeled after indemnification laws for the nuclear power industry and the commercial space launch industry, and they have operated successfully for decades. This is modeled after that.

The second reason I come to the floor on this issue, and by the way the letter we sent out was signed by 23 Republican colleagues on this very issue not more than several weeks ago, was I worked very closely with this group. This is the NBC Working Group. This group is made up of all the companies in America that produce cutting-edge chemical, nuclear and biological technologies. In fact, I have hosted them twice on Capitol Hill in the Rayburn Building, where Members have had a chance to see technology associated with detection systems, with systems that are being designed on the cutting edge to assist us in the war on terrorism.

They have a major concern, Mr. Chairman. They have a major concern relative to the ability of these kinds of companies to still continue to do the cutting-edge research necessary to give us the products that we need to have. This legislation that the gentleman from Texas (Mr. TURNER) offers, I think, is a fair compromise. It gives us an ability to protect them while still protecting the taxpayer. In fact, I think there is in fact a cap in here that can be set by the administration. So the administration has the final determination.

As the chairman of the Subcommittee on Military Procurement for defense, my job is to work with our defense industrial base to make sure we are being given the cutting-edge technology to fight the war on terrorism. Working closely with these industry groups, working closely with the NBC Working Group, I am convinced that we need to have this kind of a modern approach. And so I rise in support of this legislation and encourage my colleagues to vote ''yes'' on the Turner amendment.

Mr. ARMEY. Mr. Chairman, it is my pleasure to yield 3 minutes to the gentleman from Texas (Mr. DELAY), the distinguished majority whip.

Mr. DELAY. Let me first, Mr. Chairman, say that those that are on the cutting edge of technology and wanting to provide it are protected in the base text of the bill by limiting their liability and banning punitive damages, just like we have done in the Transportation Safety Administration and other instances.

But, Mr. Chairman, there is an unacceptable demand that America needs to know about right now. Some of the largest and most profitable corporations in the country are attempting to pass off legal liability for their products onto average Americans. These defense contractors are trying to feed the taxpaying public to the crocodiles of the plaintiff's bar.

American taxpayers should not be asked to absorb the devastating financial consequences that would flow from creating an enormous new unfunded liability. Taxpayers should not be footing the bill for a gigantic new windfall for trial lawyers. Even now, the plaintiff's bar is eagerly anticipating new ways to exploit the new terrorist attack through litigation against the companies that are developing terror-fighting tools.

What is even more outrageous is that multibillion dollar defense contractors

have the nerve to come to Congress, hat in hand, to demand that taxpayers foot this bill. If these defense contractors bear the responsibility for the failure of their technology, then they should be held responsible. And if these contractors are being unfairly sued and being penalized only because they contributed to the anti-terrorism effort in this country, then these lawsuits need to be stopped. And that is exactly what our base text ensures. We defang frivolous lawsuits that do nothing but line the pockets of trial lawyers.

What we need is broad-base litigation reform. What we do not need are multibillion dollar defense contractors making American taxpayers responsible for the quality of their technology. This would truly be a case of corporate welfare. It is ironic that Members of the minority, who routinely malign Republicans as the party of corporate America, are so willing to subject taxpayers to a bottomless pit of unfunded liability to protect these corporations.

Clearly, supporters of this amendment place a far greater weight on the wishes of their trial lawyer friends than they do to the dangers created for fiscal discipline and the American taxpayers. I ask that my colleagues vote ''no'' on the Turner amendment.

Mr. TURNER. Mr. Chairman, I yield 2½ minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I thank the gentleman from Texas for yielding me this time, and I rise in support of the Turner amendment.

This amendment provides a reasonable balance between the protections needed by the liability insurance market and the access to compensation needed by the public and certain industries, such as the airlines. The Turner amendment uses language which has received strong support from both sides of the aisle, language that was contained in the bill reported by the Committee on Government Reform. It provides a sensible alternative to the bill, and particularly to the Army amendment we just debated.

H.R. 5005, the Homeland Security Act, only requires sellers to carry liability insurance to the extent that it is reasonably available from private sources at prices and terms that will not unreasonably distort the sales prices of sellers' antiterrorism technologies. That simply means that if a company cannot obtain insurance that is reasonably priced, it does not need to have any insurance whatsoever and victims cannot recover one penny for their injuries.

Amazingly, the Army amendment is even worse. It would give total immunity from lawsuits for any kind of wrongdoing, including willful and malicious corporate misconduct. This is true so long as the designs for the antiterrorism products and services have been approved by the Homeland Security Department. The only exception is if the seller acted fraudulently or with willful misconduct prior to that approval. The seller is free to deceive the public or continue to market a product subsequently determined to be dangerous or defective.

Even worse, the Army amendment protects corporate wrongdoers against all other kinds of lawsuits, so a buyer cannot sue the corporation for breach of warranty, breach of contract, public nuisance, or anything else. In other words, the corporation's protection allows it to make products that do not even work. The Army amendment protects the corporation against lawsuits by the injured victims and against lawsuits by the airlines or other groups who purchase the product.

We do not need to be giving blanket immunity to all corporations. Too many companies are acting in ways that are contrary to the public interest, and too many of our constituents are suffering as a result. We should not pass such a Draconian amendment. What we should do is support the Turner amendment. This amendment maintains a cap on the liability of corporations, recognizing the importance of doing so in order to stabilize the liability insurance market. That stability makes it easier for corporations to obtain capital to develop technologies.

The Turner amendment also includes an indemnity clause, such as the one used by the Department of Defense. This will enable victims to receive compensation from the government for costs that exceed the corporate liability cap. This is a good, balanced approach to the real problems we are facing as a Nation. Let us protect companies and compensate victims. Support the Turner amendment.

Mr. ARMEY. Mr. Chairman, I am proud to yield 3 minutes to the gentleman from Oklahoma (Mr. WATTS), the distinguished conference chairman and a member of the Select Committee on Homeland Security.

Mr. WATTS of Oklahoma. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, the Turner amendment is fiscally irresponsible because it hands over the keys of the United States Treasury to trial lawyers. It would have the American taxpayer, not corporations, but American taxpayers pay nearly infinite damages caused by terrorists. We need the safety act provisions to ensure that Americans get the protections they deserve against future terrorists.

□ 1430

The fatally flawed tort system in America and the unbounded threat of liability are blocking the deployment of anti-terrorism technologies that can protect the American people. I want to give one illustration of where this really comes into play and give Members some idea of the lack of common sense that the Turner amendment would tear down.

The insidious dynamic that prevails under current law works as follows: A company might produce a smallpox detection device and deploy 100 of them. Terrorists strike, and 99 of the devices might work saving millions of lives. One device may not work and several thousand people might die. Lawsuits will follow. The potentially infinite liability to which the lawsuits currently expose the company will prevent the company from being able to deploy any of the 100 smallpox detection devices in the first place. The 99 that worked will be pulled off the market which, if that happens, would put millions of Americans at risk. It would expose them. That is the tragic consequence the SAFETY Act is designed to protect.

The SAFETY Act provisions place reasonable and sensible limits on lawsuits so America's leading technology companies will be able to deploy solutions to defeat terrorists.

What the Turner amendment does, it actually takes the liability away or takes the safety features away from the people that go to the malls, that go to the stadiums, the water treatment facilities, they will not be able to have access to these technologies that protect us, that protect our families, that protects this Nation. It just makes no sense.

It is time for Congress to stand up to the trial lawyers yet again and say no, especially now that we are at war against terrorists who will stop at nothing to harm innocent Americans. We saw it on September 11. We saw it on April 19, 1995, in Oklahoma City. This is about protecting American life, it is not about limitless lawsuits. Vote ''no'' on the Turner amendment.

Mr. TURNER. Mr. Chairman, I yield 1½ minutes to the gentleman from South Carolina (Mr. SPRATT), a distinguished member of the Committee on Armed Services.

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

Mr. SPRATT. Mr. Chairman, this amendment is very basic. What it does is it takes blanket immunity which is added to this bill and replaces it with selective indemnity. The bill as it stands would exonerate contractors who provide all kinds of equipment, gear and protective devices, undertaking the most serious sort of responsibility from any liability whatsoever for the products they provide. Any. Just across the board, blanket immunity.

Instead it would say let us go back to the model of an old law called Public Law 85–804 and allow on a case-by-case basis, not a priori, but case-by-case indemnification to be provided to these contractors so they would have protection if they were sued in certain cases under certain circumstances. It makes far more sense than to try and sit here in judgment on all kinds of liability situations which we cannot even begin to foresee, much less render final judgment on.

85–804 has been on the books for as long as anyone around here can remember. Lockheed Aircraft Corporation almost went bankrupt in 1971. It

was the authority of 85–804, the extraordinary authority of that law that had been carried forward for at least 60 years that allowed us to put Lockheed back on its feet. It is the largest contractor today.

That is basically what we are saying here today. Let us use the extraordinary authority given agency heads which has been used sparingly, to negotiate these agreements selectively case by case as opposed to doing this across the board. What we are doing here with this amendment is replacing something that is novel and new, untried and vast, with something that has proven to work. It is that basic, that simple, and that is why we should adopt this amendment.

Mr. ARMEY. Mr. Chairman, I yield 3 minutes to the gentlewoman from Ohio (Ms. PRYCE), a member of the Committee on Rules.

Ms. PRYCE of Ohio. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, we keep hearing reference to the word responsibility. We must have responsibility, and the SAFETY Act, the provision included in the en bloc amendment, the manager's amendment, makes the wrong-doers responsible. This indemnification amendment makes the taxpayers responsible. Responsibility is very important, but we cannot make the taxpayers of this country responsible for everything that goes wrong. We do not even know how much this will cost. Proponents did not even ask for a cost estimate. All we know is that the Congressional Budget Office tells us that it will cost a lot over a period of 5 years. We should find out how much this will cost before we proceed by adopting this amendment.

Mr. Chairman, the SAFETY Act does not provide immunity from lawsuits, it simply provides that products approved by the Federal Government for use in homeland security, and deployed in cooperation with customers other than the Federal Government in order to save lives, should be allowed the benefit of the existing government contractor defense. We already know that this works. It is already in law.

Under these provisions, any person or entity who engages in criminal or terrorist acts, including corporate crimes such as consumer fraud and government contract fraud, they are denied the protections. They do not get them.

The Democrats cannot have it both ways. The SAFETY Act that is in the manager's amendment is the fastest and the most efficient way to deploy anti-terrorism technologies, much-needed technologies that will save lives, and it does it without extending any immunity and it does it without leaving the American taxpayers holding the bag.

The Turner provision will do just that. It will leave the American taxpayers holding the bag. We get that assignment all too often, Mr. Chairman. Allow the reasonable insurance coverage to kick in, provide for very limited tort reform, and we have the answer. We can go forward.

Mr. TURNER. Mr. Chairman, I yield 1¾ minutes to the gentleman from Georgia (Mr. BISHOP).

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

Mr. Chairman, I rise in strong support of the Turner amendment, which is a reasoned, bipartisan alternative to an irresponsible liability provision in the bill. There currently exists a myriad of new and undeployed technologies which are needed now to protect America from the threat of nuclear, biological, chemical and other terrorist threats.

However, under current law, many of the technologies may never be deployed because they cannot be insured under our current legal liability structure. Section 753 of the bill addresses this problem, but it is extremely misguided and irresponsible. Under the bill, victims who are injured cannot sue for personal injuries because the corporate wrong-doer enjoys total immunity from lawsuits by any kind of wrongdoing, including willful and malicious corporate misconduct under the so-called government contractor defense.

Mr. Chairman, this is wrong. It is un-American. It is overkill. It is throwing the baby out with the bath water. The Turner amendment is narrowly tailored to address this issue. It allows the new Department of Homeland Security and other agencies that are responsible for homeland security the discretion to indemnify providers of anti-terrorist technology from liability above and beyond the coverage that they are able to obtain in the private marketplace. This approach is modeled after successful indemnification laws which are targeted and fiscally responsible.

Mr. Chairman, the Turner amendment gives America the technologies that we need to remain secure while guaranteeing the victims' rights that they deserve and are entitled to under the law. It is the right thing to do, and I strongly urge Members to support it.

Mr. ARMEY. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. TOM DAVIS).

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

Mr. TOM DAVIS of Virginia. Mr. Chairman, the concept of contractor indemnification, which is core to the term, is not a new plan. It has been around since the 1950s under Public Law 85–804. And so Members understand, less than $100 million has been paid out over the course of 45 years because the discretion that the agencies have in exercising that, and also because under this, it would also be subject to OMB approval.

In order to get protection under either the Turner plan or the Armey plan, the contractor has to acquire insurance to fully protect to the extent the risk is not covered by insurance. And if supplier technology engages in willful misconduct or displays a lack of good faith, neither plan saves it. The solutions proposed differ, but I think each represents a viable solution to the dilemma faced by the Nation.

Our committee liked the indemnification plan because it was written into current law. The Armey plan, though, has been the policy of the House as we have moved legislation forward. I thank the gentleman from Texas (Mr. TURNER) for working with us on this language in the committee. I appreciate what the gentleman has done on this.

Mr. TURNER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. CONYERS).

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

Mr. Chairman, I just wanted to express my sympathies for my distinguished friend, the gentleman from Virginia (Mr. TOM DAVIS), whose amendment this was when we were in committee and in rules. Now all of a sudden, something happened on the way to the floor. I just express to the gentleman, maybe I can find out in the cloakroom what happened that caused this sudden change of heart and the support of the Turner amendment.

Here we go again. We have unprecedented corporate immunity in subtitle F of the homeland security bill. I am going to tell the other side of the aisle they were going to lose votes on final passage by continuing to immunize these corporations against liability.

First it was the airport security group, and some of the lousiest contractors in the business are now going to get immunized. Here we are going to give companies corporate immunity that will not be able to be penalized by injuries.

Mr. Chairman, what is this? This is not a tort liability bill. This is a homeland security department that we are trying to create. All of this foolishness is not doing the other side of the aisle any good. Extending this product liability immunity to anti-terrorist products is a bad idea, and I hope that we will reject this amendment; and, if necessary, reject the whole bill.

□ 1445

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

Mr. TURNER. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, I rise in support of the Turner amendment.

The Turner amendment is narrowly targeted and fiscally responsible. The Republican majority's immunity provisions in the bill are the ultimate anti-corporate responsibility provisions and living proof that the leadership is not serious about increasing corporate accountability.

The Turner amendment addresses one of the challenges that we have experienced in New York after September 11 where one of the biggest problems we have is the lack of available insurance. It is stifling our economy. Commerce cannot go forward without insurance, and I hope Congress will act quickly on antiterrorism insurance.

Similarly, we have very talented private sector industries developing cutting-edge technologies to make our homeland secure. But without sufficient insurance coverage and liability, these technologies simply will not be offered. And without a safety net for catastrophe, businesses simply will not do antiterrorism business.

What this amendment does is that it indemnifies providers of antiterrorism technology, which we desperately need, only after they have obtained all the insurance that they can from the private market and above that insurance they are indemnified for additional liability.

I might say that they must also get the approval of the Secretary of Homeland Security and of OMB. So I urge my colleagues to support the Turner amendment. It merely gives companies that will do business with the new Department of Homeland Security the same protections, the same indemnity protections to companies that work with other agencies like the Department of Defense.

I urge my colleagues to vote in favor of the Turner amendment.

Mr. ARMEY. Mr. Chairman, it is my pleasure to yield 3 minutes to the distinguished attorney and Member of this body, the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chairman, I thank the leader for yielding me this time, and I commend him for his very strong work in creating the legislation that will allow homeland security to be consolidated in one department of our government and also on his work to make sure that we can effectively make sure that our country is indeed secure.

Mr. Chairman, I strongly oppose the amendment offered by the gentleman from Texas. Advanced technology companies are developing technologies that can help detect and prevent acts of terrorism. However, these companies are effectively prohibited from making these technologies widely available because they would be subjected to unlimited liability and uninsurable risks.

As we sadly learned from the tragic events of September 11, our terrorist enemies will not limit their attacks to government targets. In choosing their targets, terrorists make no distinction between military personnel and civilian men, women and children. Therefore, it is imperative that our local shopping malls, ball fields, schools and office buildings be protected from terrorist attack. One way to do that is to untie the hands of technology companies and allow them to provide the best technologies available to the private sector without fear that they will be put out of business for doing so.

The provisions in the bill help ensure that effective antiterrorism technologies that meet very stringent safety and effectiveness requirements are deployed and requires that companies selling such devices obtain the maximum amount of liability insurance possible. It also ensures that victims are compensated for demonstrable injuries as equitably as possible.

Opponents argue that the bill provisions provide for immunity to corporations who willfully sell defective products. But they are simply wrong. Nothing in these provisions provide immunity from lawsuits. Further, any person or company who engages in criminal or terrorist acts, including corporate crime such as consumer fraud and government contract fraud, is denied the protections of the act. In addition, under the act, if a company engages in any fraud or willful misconduct in submitting information on product safety to the Secretary of Homeland Security, it will be denied the opportunity to even assert the government contractor defense.

I urge my colleagues to join me in supporting the current provisions of the bill so that Americans may be protected by the best technologies available without sticking American taxpayers with the bill in the case of catastrophe caused by terrorists.

Oppose this amendment and support the legislation.

Mr. TURNER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas (Mr. DOGGETT), a distinguished member of the Committee on Ways and Means.

Mr. DOGGETT. How very disappointing this afternoon that the leadership has chosen to reject a successful bipartisan initiative by the gentleman from Texas (Mr. TURNER) and the gentleman from Pennsylvania (Mr. WELDON) that has already been endorsed by a number of major corporations. It seems to me that public safety should be the first, the last, and the only goal of this Homeland Security bill. Yet with this last-minute legal loophole that has been tacked onto the bill, the goal is clearly to rid corporations of responsibility for the harm their products cause.

If the wrongdoer does not bear the responsibility, then who will bear the responsibility? Well, the decision the gentleman from Texas (Mr. ARMEY) has made is to place all of the responsibility for wrongdoing on the victim. This is basically a ''blame the victim,'' ''let-the-victim-bear-the-full-cost-of-the-wrongdoer'' approach. And the timing is so strange not only the last-minute way in which it was slipped in after the Committee on Government Reform approved the bipartisan, moderate approach, but strange timing that in a year when so many retirees, so many workers, so many investors are paying the very painful cost of corporate irresponsibility, that this Congress would say, ''let us have a little more unaccountability.''

The Reserve Officers Association, certainly no group that has been involved in any of these high-profile debates over tort issues, has stated its unqualified opposition to the special exemption that this legislation provides, noting that even unscrupulous government contractors guilty of willful misconduct will be let off the hook when they provide anti-terrorism technology to our American troops.

This is not a debate about liability limits. It is a debate about corporate accountability limits, a debate about corporate responsibility limits. And I do not think we ought to limit that responsibility, particularly at this time in American history. Clearly, there are no limits to the willingness of this leadership to provide backdoor favors to their friends. Protecting Americans working at home and fighting abroad means holding corporations responsible for their misdeeds. That is what we need to do, instead of blaming the victim, instead of saying that it will be the soldiers, the fathers, the mothers, the children and other innocents, all the victims, that must pay the price for corporate misconduct. We need to make a firm statement in favor of a reasonable, bipartisan approach that the gentleman from Texas (Mr. TURNER) advances.

Mr. TURNER. Mr. Chairman, I yield 1¼ minutes to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Chairman, I rise in support of this amendment. Today, our Nation faces a new threat and a new enemy. And while the terrorists we fight have new ways of attack, we have much greater new abilities to defend this great Nation.

America has always been the arsenal of democracy, and we remain so. And the new tools we possess are the technologies that spring from the ingenuity of the American mind. We have seen those technologies deployed in the Gulf War, in Afghanistan, and now those new technologies help protect us here at home.

In order to encourage the private sector to use its ingenuity to develop these defensive capabilities, they must have the ability to protect themselves from excessive exposure and liability. There is a mechanism in existing law that provides indemnity on a case-by-case basis for those under contract with the Department of Defense. And as demonstrated by the extraordinary work of the Department of Defense, this targeted immunity works.

The Turner amendment, based on a bipartisan agreement attested to by those who have contracted with the Department of Defense, restores this targeted indemnity. The opposition says that what has worked for the Department of Defense is not enough. They want blanket indemnity. They want an indemnity so broad it threatens to remove some of the vital and powerful incentives for technology

makers to make sure they get it right. This goes too far.

We want to incentivize the development of new technologies that work, that meet their promise, that live up to their expectation, that protect this country and all who serve it. The Turner amendment will do this. Nothing more and nothing less.

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

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to support the Turner amendment, and I ask a question today on this very important debate: Are we fighting terrorism, or are we fighting the American people? Nothing in the Turner amendment will thwart the intent of the Department of Homeland Security to save lives and to prevent terrorism.

The Turner amendment will, in effect, encourage innovative devices and technology to be presented to the government. It will not, on the other hand, provide the corporate escape that the manager's amendment gives to this particular bill by inserting immunity provisions in the bill for Corporations that have technology that might harm us if it fails. What the Turner amendment does is say use your innovative devices, use your innovative technology and we will indentify you, with restrictions. Those restrictions will be the Secretary of the Department of Homeland Security and the OMB Director. What more can you ask for? Are we here to save lives? Are we here to help the American people? Are we here to fight terrorism? Or are we here to stuff money into corporate America's pocketbook?

Support the Turner amendment.

Mr. TURNER. Mr. Chairman, I yield myself the balance of my time.

I want to thank, first, the gentleman from Virginia (Mr. TOM DAVIS) for his efforts with me in crafting this language. We both worked with Lockheed Martin, Northrop Grumman, and the Information Technology Association to come forward with this language that we reported out of the Committee on Government Reform unanimously without opposition. The gentleman from Virginia and I brought the amendment to the attention of the Committee on Rules. And I am very grateful we had the opportunity, Mr. Leader, to offer the amendment.

I must say that it is somewhat surprising to hear the criticism from the other side today of what is existing law. The Department of Defense grants indemnity to companies that launch missiles because of the concern of those corporations about business risk. I was quite surprised to hear the provision criticized, because it has been in the law since 1958 and was first implemented by President Eisenhower and most recently used by President Bush when he authorized the Department of Health and Human Services to indemnify the manufacturers of Cipro who would not provide that to our government unless we did so.

Our amendment follows existing law, existing practice and, most importantly, does not take anyone's legal rights away from them. I would urge the House to join with us in supporting this bipartisan amendment. Twenty Democrats and 21 Republicans wrote a letter to the special panel asking them to include our language in the bill. We enjoy bipartisan support. We believe it is the right way to deal with a very serious problem. And we will be able, under our amendment, to get the technology out there and in place much quicker than the approach that is in the bill which requires an FDA-type review process for every piece of equipment and will take years to implement the technology we need to fight terrorism.

Mr. ARMEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we have heard a great deal about the bipartisan support of this amendment. Irony of ironies, where there is bipartisan support there can be bipartisan rejection.

Let me say, Mr. Chairman, this amendment had an interesting experience in the committee of jurisdiction, one of the 12 standing committees that worked on this bill. When it was proposed on the eve of the night markup of this bill in that committee, it was opposed by the ranking Democrat on the committee, the gentleman from California (Mr. WAXMAN), who said, and I quote, ''It really is opening up the Treasury of the United States to a lot of companies that might have exercised due care. And, more importantly, when companies are indemnified, even if they are negligent, there is not the incentive to avoid being negligent.''

□ 1500

This approach to the problem was contemplated in the other body and, indeed, in this case the ranking minority member, a Republican member in the other body, intended to offer this amendment in the other body's markup just yesterday and was dissuaded from doing so by the majority members, the Democrats of the committee, who thought it imposed too big a burden on the Treasury of the United States.

Mr. Chairman, I am not a lawyer, so I have to rely on other legal experts like, for example, the Supreme Court. In this debate it has been argued that when a government contractor has a defense, it is an immunity. I only point out to the minority that the Supreme Court has said a defense is not an immunity. Always going back to the legal questions that baffle us so such as what the meaning of the word ''is'' is, but in this case the meaning of the word ''defense'' is not immunity.

Let me say, Mr. Chairman, that what we are trying to do was well described by several people. We are trying to encourage that practical American genius to bring its product to the defense of America. What this base language that would be set aside by this amendment does do is provide a consolidation of claims in Federal court to stop venue-shopping. It has a requirement that noneconomic damages be awarded only in proportion to a party's percentage of fault. It has a ban on punitive damage. It takes a sort of simple practical American notion that if someone is a victim, they should not be treated as if they were a perpetrator. A rather novel idea, I am sure, in some circles but quite well understood by most Americans.

The underlying language says offsets are awarded based on receipt of collateral source benefits providing compensation for the same injuries; no double-dipping. This is something that I have in other contexts referred to as the Daschle provision, having been enacted in law pursuant to the innovation of the distinguished Democrat majority leader in the other body. The underlying language has a defense modeled on government's contractor defense that applies following sales of qualified antiterrorism technologies in the private sector, and it caps liability and insurance.

This has been enacted in this body before. This is not some Johnny-come-lately notion new to this body. It was part of the Aviation Security Act. It was part of the Air Stabilization Act. It was part of the Terrorism Risk Insurance bill, and it part of the Class Action Reform bill passed in this body in this year.

What we do not do in the underlying language that would be set aside by this amendment is put a cap on attorneys' fees, provide any immunity for anybody anywhere at any time, or exempt criminals from coverage.

Mr. Chairman, I do not ask much, but I do ask for accuracy in debate. There has been far too little of it. I ask the body to reject this amendment and uphold the underlying language.

Mr. RODRIGUEZ. Mr. Chairman, I fully support the amendment offered by the Gentleman from Texas [Mr. TURNER]. This amendment balances the need to encourage responsible development of new homeland defense technologies and products with the need to maintain a system that holds wrongdoers responsible for their misconduct.

His amendment would allow under appropriate circumstances the Secretary of Homeland Security to provide indemnification to the manufacturers of anti-terrorism products, much like the Secretary of Defense today can provide indemnification to companies making products critical to our national defense.

Under this approach, any victims of product failure would still be able to receive full compensation. They would not be left to suffer alone.

Companies do not get a free ride: they must take out the maximum level of insurance possible, and they can get the indemnity coverage only after they convince the Department of Homeland Security and the White House's Office of Management and Budget that they qualify for indemnification.

At the same time, the many companies which make the products and develop the technologies we need also won't be asked to take inordinate risks. The Turner Amendment would provide them the incentives to invest aggressively in homeland defense technologies without upsetting the entire system of checks and balances within our civil justice system.

Just earlier this week, we celebrated the passage of legislation to hold corporate executives accountable for misconduct. Shockingly, the majority now tries to exempt those same companies from any responsibility for the products they make.

Mrs. MEEK of Florida. Mr. Chairman, I rise in strong support of the Turner Amendment that seeks to add back the indemnification provisions that the Government Reform Committee had recommended for inclusion in the bill. The Turner Amendment does not require any indemnification by the Federal government. It simply permits such indemnification when the head of a Federal agency and the head of the new Office of Homeland Security deem it in the public interest to do so.

The blanket corporate immunity in Subtitle F of the bill is not in the public interest. Our goal is to achieve homeland security, not reflexively broaden corporate protection from negligence.

The Turner Amendment is a very responsible, narrow and targeted means to deal with this problem. It would allow Federal agencies to indemnity contractors for anti-terrorist technology after they've purchased as much private insurance as they can get. The Secretary of Homeland Security could also indemnify contractors on behalf of state and local governments on the same terms.

There are high-tech companies across the country that are developing cutting-edge technology to help prevent terrorist attacks. But in some cases, they can't sell them because they can't get enough insurance. The risks of liability from a major terrorist attack are so great that insurance companies can't afford to insure these products. So let's help high-tech companies by offering them indemnification where the private insurance market is unable or unwilling to insure them in those limited, special circumstances where the head of a federal agency deems it in the best interests of the government to provide such indemnification.

Support the Turner Amendment.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The question is on the amendment offered by the gentleman from Texas (Mr. TURNER).

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

RECORDED VOTE

Mr. TURNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, following this 15-minute vote, the Chair will reduce to 5 minutes the time for the vote, if ordered, on: Amendment No. 20 by the gentleman from California (Mr. WAXMAN), and amendment No. 21 by the gentleman from Texas (Mr. ARMEY).

This will be a 15-minute vote followed by two 5-minute votes.

The vote was taken by electronic device, and there were—ayes 214, noes 215, not voting 5, as follows:

[Roll No. 359]

AYES—214

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
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
Gilman
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
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
Weldon (PA)
Wexler
Woolsey
Wu
Wynn

NOES—215

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

NOT VOTING—5

Blunt
Combest
Cunningham
Gilchrest
Meehan

□ 1537

Messrs. GALLEGLY, HERGER, TOOMEY, HEFLEY, PETERSON of Pennsylvania, GUTKNECHT, HUNTER, ROHRABACHER, EHRLICH, and GRAHAM, Mrs. BONO, and Mrs. JO ANN DAVIS of Virginia changed their vote from ''aye'' to ''no.''

Messrs. BERRY, DINGELL, and DELAHUNT changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

SEQUENTIAL VOTES POSTPONED IN THE COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 20 offered by the gentleman from California (Mr. WAXMAN); amendment No. 21 offered by

the gentleman from Texas (Mr. ARMEY).

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

AMENDMENT NO. 20 OFFERED BY MR. WAXMAN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. WAXMAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 208, noes 220, not voting 5, as follows:

[Roll No. 360]

AYES—208

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
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)
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
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
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
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

NOES—220

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
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
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
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
Stenholm
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)

NOT VOTING—5

Blunt
Combest
Cunningham
Gilchrest
Meehan

□ 1549

Mr. CANNON changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 21 OFFERED BY MR. ARMEY

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. ARMEY) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 222, noes 204, not voting 7, as follows:

[Roll No. 361]

AYES—222

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Honda
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pastor
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
Stenholm
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
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—204

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
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
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
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
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
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—7

Blunt
Combest
Frelinghuysen
Gilchrest
Istook
Meehan
Wicker

□ 1558

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 23 printed in House Report 107–615.

AMENDMENT NO. 23 OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 23 offered by Mr. OBERSTAR:

Strike section 409 of the bill.

Redesignate section 410 of the bill as section 409.

Conform the table of contents of the bill accordingly.

The CHAIRMAN pro tempore. Pursuant to House Resolution 502, the gentleman from Minnesota (Mr. OBERSTAR) and a Member opposed each will control 22½ minutes.

The Chair recognizes the gentleman from Minnesota (Mr. OBERSTAR).

□ 1600

Mr. OBERSTAR. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, all of the amendments we debated last night and so far today have had important consequences for the future of the country, for the operation of the Department of Homeland Security, for various aspects of our domestic life.

The one I propose at this point is quite possibly the only life or death vote we will consider in this legislation. Because whether or not explosive detection systems are installed at airports and whether or not complete screening of checked luggage is accomplished at the Nation's domestic airports will determine whether a terrorist can get a bomb aboard an aircraft and blow it out of the sky, as happened with Pan Am 103 over Lockerbee, Scotland. Make no mistake about it, there are serious consequences, life or death consequences for what we do in this piece of the legislation.

Previously, on the en bloc amendment of the majority leader, I said I cannot understand why anyone would want to protect the security company providers from liability. In this amendment, in this the provision of the committee bill, I can understand why Members are confused and why there was an attempt to extend the deadline for compliance with the law that we enacted a year ago, 8 months ago in this body, 410 to 9.

I understand that airport authorities have badgered Members of this body. Airlines have lobbied many Members of this body to extend the time for compliance with that law. They are wrong.

The law provides alternative means if we cannot get explosive detection systems in place by December 31. The law specifically provides for alternative means of screening checked luggage. There is no excuse for removing the pressure upon the Transportation Security Administration to comply with that law that virtually everyone in this body, everyone seated on this floor voted for. Why would we vote for airline security, tough airline stick measures and then turn around and undo it? Do not do it.

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

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). For what purpose does the gentleman from Ohio (Mr. PORTMAN) rise?

Mr. PORTMAN. Mr. Chairman, I rise to claim the time in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Ohio (Mr. PORTMAN) is recognized for 22½ minutes.

Mr. PORTMAN. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas (Mr. BARTON).

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, let us set one thing straight. Nobody that opposes the amendment to strike the language that is before us at this point in time is trying to take the pressure off of any airport to not implement tough baggage screening processes. The point of the fact is the major hub airports simply cannot meet it.

I have Dallas/Ft. Worth Airport in my congressional district. Over 100,000 people go through that airport every day. Fifty-five thousand bags are checked every day. DFW and their management team have been working with TSA since the law was passed. TSA has yet to give them a definite answer on their solution. There is a backlog of equipment that cannot be put in place. If we have to meet the deadline, do my colleagues know what DFW is going to do, they are going to have to hire 1,500 temporary employees. They are going to have to put up folding tables. They are going to have check by hand almost every bag that comes in to be checked.

That is going to be long lines. It is going to cost $142 million just at DFW, and they are still going to have to come in with a permanent solution within the next year that is going to cost another $150- to $170 million.

Why not give them a little extra time? They still have to be working on the solution. They still have to try to get it done, but if they do not, there are not going to be any penalties imposed. There are not enough equipment manufacturers to meet the sophisticated equipment for the larger hub airports that have to be in place if we literally tried to get it all done by December 31.

Let me give my colleagues an example. As of today, of the 429 airports that are subject to the existing law, only 24, one out of five, 5 percent have had a complete TSA inspection and had the sign-off on the plan. There are another 129 airports that have had some negotiations, some contacts with TSA. That means that 64 percent of the Nation's airports that TSA has not even come to the airport yet, and we want them to meet this arbitrary deadline by December 31? It is physically impossible and philosophically unnecessary.

Vote against the Oberstar amendment.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New Jersey (Mr.

MENENDEZ), a member of our committee.

Mr. MENENDEZ. Mr. Chairman, I represent Newark International Airport where United Airlines Flight 93 departed before crashing in Pennsylvania on September 11. I also represent the families of over a hundred victims who lost their lives in the attack on the World Trade Center. I have consoled enough families who were the victims of terrorist attacks, and I do not want there to be a reason to console anymore.

I ask my colleagues, if God forbid, a plane is blown up by a device that could have been prevented by the deployment of these bomb detection devices, explosive detection devices, had TSA met its requirements or had we kept TSA's feet to the fire, who among us wants to go and console those families? Who among us wants to go and tell them that we delayed? Who among us wants to say that in expectation of some new technology that has not been approved yet, that we waited? I do not and I do not know anybody here who does, and that is why in the first round in our Select Committee on Homeland Security, my amendment was approved striking this language.

The Congress charged the Transportation Security Administration with the responsibility, not the airports, TSA, to determine whether or not an extension is needed. It is the responsibility of TSA, and neither the TSA nor the administration nor the Secretary of Transportation nor the Committee on Transportation and Infrastructure has asked for such an extension. As a matter of fact, the Committee on Transportation and Infrastructure in a unanimous, bipartisan vote said this should not be in the bill.

The December 31 deadline that we imposed was in the Act that passed this House 410 to 9, and the deadline was necessary to ensure the security of our aviation system. As a matter of fact, Members on both sides of the aisle got up on this floor and criticized the other body's bill because it did not have the deadlines, and now, there are those who would seek to erase that.

Look, if an airport like mine, one of the largest in the Nation, cannot meet the deadline, there are alternatives under the existing law, and for those airlines who say that those alternatives will cause delay, I will have them know that the Republican bill, the text bill, still insists on those alternatives even if they get the year extension. So they get the year extension for the explosive detection devices, they still have to implement alternatives, the alternatives that the airline and the industry are saying are going to cause them delays. Nothing changes. Nothing changes.

What do we say to the traveling public and to those who would wish us ill? We are going to give them another year, and I would venture to say that it is not only another year. If we look at what section 409 says, it extends in my mind the deadline indefinitely because it says they must develop a plan for the modifications, and the deadline for executing the plan for that modification is a year from this December, but nowhere in the bill, nowhere in the bill does it set a deadline for deployment of the explosive detection systems. That is a travesty, and it does not ensure the traveling public, and it certainly does not belong in this bill.

That is why my colleagues should vote for the Oberstar amendment.

Mr. PORTMAN. Mr. Chairman, I yield 2¼ minutes to the distinguished gentleman from Arizona (Mr. PASTOR).

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

Mr. PASTOR. Mr. Chairman, I find myself in a very awkward situation, because I think this is the only time that I have been in opposition to my two friends from the Democratic Caucus. The gentleman from New Jersey (Mr. MENENDEZ) and I are good friends, and I have always followed the lead of the gentleman from Minnesota (Mr. OBERSTAR), but do I want people to be less secure as they get on a plane? The answer is no. I fly twice a week so obviously there is a self-interest to make sure that the baggage is examined and it is safe.

Did I vote for this bill? Yes, I did. At the time I thought it was needed and the deadline was there. I am a member of the Committee on Appropriations Subcommittee on Transportation, and since I voted for this bill and to date, I have been involved in a number of briefings, and also three hearings that involve the TSA, and I have to tell my colleagues that after listening to the testimony and reading the evidence presented to me, that I have come to the conclusion that the airports need an extension, not because they have pressured me, but because I think it is the right thing to do.

If we talk about the equipment, and there is a various mix of equipment, but if we talk about the detector, it is about as big as an SUV, and it costs about $1 million, and I have been told at least in the evidence I have seen that probably it works for one out of three baggage. So at 30 percent, it is effective. I feel that if there is the case, then possibly this technology may not be the proper one, but then if my colleagues persuade me, say ED, you know we need it and we cannot delay, let us order more of these machines, well, then, I would tell my colleagues that at least the evidence I have seen and testimony I have heard, the machines are going to take a long time to put in operation. In fact, the operator is not going to have enough equipment to install, and so in installing this equipment, it is going to take hundreds of millions of dollars for the airports to install them.

I would say let us take three deep breaths and let us make a decision that would allow the airports to take reasonable time to make sure that they are safe and secure with our luggage.

Mr. OBERSTAR. Mr. Chairman, I yield myself 5 seconds to point out to the gentleman from Arizona, whom I have great respect and affection, that the explosive detection system is certified to detect explosives in all checked luggage. The question is the throughput rate. If we have a high throughput rate, we may have a higher number of false positives but it works. It is certified by the FAA and the TSA.

Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL), a distinguished member of our committee.

Mr. PASCRELL. Mr. Chairman, I rise in strong support of the Oberstar-Menendez amendment to strike the extension for airline baggage screening.

□ 1615

It is no secret that there have been serious problems at the Transportation Security Administration with fund shortfalls and organizational issues causing troubles. However, extending the deadlines in this manner is not the way to go about securing our homeland. No Federal agency has asked for delay. The administration has not asked for delay. Do not allow the hope of newer yet nonexistent technologies into the work of the TSA. We cannot and we should not allow the TSA to slow their efforts toward implementing a program of 100 percent explosive screening at all commercial airports by year's end.

The DOT Inspector General, who is always brutally honest when reporting to Congress, told the Subcommittee on Aviation just this past Tuesday that "we will be in a much better position in a month to judge what is or is not feasible to accomplish by the deadlines." One month to 45 days to be exact, according to the IG. Now is not the appropriate time to delay. The Congress should not be undermining a law that the House passed 410 to 9.

This is important for the security of everybody in this room here on the floor and up in the gallery. Tell them, tell America what is going on here. The airlines are suffering economic damage, and yet we do not want to help people get back on the airlines so that they feel more secure. It does not make sense. There is not one Federal agency that supports a delay. All we are doing is bailing out an organization and organizations that for 20 years have been told they had better secure the baggage.

Until I came to the Congress, Mr. Chairman, I thought every piece of baggage was checked. Boy, was I sadly wrong. We should not go backwards. We need to go forwards so we put our actions where our mouth is.

Mr. PORTMAN. Mr. Chairman, I yield 4 minutes to the gentlewoman from Texas (Ms. GRANGER), a member of the Committee on Appropriations, Subcommittee on Transportation.

Ms. GRANGER. Mr. Chairman, this Congress set December 31 as the deadline for screening checked baggage for

explosives, and 75 percent of our airports will make that deadline, but for the other 25 percent, we have a train wreck coming. It is a crisis and it is a crisis of our own making because the deadline cannot be met. And let us understand why.

First of all, let us talk about equipment, the baggage screening systems that will be used. As of this month, only 488 machines are being used at 59 airports nationwide. That leaves 6,600 machines that have to be bought, installed, and tested for accuracy by December 31.

Can that be done? How well have we done so far? The Transportation Security Administration has been buying, installing, and testing one machine every 48 hours, and perhaps that is okay except TSA will have to go from one every 48 hours to one every 35 minutes to meet the December 31 deadline. That is assuming the machines can even be manufactured and ready, 6,600 in the next 5 months.

And let us now go to personnel. We had a big debate over Federal baggage screeners, and upon our instructions TSA began hiring. Thus far, TSA has hired 166 Federal baggage screeners at the rate of one every other day. To meet the requirement and demand for a December deadline, TSA has to recruit, hire, and train another 21,434 baggage screeners in the next 159 days. That means not one every other day but one every 11 minutes.

But it gets worse because if you add the 30,525 passenger screeners still needed to be hired, TSA will have to speed up to one new screener every 4½ seconds.

Equipment, personnel, but I think you are seeing the problem. Let us talk about one other problem that would be out there if we could recruit and train those people and hire them every 4½ seconds and install the equipment every 35 minutes. All airports are not alike and you know it and I know it. In fact, they are greatly different in design and configuration. But we set very specific instructions as to how each airport would accommodate those SUV-sized machines if they were alike. So if it were possible to get them and man them in the next 5 months, we would have to reconfigure one out of every four of our major airports in the country. I am talking about moving walls, reconfiguring floors, major renovations. In one airport alone we are talking $200 million in construction in 5 months, construction completed. It just cannot be done.

And last but not least, there is the work of the Transportation Security Administration that has to approve every plan, visit every airport, and report to Congress on what we have demanded. How is this working? I will tell my colleagues, the airport I fly in and out of, they submitted their plan in March telling TSA exactly what they had to do to meet the December deadline, March, and it has not been approved to this day. Others have not even started because TSA has not told them what kind or how many machines are even needed.

Is there a solution? Yes, there is a solution, a solution that gives TSA a deadline, gives a deadline to airports, demands reporting to Congress, and also it is, by the way, our original date. What if we do not do this? What if we do not fix it today? We will spend millions of dollars unnecessarily, we will allow airlines to use a less than ideal solution, we will hire thousands of people who will be dismissed when their interim machines are scrapped, and we will force 3 and 4-hour waits at every major airport in this Nation at one of the most heavily-used times in the year, December. And that is a security problem that I do not want to face. That is not what I want to be a part of.

So let us do the right thing today. Let us quit posturing. Let us do something that is reasonable and responsible.

And, by the way, in the time we have debated this, we have missed by four people and one machine.

Mr. OBERSTAR. Mr. Chairman, I yield myself 10 seconds.

If this is war, as the President has repeatedly said, then I am astonished by the repetition of the cannot-do attitude that I have been hearing so far. At the outset of World War II, we took on a million men in one year.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Oregon (Mr. DEFAZIO), fearless champion of aviation security.

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

Fourteen years ago, Pan Am 103 was blown from the ski over Scotland. In response the British Government screened every piece of baggage. And we are told we cannot do it here. Guess where they bought the technology? Right here in the United States of America. Every machine that I observed over there was manufactured in this country, but we cannot do it in the United States. Why not? Because special interests are holding us back and because of the incompetence of this administration.

Ten years ago, Ramsi Youssef developed a plan to blow 12 747s simultaneously from the sky, U.S. planes, over the Pacific. He was only discovered and thwarted by accident. They will return to these patterns. This is a known threat.

How quickly we have forgotten September 11 in this body. How quickly we bow to the powerful special interests and campaign contributors. We can meet this deadline.

Now, last week the Bush administration fired the head of the Transportation Security Administration for incompetence. Thank God he is gone. He was doing a horrible job. Now we have a man in charge who knows how to get things done, Admiral Loy. Let him come to us with a plan in September. I know he can get this job done. We have someone in charge.

Then they say, well, there is not enough money. Guess what? The night before the money was voted on, the Office of Management and Budget, the head of whom is appointed by the President of the United States, and works, I think, pretty closely with the President and the White House, recommended cutting $219 million from this program to detect explosives to make Americans safe, and now the Republicans say there is not enough money.

Does the right hand of the administration know what the left hand is doing? Until a week ago, there was not one person in the administration that said they could not meet these deadlines. Then they fired the incompetent head of the agency, and we have a competent head now. What changed in a week? Politics changed. Special interests changed.

Shame on you. If you do not support this amendment when a plane goes down, I will expect you to talk to the grieving families.

Mr. PORTMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as a member of the Select Committee, I heard a lot of this discussion, and I just wanted to make a comment on some of the comments we have had on the floor. Not referring to the gentleman from Minnesota (Mr. OBERSTAR), but a lot of raising of voices and yelling is not going to get the job done.

We all share the same goal, and that is that the flying public be safer. My own airport, the Greater Cincinnati Airport, says they cannot meet the deadline, even though they are pushing hard.

Mr. DEFAZIO. Will the gentleman yield?

Mr. PORTMAN. No, I will not.

Mr. DEFAZIO. Well, since the gentleman referred to me, will the gentleman yield?

Mr. PORTMAN. Mr. Chairman?

The CHAIRMAN. The gentleman from Ohio controls the time.

Mr. DEFAZIO. The gentleman will not yield, clearly.

Mr. PORTMAN. Mr. Chairman, more raising of voices and more yelling is not going to solve this problem. What is going to solve the problem is putting together a plan to get it done.

Mr. DEFAZIO. Will the gentleman yield on that?

The CHAIRMAN. The gentleman from Ohio controls the time.

Mr. DEFAZIO. So he does not want to discuss the issue, he just wants to cast aspersions.

The CHAIRMAN. The gentleman from Ohio controls the time.

Mr. PORTMAN. As has been stated earlier in the debate, three-quarters of our airports can probably meet the deadline. They will push hard and they will make it. For those who cannot make it, the question is will the flying public be safer if we force this deadline or will the flying public be safer if we

give them a plan where they have to meet the deadline over a specified period, which is 1 year.

Incidentally, it is the same date that passed this House by an overwhelming bipartisan vote, December 31, 2002. I do not know how the gentleman voted who is now walking off the floor, but that was the vote in this House.

The DOT Inspector General Ken Mead has recently told us, and this is a quote from him, and this is the Department of Transportation Inspector General, ''The challenge facing TSA in meeting the December 31 deadline of this year is unprecedented. An effort of this magnitude has never been executed in any single country or group of countries.''

That is what we have heard from the gentlewoman from Texas (Ms. GRANGER) and others. Most of the airports are going to meet it, but those who cannot, we need to be sure they have a plan to meet it so that the flying public is safer.

Now, if we force machines into these airports that do not work as well as machines that would be able to be in place within this plan, within the 1-year extension, is the flying public safer? I do not think so. More important is that we get it right than do it in haste.

Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. ISAKSON), who has spent a lot of time on this issue.

Mr. ISAKSON. Mr. Chairman, I thank the gentleman for yielding me this time, and I certainly thank the gentlewoman from Texas (Ms. GRANGER) for her leadership.

I have great respect for the gentleman from Minnesota (Mr. OBERSTAR), and I accept the fact that he is confused. We do confusing things sometimes. But facts are stubborn things. Two hundred eighty-six of us voted in favor when TSA left this House of a 2003 deadline. Because at that time, as it came out of our committee, we made the judgment that we thought that was the right date. Now, 139 did not vote for it, but the fact is that was originally the House position.

Fact number two. We created TSA and the deadline on the same day when we finally finished the conference report. We created an agency with a deadline before the due diligence had been done to see what we could do. It is only reasonable to assume that once the due diligence is done, and facts are learned, then maybe some adjustments are made.

Now, the third fact, and this refers to a statement made by the gentleman from Oregon, I take every vote I take very seriously. It did not miss me, the inference the gentleman made with regard to the responsibilities of this vote. If I thought our vote would cost a single American their life, of course, I would never vote that way, and neither would anybody else in this House.

This is about us doing the right thing. This is not about us being irresponsible. This is about the most important thing the U.S. economy could have: Our aviation industry. I visited my airport. I serve on the Subcommittee on Aviation. I have done my due diligence. If TSA needs the opportunity to adjust that timetable to allow the right installation to be done on a timely basis, they should have that authority.

Facts are stubborn things. We are all responsible for our votes. We are all responsible for what we do. On November 1 we responsibly thought 2003 was the right date. Due diligence has told us that probably is correct. But we do not just accept it, we say if it cannot be met, then we will use reasonable judgment to give the time for the right installation to be implemented. I think that is fair and I think that is right.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Chairman, I would like to ask my friends on this side of the aisle: If you knew for sure that an airplane was going to be blown out of the sky on March 15 of next year, would you dare, would you dare not support this amendment?

How ironic, how ironic that in a bill that is supposed to create a new Department of Homeland Security we are taking an action that will make the traveling American public less secure.

□ 1630

Mr. Chairman, I am raising my voice because I think this is a serious matter. How would Members feel if they vote against this amendment and in February, March, April, or May of next year, an American passenger plane is blown out of the sky? How will Members feel?

The American people are watching us today, but the terrorists are also watching us today. We must not give them an easy way to kill additional Americans. Do not push the wishes of the special interests above the safety of the American people.

Mr. PORTMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. MICA), the chairman of the Subcommittee on Aviation.

Mr. MICA. Mr. Chairman, this is not a time to come before the House of Representatives or the American people and make charges that are not correct. Every Member in this body wants to make certain that their family is secure, that every American is secure as they travel our airways.

I have had the great honor and privilege of working with the ranking member of the full committee, the gentleman from Minnesota (Mr. OBERSTAR), and the ranking member of the subcommittee, the gentleman from Illinois (Mr. LIPINSKI). We set goals that are very difficult to meet, and I do not think that we should back off from those obligations, but we know that the math does not add up. To accomplish the task that we set forth in the law November 19, the math does not add up. Here is the appropriations that we passed and voted for, and we approved 45,000 employees.

Here is a report by the inspector general, the facts. We need 67,000 employees to complete the task. The gentleman from Minnesota (Mr. OBERSTAR) and I heard testimony that in fact they can only produce 800 machines because we have missed the deadline by the delay in the appropriations measure, in passing the supplemental appropriations measure.

What we have is the potential, if we pass this, of leaving a state of chaos and disorder for the December deadline. We do not need chaos and disorder; we need the plan that has been put together first by the gentlewoman from Texas (Ms. GRANGER), and then modified so it requires that when we do not meet the technical or personnel requirements that we put in place a plan. Do we want chaos or order? This requires order. The amendment does not.

Are we to build bureaucracy in the name of security? I say no. But we have a responsibility. I just met with the President of the United States downstairs, and he talked about homeland security. That is what this bill and this measure is about, acting responsibly, putting the facts together and doing the best job we can as representatives of the people to secure for us the best security possible.

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

Mr. MICA. I yield to the gentleman from New Jersey.

Mr. MENENDEZ. Did the President ask this House for an extension?

Mr. MICA. No; but we need to act responsibly.

Mr. OBERSTAR. Mr. Chairman, I yield 30 seconds to the gentleman from Minnesota (Mr. SABO).

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

Let us be clear. We have appropriated every dollar asked for for equipment. We have appropriated more dollars than asked for for installation. We have approved thousands of employees for this agency, very few who have been hired. They clearly have the ability to manage the personnel to put them where they are needed. There may or may not be a reason for this amendment, but the reason there is delay does not relate to money. It relates to management.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

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

Mr. Chairman, I rise to support the Oberstar-Menendez amendment that deletes the deadline extension for airports to install explosive detection equipment.

Since September 11, Congress and the administration have been consumed with fighting the war on terrorism. Congress has responded to all of the administration's requests, developed its

own initiatives, and bent over backwards to protect the American people from further terrorist attacks.

Today we are completely considering of H.R. 5005, the Homeland Security Act, a massive and complex piece of legislation, to create a new Department of Homeland Security. Members of Congress have been working hard on this legislation. Eleven standing committees of the House of Representatives have made individual recommendations on various aspects of the legislation in order to improve our Nation's ability to anticipate and prevent every conceivable type of potential terrorist attack.

Now at the 11th hour, we are being asked to undo a critical provision of anti-terrorism legislation that we passed last year. We are being asked to extend for a whole year the December 31, 2002, deadline for airports to install explosive detection equipment. This equipment would allow commercial airlines to screen the baggage that is checked at the gate and loaded into the bellies of the airplanes.

The deadline extension was not recommended by the committee of jurisdiction or the administration. Even if some airports are unable to meet the deadline, last year's law gives the Department of Transportation Administration the flexibility to have baggage screened by other means while the installation is being completed. These alternatives include positive bag matches, manual searches, and bomb-sniffing dogs. We must maintain the deadline in last year's law. We want every airport to make every effort to install explosive detection equipment as quickly as possible.

Mr. PORTMAN. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Chairman, I rise in opposition to this amendment. I think all of us in this Chamber understand that our objective is to enhance the safety of passengers on the airlines. There is nothing in this legislation that is circumventing that objective.

When we recognized after the events of September 11 that we had to do more to enhance safety, we set some arbitrary deadlines to establish goals when we could have equipment in place that could make a difference, that could ensure greater safety. But with a lot of goals and objectives that are established, it sometimes becomes apparent that we do not have the resources nor the time in order to achieve them. What we are doing today is not saying that we are backing away from our commitment to provide safety, it is a recognition that we need to set up a process that recognizes that there are some airports in this country that unfortunately cannot meet this deadline.

In order to meet the needs of those airports as well as the passengers they serve, we need to have some prescriptions and some guidelines that are going to ensure that they are on a track towards the earliest possible moment to implement those systems that can make a difference in ensuring that our air travel is safe.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Chairman, I rise in support of the Oberstar amendment. We must not delay. We must accept no excuse for any delay in the immediate improvement of the security at our airports. Congress should speak unambiguously, find a way to get the job done now. Can it be done by the end of the year? Yes. The Secretary, the administration and the agency charged with this responsibility all say it can be done. Will it be difficult? Yes.

Is the challenge any greater than the technological challenges we faced immediately after Pearl Harbor in gearing up our industrial capacity, of course not. This task is infinitely simpler. Will it cause some delays in some airports in flights, yes, in all likelihood. Will it cause the adoption and deployment of technologies that will need to be replaced in the future, it just might. After all, technologies, all technologies, eventually become obsolete.

But what is the cost of delaying our efforts to secure our airports and our airplanes, the cost is potentially catastrophic. Imagine the devastation to the families if a plane is blown out of the air, imagine the devastation to our economy and the loss of confidence in our Nation's ability to defend itself in the very department that we establish today.

On September 11, terrorists turned our planes into jet-fuel-powered bombs. That was the last attack. Some would argue since we are now better prepared against that eventuality, we can delay our preparedness against other attacks.

Mr. Chairman, we must be prepared to fight terrorists in whatever form. Terrorists do not need to hijack planes to devastate this country. Placing a bomb in the cargo hold of a plane is all that it would take. We must defend against this massive vulnerability, and we must do it now. We cannot delay. I urge support of this amendment to make this country safe today.

Mr. PORTMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. WATTS), one of the House leaders on this issue.

Mr. WATTS of Oklahoma. Mr. Chairman, as I have served the last 8 years in the United States House of Representatives, I have often said we made a real mistake 40 years ago by not creating a Federal Department of unintended consequences, because we often do things and after we have done it, we look back and say oops, we made a mistake.

Let me tell Members, there are 25 percent of the Nation's airports that cannot comply with this deadline on December 31, 2002. It is unrealistic. The Transportation Safety Administration, these airports, many of these airports, they have submitted plans to comply that they need to have certified by TSA. They have not gotten the certification.

In order for all airports to meet the deadline, TSA must purchase and install an EDS or EDT machine every 35 minutes between now and December 31. In order for all airports to have the security staff needed to operate the new machinery, TSA will need to hire and train and make operational a new screener every 4.5 minutes between today and December 31, 2002.

We are saying that these people will be able to comply? If Members vote to strip the December 31, 2002 deadline, they are voting for 3- or 4-hour airport lines that are inviting targets for terrorists. I think we are making a huge mistake by not extending the deadlines. Get the bureaucracy off their duff, and have them certify the airport plans and then move forward.

In the end, I think it is a shame that we would come and talk about these things and all the rhetoric that I have heard, we are literally telling the terrorists what is going on. We need to extend this deadline, get those plans certified by TSA, get the people hired, get a director that was fired over a week ago. Vote ''no'' on this amendment.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

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

Mr. INSLEE. Mr. Chairman, in 1961, President Kennedy sat right there and said America is a country that can do the moon. Now we have people around here saying America is a country that cannot even check baggage.

Why would Members want to take a bill called the homeland security bill and change it into the home air insecurity bill. Members are darn right that there are some challenges in getting this done, but it does not help that this administration has demonstrated rank incompetence for months and months doing nothing on this issue.

□ 1645

It took them 7 months to order the first machine after September 11. I will not allow or vote for this administration's rank ineptness to endanger my flying public for the next year.

If you cannot get this job done, turn the administration over to us and we will do it because we know if you want some horses to go, you put the spurs to them and this administration needs it.

Mr. PORTMAN. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. SAM JOHNSON).

(Mr. SAM JOHNSON of Texas asked and was given permission to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Chairman, let us set the record straight. The Secretary, based on current facts, says that they are unable to make these deadlines without us giving

them a billion dollars more. I know the contract is with Boeing-Siemens. I have talked to those people. They can do it by the end of the year, but only to have the machines by the end of the year. That does not mean they are in the airports.

I am concerned that, worst-case scenario, the Transportation Security Agency is going to be unable to train personnel and install necessary equipment to meet this deadline. Under the best-case scenario, I am concerned that TSA will meet the deadline but only by implementing an ineffective and outrageously expensive temporary solution. Either way, the safety of our air travelers and the security of our system will benefit from giving TSA flexibility to focus on a long-term, permanent solution and not a quick fix.

Unfortunately, only 75 percent of our airports are going to be able to make that December 31 deadline. These are the smaller airports that are going to rely on the ETD for their long-term solution. They are going to be using primarily small machines. It is no longer feasible to meet the December 31 deadline for larger airports, especially like my hometown DFW. Since they submitted their plan in March, they still have yet to hear back from the TSA to find out if they have been approved and are on the right track. For larger airports like DFW, it is impossible for them to be ready by the end of the year.

Have we not provided enough bureaucracy? It is ridiculous that opponents to this commonsense measure would rather have airports miss the deadline altogether. This is not a one-size-fits-all solution.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. MENENDEZ), a member of the select committee.

Mr. MENENDEZ. Mr. Chairman, we heard about facts.

Fact: the House voted 410–9 for these deadlines.

Fact: neither the President, the Secretary of Transportation, TSA nor the Committee on Transportation and Infrastructure has asked for an extension.

Fact: the bill extends the execution of a plan for another year, but it has no deadline for deployment of explosive detection devices.

Fact: technology to detect bombs exists now and is certified. No other technology is certified.

Fact: alternatives exist under the law if the deadlines cannot be met, and they are the same as the bill before us.

Fact: Congress delayed in a similar case in the '80s on technology to avoid collisions midair, and we had three midair collisions. Who went to those families and said, We're sorry we delayed; we waited for better technology''?

Ask your constituents if after the events of September 11, would they rather save a few minutes or save lives? The answer would be, save lives. That is what this Oberstar-Menendez amendment does, and that is why you should be voting for it.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington.) The gentleman from Minnesota is recognized for 3½ minutes.

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

Mr. OBERSTAR. Mr. Chairman, we have all come to this issue with good will and those who advocate the extension of the deadline have come genuinely inspired by their airports or airlines out of a concern, as repeated speakers have said, We can't meet the deadline. I have always thought of America as a can-do Nation, not a can't-do Nation.

In World War II, we put a million men under arms in 1 year. In World War II, we produced an average of 60,000 war planes a year, starting from zero. Why can we not do this now? We can do it, is the point.

I have heard the argument about long lines. The question you have to ask yourself is which do you fear more, long lines or a bomb aboard an airplane?

I also read the language proposed very carefully. Many are not aware that the language of the amendment proposes to give the airport the decision on whether to demand a delay, not the Transportation Security Administration who is paying the cost, and also vests with airports the authority to develop a plan to the maximum extent practicable to do certain things. This is a change in the fundamental way the program is operating. I was not aware of that until late last night, early this morning, reading this language more carefully. That should not be done.

We have provided authority in the basic law that was enacted 410–9 for alternative means to check luggage, to screen luggage checked aboard aircraft if you cannot meet the December 31 deadline for explosive detection systems. It includes authority for the TSA to certify, or to verify the use of explosive trace detection systems if they cannot deploy the explosive detection systems. There is ample authority to use other means. We are all human beings. That is why the leadership here keeps us till late at night, because we work against deadlines. The distinguished whip knows that.

But I come for another purpose. Twelve years ago, as a member of the Pan Am 103 commission, I stood at Lockerbie, Scotland, at the abyss of Pan Am 103 where a trench 14 feet deep, 40 feet wide, and 120 feet long was dug by that airplane, and 259 lives aboard that plane and 11 on the ground were incinerated because a bomb was aboard that airplane in a piece of luggage that did not have a passenger accompanying it. And we members of that commission, two of us from the House, John Paul Hammerschmidt, a distinguished Member from Arkansas, and I, looked in the abyss and said, ''Never again will we allow this to happen. We are going to pass tough legislation to make aviation security the best in the world.'' And we passed it.

Now we stand on the abyss again. Never again do I want to confront families and say, We didn't do enough. Please, do not let that happen. Do not extend that deadline.

Mr. PORTMAN. Mr. Chairman, I yield the balance of my time to the gentleman from Texas (Mr. DELAY), the distinguished majority whip and a member of the Select Committee on Homeland Security.

The CHAIRMAN pro tempore. The gentleman from Texas is recognized for 2½ minutes.

Mr. DELAY. Mr. Chairman, that almost brought a tear to my eye; but I have got to tell you, after Lockerbie, England went for this technology that the gentleman wants to install. It took them 8 years to install it. Eight years. That was 12 years ago. That same technology is what he wants to buy, 20-year-old technology that does not work, or is not as good as other technology that is being suggested.

Let me just clear the air here a little bit. First of all, I think it is irresponsible to try to scare the American people away from flying. The rhetoric on this floor is irresponsible in doing that. Let me just say that 100 percent, 100 percent of your bags today are being checked before they go on the plane. What this argument is about is buying a machine, a bomb detection machine to try to make it more efficient to check your bags. They want you to buy a 20-year-old technology that is wrong 30 percent of the time.

Let us get how this works. Thirty percent of the time it is wrong; so when it is wrong, you have to take it off the machine and check it by hand, adding to the time of that plane taking off. What we want is technology that is ready, it just needs to be certified, that has less than a 5 percent error rate. Technology is coming on line. And besides, these deadlines that they are so interested in, this House voted 286–139 for the deadline that is in this bill. The deadlines that were put in there, and I will not argue the deadlines, but what is really interesting about this is that the deadlines that they are so adamant to have and have all this wonderful rhetoric, and a little demagoguery added to it, is that the deadlines have no penalties. Their deadlines have no sanctions. So it does not matter. If they cannot meet the deadlines, they cannot meet the deadlines. You are stringent, we are going to meet these deadlines, and you cannot make them do anything.

So what we have done is realized that there is a problem here, that we can put good technology in as quickly as possible; but we need a good, solid process by which to implement this and we are suggesting that process. There is a process that we go through.

This makes sense. It makes common sense. It faces reality. Vote down the Oberstar amendment.

PARLIAMENTARY INQUIRY

Mr. DEFAZIO. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DEFAZIO. Mr. Chairman, is it required that one use accurate facts during debate on the floor of the House?

The CHAIRMAN pro tempore. The purpose of debate is to discuss issues as Members see them.

Mr. DEFAZIO. Does it require the use of accurate facts or is fabrication allowed?

The CHAIRMAN pro tempore. Accuracy in debate is for each Member to ascertain in his own mind.

Mr. DEFAZIO. I thank the gentleman. We just heard fabrication.

Mrs. LOWEY. Mr. Chairman, I rise in strong support of the Oberstar Amendment.

My colleagues, the first obligation of our government is to protect our citizens.

While I strongly believe we are united in our determination to win the war on terrorism and committed to reorganizing the federal government to better serve our country during these times, I continue to be puzzled by the actions of some of my colleagues.

In the fall, the Leadership took only three days to start bailing out the airline industry, but dodged the issue of aviation security for months.

Democrats fought hard, constantly reminding our colleagues that in order to assure the public that our skies are safe we had to require that the federal government to assume passenger screening responsibilities, expand its air marshal program, and screen all checked baggage for explosives.

Although our efforts were successful, some of my colleagues have been working bit by bit to unravel the commitment we made to Americans.

When the TSA asked for $4.4 billion, Republicans shortchanged them by $1 billion.

Now, they are using the bill designed to set up a department to ensure homeland security to postpone the deadline for installing bomb-detecting equipment at our airports. The Administration says it cannot meet the deadline of December 2002 due to the delay in passing the emergency supplemental and the lack of necessary funding—the fault of the House Republicans.

To that I say, I am truly disappointed that any of us would backtrack in the face of a self-imposed deadline. We should hunker down and work together to tackle this deadline because compromised security in our skies and airports is a clear and present danger.

My colleagues, we cannot break our promise. When we passed the transportation security act last year, we acknowledged the immediate need to make aviation security a matter of national security. We must vote to reinstate the baggage screening deadline, and stand by our promise to have every bag screened, on every flight, every day by the new year.

Our homeland won't be secure until our skies are secure. I urge you to carefully consider the risks we would take by postponing this deadline.

Vote for the Oberstar amendment.

EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, with some reluctance, I rise in opposition to the Oberstar-Menendez amendment regarding the deadline for installation of explosive detection systems at the nation's airports.

Let me first say that I would have much preferred that this issue not have been highlighted so prominently. If airports continue to be vulnerable, we do not need to be announcing that for all the world to see.

I understand the concerns of airports and their desire to extend the deadline. Many of them, particularly large airports like DFW in my district, have made a compelling case that the existing deadlines cannot be met.

The Transportation and Infrastructure Committee, on which I serve, has been looking at this issue carefully. Earlier this week, it held a hearing on TSA's implementation of the Aviation and Transportation Security Act, featuring Secretary Mineta and the DOT Inspector General's office.

Secretary Mineta indicated concern that the TSA might not be able to meet the deadline for EDS deployment because of insufficient funding in the FY2002 supplemental for TSA. In part because of his testimony, I voted against the supplemental.

The IG's office testified that it would be premature to extend the deadlines at this time because they were still conducting their airport-by-airport assessments.

I will quote from the IG's written testimony: ''Because airport assessment for the deployment of explosives detection equipment are scheduled to be completed at the largest airports by the end of August, and because of the current ramp-up in hiring passenger screeners, we will be in a much better position in a month to judge what is or is not feasible to accomplish by the deadlines.''

Mr. Speaker, the language to extend the deadline by one year is far from perfect. Most likely, the deadlines cannot be met, but would it not be prudent to wait until the IG's office completes their assessment and issues a recommendation for a new deadline?

However, I also recognize the anxiety that airports are experiencing and their desire to move this language on ''must-pass'' legislation.

I will therefore support the one-year extension at this time and vote against the Oberstar-Menendez amendment so that we can move forward on this issue and ensure that this gets resolved in conference.

However, I will also be monitoring the IG's recommendations and insist that the conference adjust the language if it conflicts with the IG's findings. Explosive detection systems must be deployed as quickly as possible, and if the IG indicates that compliance before December 31, 2003 is feasible, the conferees must adjust the language accordingly.

Mr. BEREUTER. Mr. Chairman, this Member rises in opposition to the amendment offered by the distinguished gentleman from Minnesota (Mr. OBERSTAR) which would strike the bill's deadline extension for airports to screen all checked baggage.

This Member would like to begin by stating his view that the safety and security of the traveling public must remain the primary objective when addressing aviation matters. However, it appears that the current arbitrary deadline for screening all checked baggage actually is unlikely to enhance security. Instead, it surely will result in larger expenditures, longer lines and greater frustration.

It is now clear that airports in Nebraska and throughout the nation will have difficulty meeting the logistical requirements of the current deadline of December 31, 2002. Instead of emphasizing safety and efficiency, airports would be forced simply to put something in place.

Nebraska airport managers are very concerned that they will not be able to meet the current deadline due to two major issues: checked bag screening and the Federalization of security for passenger and baggage screening. For example, there is concern regarding the effectiveness and expense of the new required baggage screening equipment, with the possibility that the equipment required for installation may be less effective in reaching desirable screening than other smaller and less expensive alternative equipment now in production and with the likelihood that some of the new equipment now to be required would need to be replaced within a few years.

The deadline extension included in H.R. 5005 offers realistic, cost-effective and efficient flexibility. The provision makes it clear that airports will still be required to install equipment to detect weapons and bombs. However, the installation will be done in a manner that takes into account not only safety, but also cost, efficiency, and reliability.

Mr. Chairman, rather than taking ineffective interim steps, every effort must be made to get it right the first time. Therefore, this Member urges his colleagues to oppose the Oberstar Amendment.

Ms. DELAURO. Mr. Chairman, I rise in strong support of this amendment. We may have disagreements regarding some of the specifics of this legislation, but its goal—ensuring Americans' safety—is something we all support.

So why then was a provision slipped into this legislation to extend the deadline by which the Transportation Security Administration must screen all baggage for explosives? Why are we risking the safety of the American people when we already have the certified technology necessary to ensure that every bag can be screened?

Some suggest that we must extend the deadline because we are awaiting the development of better technology down the road, as there always is, Mr. Chairman. I am not willing to risk another year of randomly screening a few bags when we have the technology to screen all of them now while we wait for a superior technology a year from now. By then, it might very well be too late.

If we must revisit this issue in a year and begin upgrading the equipment, so be it. No price is too high when it comes to ensuring the safety of the American people. But without this amendment, we put American lives needlessly at risk.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the Oberstar/Menendez Amendment, to strike the provision extending the date for screening airline baggage for explosives.

Mr. Chairman, I am bewildered that we are even arguing about this. We are here to find ways to increase the Security of our Homeland. Last year, in an intelligent step in the right direction, we passed the Aviation and Transportation Security Act, in overwhelmingly bipartisan fashion by a vote of 410 to 9. That Act gave the Transportation Security Administration and our nation's airports over a year to

get into place systems that would prevent terrorists from stowing bombs in baggage being loaded onto airplanes. That seems to make good sense.

We have equipment that has already been certified to be able to detect explosives that could destroy an airplane in flight. Just last week, Transportation Secretary Norm Mineta came before the Select Committee, and gave testimony that yes indeed, the TSA would meet the December 31, 2002 deadline to get that equipment installed. Again, everything seemed to be on track.

But now, all of a sudden, because the job is hard and it may be challenging to get the job done exactly on time, we are going to double the amount of time given to get the job done. We are going from one year to two years. At a time when we have been warned that terrorists may still be walking our land, and on a day that we are trying to make history by securing our nation, we are going to say, ''Don't worry about the deadline. Let's leave the window open to terrorists for another year.'' As a former lawyer in the Pan Am 103 air crash case, where I represented the family of a deceased flight attendant, I cannot take the chance that a suitcase bomb could explode on a passenger-full airplane. To change the deadline is a profoundly bad idea.

The argument for leaving the window open is that if we wait, we can maybe use better technology, or install the equipment more efficiently. The problem with that argument is that we are vulnerable now. The American people deserve protection now. It is like if you had cancer. There are always better drugs coming out each year. So if you get cancer, do you wait a year until the next generation of drugs comes out, or do you work with what you've got? Of course you work with what you've got. And that is the position we are in today. Terrorism is like a cancer that has the potential to destroy us. We have to take the medicine now.

But we don't even need to look beyond the aviation industry for such analogies. We have paid the price of ''waiting for the next best thing'' before. In the 1980s we had an opportunity to have collision avoidance equipment, called TCAS II, installed in all of our airplanes. TCAS II worked pretty well, but it only gave vertical directions for evasive actions to the plane. So, the FAA waited. While they waited for TCAS III, three tragic midair collisions occurred—three deadly crashes that could have been avoided if the FAA had moved when it had the chance. After the third crash, legislation was finally passed that required the installation of TCAS II even though it was not perfect and would eventually be replaced.

Let us not waste hundreds of lives again.

Keeping the TSA and our nation's airports on track to get a baggage screening system into place by the end of this year is not a rash action. If extenuating circumstances present at a few airports, the Aviation and Transportation Security Act already authorizes alternatives to keep those airports up to code. They can employ positive bag match, manual search, search by dogs, or any other technology approved by the TSA. Even if they do not, there are no established penalties or punishments for non-compliance. There is no reason to risk taking an extra year to complete this critical task.

Since September 11th we have been marching forward on the path toward homeland security. Let us not take a step backward today.

I encourage my colleagues to support the Oberstar/Menendez Amendment, and keep our nation in the spirit of progress, and our airports moving in the right direction.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

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

Mr. OBERSTAR. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR) will be postponed.

The Committee will rise informally.

The Speaker pro tempore (Mr. SIMPSON) assumed the chair.

MESSAGE FROM THE SENATE

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

H. Con. Res. 448. Concurrent resolution providing for a special meeting of the Congress in New York, New York, on Friday, September 6, 2002, in remembrance of the victims and heroes of September 11, 2001, in recognition of the courage and spirit of the City of New York, and for other purposes.

H. Con. Res. 449. Concurrent resolution providing for representation by Congress at a special meeting in New York, New York, on Friday, September 6, 2002.

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

S. 2771. An act to amend the John F. Kennedy Center Act to authorize the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts, and for other purposes.

S. Con. Res. 132. Concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

The message also announced that the Senate insist upon its amendment to the bill (H.R. 4546) ''An Act to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes,'' requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LIEBERMAN, Mr. CLELAND, Ms. LANDRIEU, Mr. REED, Mr. AKAKA, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mrs. CARNAHAN, Mr. DAYTON, Mr. BINGAMAN, Mr. WARNER, Mr. THURMOND, Mr. MCCAIN, Mr. SMITH of New Hampshire, Mr. INHOFE, Mr. SANTORUM, Mr. ROBERTS, Mr. ALLARD, Mr. HUTCHINSON, Mr. SESSIONS, Ms. COLLINS, and Mr. BUNNING, to be the conferees on the part of the Senate.

The message also announced that pursuant to Public Law 103–227, the Chair, on behalf of the President pro tempore, appoints the following individual to the National Skill Standards Board for a term of four years:

Upon the recommendation of the Republican Leader:

Betty W. DeVinney of Tennessee, Representative of Business.

The message also announced that pursuant to Public Law 107–171, the Chair, on behalf of the Republican Leader, announces the appointment of Mr. Robert H. Forney, of Indiana, to serve as a member of the Board of Trustees of the Congressional Hunger Fellows Program.

The SPEAKER pro tempore. The Committee will resume its sitting.

HOMELAND SECURITY ACT OF 2002

The Committee resumed its sitting.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 24 printed in House Report 107–615.

□ 1700

AMENDMENT NO. 24 OFFERED BY MS. SCHAKOWSKY

Ms. SCHAKOWSKY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 24 offered by Ms. SCHAKOWSKY

Strike subtitle C of title VII.

Strike section 762 and insert the following:

SEC. 762. REMEDIES FOR RETALIATION AGAINST WHISTLEBLOWERS.

Section 7211 of title 5, United States Code, is amended—

(1) by inserting ''(a)'' before ''The right''; and

(2) by adding at the end the following:

''(b) Any employee aggrieved by a violation of subsection (a) may bring a civil action in the appropriate United States district court, within 3 years after the date on which such violation occurs, against any agency, organization, or other person responsible for the violation, for lost wages and benefits, reinstatement, costs and attorney fees, compensatory damages, and equitable, injunctive, or any other relief that the court considers appropriate. Any such action shall, upon request of the party bringing the action, be tried by the court with a jury.

''(c) The same legal burdens of proof in proceedings under subsection (b) shall apply as under sections 1214(b)(4)(B) and 1221(e) in the case of an alleged prohibited personnel practice described in section 2302(b)(8).

''(d) For purposes of this section, the term 'employee' means an employee (as defined by section 2105) and any individual performing services under a personal services contract with the Government (including as an employee of an organization).''.

The CHAIRMAN pro tempore (Mr. SWEENEY). Pursuant to House Resolution 502, the gentlewoman from Illinois (Ms. SCHAKOWSKY) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentlewoman from Illinois.

Ms. SCHAKOWSKY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on behalf of the gentlewoman from Hawaii (Mrs. MINK) and the gentleman from Ohio (Mr. KUCINICH) I rise to offer an amendment that will prevent the Department of Homeland Security from becoming the ''department of homeland secrecy.'' I want to commend the gentleman from California (Mr. WAXMAN) and his staff, as well as the Select Committee, particularly its ranking member, the gentlewoman from California (Ms. PELOSI).

First, this amendment strikes subtitle C of section VII of the underlying bill, language that excludes from the Freedom of Information Act information submitted voluntarily from corporations regarding critical infrastructure information. It strikes language that preempts all State and local open records laws.

Second, this amendment strikes section 762, language that allows the Secretary to circumvent the Federal Advisory Committee Act, FACA, by putting all the deliberations of those advisory committees beyond public reach.

Third, this amendment provides real teeth to protections against retaliation for whistleblowers, the kind of individuals who have been the lifeblood of exposing failures at the FBI to heed warnings of terrorists within the country, and exposing corporate misconduct.

The Freedom of Information Act is a law carefully crafted to balance the ability of our citizens to access information and the interests of those who want to protect such information from public scrutiny. There are nine exemptions to FOIA, including national security information and business information. FOIA currently protects information that is a trade secret or information that is commercial and privileged or confidential. In addition, President Reagan issued Executive Order 12600 that gives businesses even more opportunities to oppose disclosure of information.

In fact, I and other Members of the Committee on Government Reform repeatedly have asked proponents of this exclusion, including the FBI and Department of Commerce, for even one single example of when a Federal agency has disclosed voluntarily submitted data against the express wishes of the industry that submitted that information. They could not name one case.

Instead, we are told that FOIA rules just are not conducive to disclosure, that corporations are not comfortable releasing data needed to protect our country, even if we are at war.

Is our new standard for deciding such fundamental questions of openness and accountability in our democracy how comfortable industry will be? Environmental groups, open government groups and press organizations support my amendment because the broad secrecy provisions of the new Department would hide information critical to protecting public safety, such as chemical spills, results of testing to determine levels of water and air pollution, compliance records, and maintenance and repair records. Corporations could dump information they want to hide into this department under the cover critical infrastructure information. Corporate lobbyists can meet with government officials in the name of critical infrastructure protection and hide their collusion behind this exclusion.

If we create the Department without my amendment, corporations will no longer need to bury their secrets in the footnotes, or even shred their documents. They can hide them in the FOIA exclusion at the Department of Homeland Security. No longer will industry officials have to hide their meetings with government officials. The exemption from FACA will offer them a safe haven within which to have those secret meetings. State and local authorities would also be barred from and subject to jail sentences for disclosing information that they require to make public, even if it is because it is withheld at the Federal level.

This amendment also protects the rights of whistleblowers. My colleagues will go into more detail. But most whistleblowers are not as high profile as Sharon Watkins of Enron or Coleen Rowley of the FBI, to whom we owe a great debt, and many of them suffer retaliation. They often lose their jobs or are demoted as punishment for speaking out.

It is clear that the protections currently available simply are not working. Since the Whistleblower Protection Act was amended in 1994, 74 of the 75 court decisions have gone against whistleblowers. So my amendment gives whistleblowers the right to go to court instead of going through the administrative process and requires the same burden of proof to be used in whistleblower cases as in all other cases involving personnel actions.

Mr. Chairman, I believe that we are in great danger today of tipping the delicate balance between security and basic, precious freedoms, those rights that uniquely define our American democracy. We can have both, and I urge my colleagues to restore the balance and support my amendment.

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

Mr. ARMEY. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Texas is recognized for 15 minutes.

Mr. ARMEY. Mr. Chairman, I am happy to yield 2 minutes to the distinguished gentleman from Texas (Mr. THORNBERRY).

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

Mr. Chairman, I oppose this amendment because I believe that this amendment will significantly damage the ability of the Department of Homeland Security to be effective.

Now, let me make a couple of points clear from the beginning. Whistleblowers are protected in the legislation now. That is one of the specific protections we were talking about earlier in the various management flexibility amendments which were offered. Whistleblowers are protected now.

Now, under current law, various companies and industries have to disclose certain information. Nothing changes under this bill. They still have to disclose that information, and we add no loopholes. There are no new requirements, and they cannot hide. They still have to meet the current requirements. But our hope is that under the new law, the Department of Homeland Security will receive additional information voluntarily from industries. They will tell us their vulnerabilities. They will tell us what they are worried about in their computer networks. They will tell us what they are worried about in their infrastructure.

We want them to tell the Federal Government that information voluntarily, so that we can help protect that infrastructure. They will not disclose that information if you just turn right around and make it public. It could be trade secrets, it could be information that you are giving to the terrorists. You certainly do not want to help them.

So, to go as far as the amendment does in requiring this additional information, which is voluntarily disclosed to the government, to turn around and make all that public means that companies simply will not disclose it, we will not know their vulnerabilities, and this Department will not be able to do its job to protect infrastructure.

Mr. Chairman, I would suggest the better course would be to reject this amendment. There are essential protections already in the bill. We do not need more.

Ms. SCHAKOWSKY. Mr. Chairman, I yield 3 minutes to the gentlewoman from Hawaii (Mrs. MINK), a cosponsor of the amendment.

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, I would like to directly respond to the prior speaker, who made a case for further extension of the exemptions for the Freedom of Information Act by arguing that it was necessary in order to protect private sources of information that might be necessary for this new Department.

I want to call the attention of the House to the current Freedom of Information Act, which already includes nine exemptions for all Federal agencies, including the Defense Department and all the other security-type organizations that now exist that fall under the Freedom of Information Act and have done so for the last 30 years, because they are protected under the exemptions that exist under current law.

The exemptions are all classified documents. The government has the power

to classify documents. So if there is something in their possession that is essential to the national security or homeland security, they could classify those documents. They have that power inherent in the FOIA legislation.

As far as private confidential trade secrets, there is an exemption specifically for business information. So there exists already the power of the government to classify as non-approachable by a Freedom of Information request information which is private, trade secrets, or something which is essential to the protection of business.

All of these rules exist. The exemptions exist. They were part of legislation which I helped to work out in the early 1970s, and they have stood the test of time.

It has created a broad range of protections for the people of the United States. The most important liberty, freedom, that we have is that we as individual citizens of this country have the right to information that the government possesses, and we do so by making a FOIA request.

I cannot conceive of enlarging the nine exemptions that already exist. What kind of a Department of Homeland Security are we creating? Why does it have to have all of the super protections of private information, when we already have nine exemptions that exist that can protect every single suggested item that has been discussed here on the floor?

So I hope that people will realize that under this climate, being concerned about terrorism and the protection of property and the protection of life and so forth, we cannot jeopardize those things that we have fought for so hard, so diligently, and which have, to a large measure, enabled the public of the United States to know what is going on. The nuclear tests out in the Midwest and the terrible things that happened from them would have continued to be the secrets of the government if we did not have FOIA. But because we had the Freedom of Information Act, we enabled the public to be better informed and we enabled the Congress to do a better job in legislating.

Mr. Chairman, I urge adoption of this amendment.

Mr. ARMEY. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. TOM DAVIS), the author of the original FOIA language, who has done such an excellent job.

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

Mr. TOM DAVIS of Virginia. Mr. Chairman, let me first of all say I think the problem with this amendment is it goes in the wrong direction. We are all strong supporters of FOIA legislation. I served in local government for 15 years, and the Freedom of Information Act applies to local government. Strangely enough, Congress is exempt from any of these exemptions.

This is a very narrowly tailored FOIA exemption that will allow companies out there that have innovative ideas in terms of how to protect our critical infrastructure, it will allow them to disclose it to the government without fear of it being discovered by competitors or terrorists.

We have to remind ourselves that we discovered when we went into the caves in Afghanistan that al Qaeda groups had copies of GAO reports and other government information obtained through the Freedom of Information Act. While we work to protect our Nation's assets in this war against terrorism, we also need to make sure we are not arming terrorists.

The previous speaker spoke about how they worked on this in the early 1970s. I would submit the world has changed. There was a challenge from the other side saying there were no instances where information was not shared. Just last year it was discovered that the widely used implementations of the simple network management protocol, a fundamental element of the Internet, contained vulnerabilities that could expose the Internet's infrastructure to attack. Many companies were reluctant to give the government information about these vulnerabilities, which were not yet mentioned in the general press, for fear that the vulnerability information would be forced to be disclosed once it was in the government's hands and this could create substantial risk to their customers and to the Internet and the U.S. economy.

I might also add the Department of Energy for years has asked that electric utility industries provide it with a list of critical facilities. They have consistently refused because they do not want to create a target list that could be released under the Freedom of Information Act. I suspect there are many, many others.

We need to remember that the critical infrastructure of the United States is largely owned and operated by the private sector, 90 percent operated by the private sector. Understanding the vulnerabilities, experiencing the vulnerabilities, finding, if you will, antidotes to these vulnerabilities, is something that the private sector has much more experience in than the public sector. We need that information at the Federal level if we are to protect our critical infrastructure.

This very narrowly tailored amendment, I might add, went through the Senate committee on a bipartisan unanimous vote. There were no concerns over there, because it is narrowly tailored. This is essential if we are going to get companies to be able to volunteer to the government solutions that can help us protect our critical infrastructure.

There is precedent for this. I heard arguments that this is unprecedented. If you take a look at the successful Y2K Act, Information Readiness Disclosure Act, it provided a limited FOIA exemption and civil litigation protection for shared information.

We narrowly tailor these so we do not take away what FOIA offers the general public, very important protections. But if we do not allow it in these narrow instances, I am afraid we are not going to have the tools to fight terrorism. This legislation, I think, helps the private sector, including the ISOs, to move forward without fear from the government. It is essential.

Mr. Chairman, I oppose this amendment.

Ms. SCHAKOWSKY. Mr. Chairman, I am proud to yield 2 minutes to the gentleman from California (Mr. WAXMAN), the ranking Democrat on the Committee on Government Reform and a leader in this House on both homeland security and good government.

Mr. WAXMAN. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, it is remarkable, the position of the Republican Party today. It really shows the bankruptcy of that party. The Republican party used to stand for the idea that there should be some distrust of government. The theory was it can get too big, too bureaucratic; the federal government could interfere in the lives of individuals and start dictating policies from Washington. So what does this bill do? It grows the bureaucracy. It wastes money. With these Freedom of Information and FACA changes, it allows the government to keep things secret.

You know who wrote the Freedom of Information Act? Barry Goldwater wrote it. Barry Goldwater wrote FOIA, because he said a government that has so much power can intrude in the lives of individuals, and he wanted the public to know what was going on.

This bill and the way it is drafted without the Schakowsky amendment would allow this administration to meet in secret with business executives and lobbyists, just like it did in the Energy Task Force Vice President Cheney chaired. The administration could keep it all quiet. It could, in the name of national security, reward all these big industry groups that it is now so beholden to, by meeting with executives from the airline industry when they come in for special favors. But the public will never know, because the Freedom of Information Act, which protected all of us, will now be wiped out.

Remember the days when the Republicans said Washington is not the place where all the wisdom is located? Well, what do they do? They preempt the States from having Freedom of Information laws that are more open to the public than what we are going to get in the bill passed today.

It is a very sad day to see this in the Republican Party. I did not used to agree with them, but I used to respect them, when they worried about a big intrusive government that wasted money, that grew bureaucracy and became inefficient. Now it is responsive just to special interest big money.

Mr. ARMEY. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Indiana (Mr. BURTON), the

distinguished chairman of the Committee on Government Reform, the committee of jurisdiction.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I would just like to say to my good friends, the gentleman from California (Mr. WAXMAN) and the gentlewoman from Illinois (Ms. SCHAKOWSKY), I have high regard for both of them. We have tried to work on this in a bipartisan manner, and I really hope this whole issue does not degenerate into a political name-calling session, because we all want the same thing. We want to make sure Americans are secure and free from the threat of terrorism.

Now, the President wants to encourage the private sector to give information to the Department of Homeland Security to enhance the safety of the American people. He is concerned that the people we are talking about will not volunteer information if they think whatever they turn over will be released to the public under the Freedom of Information Act. I think he is right. You would not want some terrorist getting some of this information that would be voluntarily given to Homeland Security.

Let me give you an example. If a business owner recognizes that some part of his business infrastructure might be vulnerable to a terrorist attack, we want him to be able to come to the government and tell us about what he thinks might be done and how to deal with it. We want him to go to the Department of Homeland Security and be very candid. We wanted to be proactive, not reactive.

This is the sort of information we must have to prevent tragedy to the American people. But if the businessman is worried and if his lawyers are worried that whatever he voluntarily discloses will go straight into the public domain and hence maybe to the terrorists, as we said earlier today, then he probably will not do it.

We are in a war. I hope my colleagues all remember that. We are in a war. We need to take steps to guarantee that those people will come to us with that information to protect the safety of the American people, and that is why I oppose this amendment.

I think the concerns raised by the sponsors of the bill, and I have high regard for all of them, are misplaced. The Freedom of Information Act will not be harmed. The legislation we will vote on today will not allow people to dodge the Freedom of Information Act. This bill does not change FOIA or the rules of FOIA for any other forms that businesses have to produce to any agency of the Federal Government. The only thing that will not be subject to FOIA information are the vulnerabilities to terrorist attacks.

The government needs the kind of information we are talking about, and we will not get it unless there is a voluntary decision by the business people and the private sector to disclose it to government. They are not going to do it if they feel like they are going to be threatened or they will expose something that might lead to a terrorist attack.

This is a commonsense, real world proposal, and we should not tie our hands behind our backs when it comes to fighting terrorism and protecting the American people.

I hate to say this, but I have high regard for the gentlewoman from Illinois (Ms. SCHAKOWSKY) and the gentleman from California (Mr. WAXMAN), but this amendment would do more harm than good.

□ 1715

We need to make sure we take every step possible to get the private sector working with the government to make sure we are free from terrorist attacks.

The CHAIRMAN pro tempore (Mr. SWEENEY). The Chair wishes to inform Members that the gentleman from Texas (Mr. ARMEY) has 7 minutes remaining and the gentlewoman from Illinois (Ms. SCHAKOWSKY) has 5½ minutes remaining.

Ms. SCHAKOWSKY. Mr. Chairman, I yield 3½ minutes to the gentleman from Ohio (Mr. KUCINICH) whose whistleblower amendment passed in the Committee on Government Reform, the language included in this bill.

Mr. KUCINICH. Mr. Chairman, it would be unfortunate, in our efforts to improve homeland security, if suddenly our government became less open, less transparent. It would appear if we do that, then the terrorists win, because their attack is on our basic premise of democracy, of a free and open society.

The current language in the bill fails to protect transferred homeland security, civil servants from whistleblower reprisals. Under the current Whistleblower Protection Act, the standard bureaucratic response has been to silence messengers blowing the whistle on national security breakdowns.

Now, the Schakowsky-Kucinich-Mink amendment is designed, and it is needed, to protect national security whistleblowers by allowing them to petition Congress directly and providing an effective remedy for any reprisal taken by the new agency.

Whistleblower rights are workers' rights and no worker should lose his or her job for exposing waste, cover-up, and lies of his or her superiors. It is ironic that in a bill which is designed to fight terrorism we have a provision designed to terrorize workers.

The passage of this amendment is vital to protect the security of the American people. The September 11 terrorist attacks highlight a longstanding necessity to strengthen free speech protections for national security whistleblowers, a number of whom have already made significant contributions to reducing U.S. terrorist vulnerability.

Now, Mr. Chairman, I just want to offer one example of a case that this House ought to be aware of, the case of Mark Graf.

Mark Graf was an alarm station supervisor and Authorized Derivative Classifier. He worked 17 years at the Department of Energy's Rocky Flats Environmental Technology Site. After the Wackenhut Services, a private security agency, took over this site with more than 21 tons of uranium and plutonium, Mark Graf witnessed the elimination of their bomb detecting unit, sloppy emergency drills, and negligence at taking inventory of the plutonium for months at a time. He and several other high-level officials raised serious concerns about a terrorist risk to the security of plutonium, as more than a ton of the material is unaccounted for at Rocky Flats. He took his concerns to management, which took no action.

In 1995, after blowing the whistle to a Member of Congress, Mr. Graf was immediately reassigned from the areas that raised concerns in the first place. In a classified memo to the site supervisors and later to the Defense Nuclear Facilities Safety Board, he outlined specific vulnerabilities which, if exploited, could result in catastrophic consequences.

With no corrective action being taken, he did an interview with CBS News. After the interview, he was subjected to a psychological evaluation and placed on administrative leave. As a condition of returning to work, he was gagged from speaking to Congress, the media, the agency, and also under the threat of job termination.

In 1998, he filed and later won a whistleblower reprisal complaint currently being appealed by his employers. His disclosures contributed to legislation in the 1998 Defense Authorization Bill requiring an annual review of the safety and security program.

We have a nuclear industry in this country with over 100 nuclear reactors, many of which have been relicensed and have reactor vessels that have been embrittled. We have a hole in a reactor that is trying to be repaired in Toledo, Ohio. Nuclear reactors are part of the critical infrastructure. This bill would let a cover-up be, in effect, okay in the name of national security so that the public would never know about a hole in a nuclear reactor or anything that was done that compromises the security of people who lived in the area.

This amendment is necessary. This amendment is in the interests of our national security and our public health.

Mr. ARMEY. Mr. Chairman, it is my pleasure to yield 2 minutes to the distinguished gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Chairman, I think the FOIA concerns over parts of this amendment have already been made by others, but I will say just to my friend from Ohio, that is clearly not the intent of the underlying bill nor is it the impact of the underlying bill. All of the FOIA requirements that

we would have, including right to know, would continue to be operative. This is a very narrow stipulation that, with regard to infrastructure information provided by the private sector, that we would get limited FOIA protection, which is absolutely necessary for national security, and that has been discussed.

This amendment would also create a plaintiff lawyers' dream as I see it, and that is the civil actions open to punitive damages for whistleblowers claiming to have suffered from reprisal. The mere threat of these punitive damages can cause defendants, including the government, to settle cases; and it does, to settle cases that have questionable merit just to reduce that risk of an extreme verdict.

The opportunity of punitive damages for a plaintiff, can make an otherwise meritless case look awfully tempting to pursue, just in case the jury does come in with a big verdict. It is excessive. Let us be clear. The committee bill does have traditional whistleblower protections in it. I am kind of tired of hearing it does not. Please turn to page 185 of the bill, because it is right there. These are the whistleblower protections that we have currently and they should be continued. They are important.

We should be promoting team spirit at this new Department, collaboration. The bill gives the Department the chance to give merit pay, performance bonuses in order to make this department work better as a team. That is the right incentive.

Let us not give incentives to start disputes in the off chance that a clever plaintiffs' lawyer might find something to win in a settlement. Let us stick with the strong whistleblower protections we have in the underlying legislation. Let us stick with the FOIA provisions which are appropriate to provide this narrow limitation with regard to infrastructure information that is important to protecting the national security of this country. Let us vote down this amendment and support the underlying bill.

Ms. SCHAKOWSKY. Mr. Chairman, could I inquire as to how much time we have remaining.

The CHAIRMAN pro tempore. The gentlewoman from Illinois (Ms. SCHAKOWSKY) has 2 minutes remaining.

Ms. SCHAKOWSKY. Mr. Chairman, I yield the balance of the time to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Chairman, how many times will this Congress need to relearn the very basic lesson that an unaccountable government is an irresponsible government? When we confront difficult problems, we can either work to try to solve them, or we can seek to hide them. Without the amendment that is being advanced at the moment, it is the latter choice that is being made.

Exempting so much of this new bureaucracy from the Freedom of Information Act and denying basic protections to whistleblowers is a true ticket to trouble for America. It is a ''kill-the-messenger'' and ''hide-the-body'' approach that tries to sweep all problems, including ones that endanger basic public health and safety, under the carpet by increasing the power of self-appointed censors and denying whistleblowers protection from retaliation.

The only lesson that some people have learned from Enron is the value of secrecy. After all, who exposed Enron's misconduct? A whistleblower named Sheeron Watkins. Certainly no one in this Congress exposed it. Indeed, some are still trying to ignore the causes of what happened at Enron.

Meanwhile, with this Administration, this is not the only place where secrecy is beloved. Just ask Vice President CHENEY about his ''Energy Policy Development Group''. We can ask, but he will not tell until a court makes him do it.

Congress should not shield unscrupulous employers who wield the powerful weapon of the pink slip to intimidate their workers into silence in order to conceal and perpetuate activities that endanger America.

□ 1730

These are citizen crime-fighters, who deserve the protection that we provide crime-fighters, not our scorn.

I have confidence in the power of courageous individuals to make lasting contributions to our Nation—to improve our private and public institutions. Congress should advance that interest by building in government accountability and by ensuring that our government is as open as possible, where employees are encouraged to fix security problems, not to hide them.

Vote in favor of the Schakowsky amendment.

Mr. ARMEY. Mr. Chairman, I am proud to yield 1 minute to the distinguished gentleman from Utah (Mr. CANNON).

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

Mr. CANNON. Mr. Chairman, I was intrigued by the comments of the gentlewoman from Hawaii (Mrs. MINK) and also the gentleman from California. My first job as a lawyer was to work with Stuart Udall in the late 1970s when he was suing the Federal Government on the facts that came out about the fallout, which came out, in fact, in the context of FOIA requests.

Let me say that the information that came out was remarkable. I read every page of that information of the discussions that were held at very high levels in the military about how they should control the information about fallout and subject citizens of the United States knowingly to the unknown effects, known to be bad; but the scope of those effects were unknown at the time.

I agree that it was appropriate to have that information come out and be the subject of a lawsuit. The fact, though, is that that was government activity that was made available through the Freedom of Information Act.

The gentleman from California (Mr. WAXMAN) talked about the Republican Party. These are governmental activities. What we are dealing with in this exception is information that comes from private parties who own 90 percent of the infrastructure.

This amendment is ill advised, inappropriate; and I suggest that my colleagues vote against it.

Mr. ARMEY. Mr. Chairman, I am proud to yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I really like and respect its author, but I have to urge my colleagues to vote against the Schakowsky amendment on the Freedom of Information Act.

This is a very narrow restriction on public disclosure of information about the private industry's critical infrastructure. We all rely on that privately owned infrastructure of this Nation: computer networks, phone and power lines, airplanes, et cetera. As the gentleman from Virginia (Mr. TOM DAVIS) said, 90 percent of our critical infrastructure is owned by the private sector.

In President Clinton's Directive 63, an effort was put into play to enable the owners of this infrastructure to communicate with each other and formulate effective response plans to terrorism, extortion, and hacking. However, PD–63, that Presidential directive, found that companies would not share information about threats to their infrastructure because of their lawyers' concerns about FOIA and antitrust. Sharing such information would put them in an even more vulnerable position with respect to their customers, their shareholders, and their competitors.

I have to say, some of the objections that this amendment addresses are misleading. It is not unprecedented. Congress passed Y2K legislation to exempt information-sharing about critical infrastructure vulnerabilities from use in lawsuits and disclosure to third parties. It is narrower than that Y2K legislation. It contains numerous definitions. It provides no immunity from liability, no limit on discovery or lawsuits, no free pass on criminal activity. All required disclosures under the Clean Air and Clean Water Act must continue.

If we do not include this limited FOIA restriction, we will not be able to say we did everything we could to prepare and defend our homeland. It is a narrowly crafted restriction on FOIA, and it can help win the war on terrorism; so I urge my colleagues to join me in voting against the Schakowsky amendment and for the Davis-Moran amendment, which comes up next.

Mr. ARMEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the amendment of the gentlewoman from Illinois (Ms. SCHAKOWSKY) would do two things. It would set aside some very carefully crafted language that modifies FOIA out of consideration for private sector firms who are asked to share crucial information with the government. That would be a mistake to set that aside. We need these firms that own so much of our infrastructure to cooperate.

Let me just say, FOIA was designed for the American people to understand what is going on in this government; not designed, nor would I think many Americans would think it appropriate, to use FOIA to force private citizens or corporations to give their information up to people like trial lawyers, newspaper editors, or college professors, the three practical categories of people who access FOIA information.

The second part of the gentlewoman's amendment is predicated on the misrepresentation that we do not protect whistleblowers in this legislation. This myth has been running amok in public discourse since the President proposed this. It was always the President's intention, and I believe discerning people would have recognized the President's intention in everything he said and submitted. It certainly is our intention on page 185 of this bill to protect whistleblowers.

So, one, Mr. Chairman, the argument that this bill contains no protection for whistleblowers is just plain flat wrong. The perceptiveness of any eighth-grader who can read would reveal that to anyone.

Now, what the gentlewoman does, building on the myth that there is no protection, is to provide extra special protections in the form of compensatory damages. Also, and I like this one, lawyers across America must be licking their chops over this one: ''any other relief that the court considers appropriate not currently available to whistleblowers.''

Mr. Chairman, if Members want to win the lottery, they should buy a ticket. In the meantime, vote down this amendment and defend the rights of the American people that are legitimate and just.

The CHAIRMAN pro tempore (Mr. SWEENEY). All time has expired.

The question is on the amendment offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY).

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

Ms. SCHAKOWSKY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY) will be postponed.

It is now in order to consider amendment No. 25 printed in House Report 107–615.

AMENDMENT NO. 25 OFFERED BY MR. TOM DAVIS OF VIRGINIA

Mr. TOM DAVIS of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 25 offered by Mr. TOM DAVIS of Virginia:

Strike paragraph (2) of section 722, and insert the following:

(2) COVERED FEDERAL AGENCY.—The term ''covered Federal agency'' means the Department of Homeland Security and any agency designated by the Department or with which the Department shares critical infrastructure information.

The CHAIRMAN pro tempore. Pursuant to House Resolution 502, the gentleman from Virginia (Mr. TOM DAVIS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Chairman, I ask unanimous consent that my time be equally divided between myself and the gentleman from Virginia (Mr. MORAN).

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. CANNON).

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

Mr. CANNON. Mr. Chairman, I want to express my support for the amendment offered by my good friend, the gentleman from Virginia (Mr. TOM DAVIS), the chairman of the Subcommittee on Technology and Procurement Policy. He has worked thoughtfully on this issue for many years now.

Although the underlying bill contains some of the necessary protections for private organizations to coordinate with each other and share information with the government, it does not go far enough. This amendment is a critical element to facilitate the type of public-private cooperation we want to see developed in protecting vital elements of our infrastructure.

That cooperation should not be artificially limited to the Department of Homeland Security exclusively when the President may want other existing Departments to be recipients of infrastructure vulnerability information.

A fact of life is that 90 percent of our critical infrastructure in this country, whether it is telecommunications facilities, pipelines, or electricity, the electricity grid, is held not by the government but by private companies and individuals. In order to induce these private entities to voluntarily share information about their vulnerabilities and security protections with each other and with the government, they need to be granted clear advance assurances that such collaboration and information-sharing will not hurt them.

Even more importantly, we need to ensure that such information is not used to our collective detriment. Openness is a great asset of our society, but there needs to be a balance. Already there is a great deal of publicly available information that can be used by those who wish us harm. But we should not release sensitive information not normally available in the public domain because a private entity has voluntarily cooperated with the Federal Government, the Federal or local government.

We have a successful model for this type of limited exemption from FOIA in the public and private efforts that were undertaken to prepare for the Y2K computer programming glitch, and that effort was an astounding success. I urge Members to support the Davis amendment.

The CHAIRMAN pro tempore. Does any Member rise in opposition?

Ms. DELAURO. Yes, Mr. Chairman, I do. I seek the time to control in opposition to this amendment.

The CHAIRMAN pro tempore. The gentlewoman from Connecticut is recognized for 10 minutes in opposition.

Ms. DELAURO. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise in strong opposition to this amendment which would take a bad idea and make it worse. We all understand the need to safeguard sensitive information relating to national security. The FOIA statute already contains exemptions for critical infrastructure information, confidential business information, for national security information. In effect, the tools are in place to protect this kind of information without curtailing the public's right to know.

This provision defines infrastructure information so broadly that it covers all kinds of lobbying requests, even lobbyists asking for liability protection. In essence and in effect, this provision is a lobbyists' protection act. An energy company could shield itself from liability from radioactive materials that leaked from its nuclear power plant, and lobbyists and industry officials would be allowed to communicate with Department staff charged with critical decisions without any public disclosure. We saw that already with the protracted fight with the administration, with the Energy Department, where they were forced to turn over documents that showed much of the White House energy plan was written by the energy lobbyists.

We have another example of the kind of information that could be kept from the public if this amendment passes. After a fatal Amtrak derailment in southern Iowa, investigation showed that a stretch of privately owned railroad track which suffered from over 1,500 defects was partly to blame. The FOIA exemptions in this bill would have kept this information, which is essential to prevent another disaster, from the public; and expanding those exemptions to other agencies would only keep more health and safety information from the public.

We should not be using this bill to curtail the public's right to know about critical health information, safety information. We should not use it, if

you will, as a way to give corporations a way to avoid accountability for their actions.

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

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

Mr. Chairman, I rise today in support of the amendment offered by the gentleman from Virginia (Mr. TOM DAVIS). In fact, this amendment is actually an abbreviated version of a bill that he and I sponsored, H.R. 2435, the Cyber Security Information Act.

Some people thought our bill was too broad, so we worked together in a bipartisan manner with the administration and all the committees of jurisdiction, the interest groups, and the public to craft a very narrow restriction on public disclosure of information about the private industry's critical infrastructure.

The FOIA exemption at issue here is deliberately narrow, but it has addressed concerns that are legitimate. We all rely on the critical infrastructure of this Nation, and over 90 percent of that critical infrastructure is private. This is where our principal vulnerability lies. In Presidential Directive 63, which was issued by President Clinton, it enabled the owners of this private infrastructure to communicate with each other and formulate effective response plans to any acts of terrorism, extortion, or hacking; but that Presidential Directive 63 found that companies would not share information about threats to their infrastructure because of their concerns about FOIA antitrust and liability.

So today, as we continue to fight our war on terrorism, many companies want to help us by sharing what they have discovered; but they will not because they are legitimately concerned that in revealing actual or potential network risks and vulnerabilities, they may inadvertently heighten their own risks if all the information they provide the government has to be published under the Freedom of Information Act.

Without exemption from FOIA, businesses are likely to spend a lot of valuable time and resources scrubbing virtually all information supplied to the new Department of Homeland Security so that they do not inadvertently disclose market-sensitive information to their commercial rivals.

This narrowly crafted freedom of information exemption in this bill will alleviate this widespread industry concern and accomplish a fundamental goal of this legislation: collaborative and constructive business-government cooperation in the cause of homeland security.

We faced and solved a potential crisis like this before with our Y2K act. Everybody remembers when we woke up the morning of January 1, 2000, we wondered if the Y2K preparations were enough, or if we would face shutdowns of our critical infrastructure, banks, and other computer systems. But everything worked, and there were no Y2K disasters because of that legislation, which did very much the same thing that this legislation does.

The success of our approach to Y2K should be followed now. As with Y2K, we have to create an environment where private industry can discuss and share with the government information about threats, best practices, and defenses against terrorism.

□ 1745

And I have to say, I do not think the objections raised are based on an accurate description of the language in this bill. Contrary to what it's opponents are saying, our FOIA provisions are not a mechanism to hide corporate wrongdoing or environmental disasters. The FOIA provisions in this bill provide no immunity from liability. There is no limit on discovery of lawsuits, and no free pass on criminal activity. Moreover, all required disclosures under the environmental statutes such as the Clean Air Act or the Clean Water Act must continue.

Without this legislation, we will not be able to say that we did everything we could to prepare our people and prevent disasters and defend our homeland. This very limited restriction on FOIA can contribute to winning the war on terrorism. That is why we need to support it.

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

Mr. TOM DAVIS of Virginia. Mr. Chairman, I reserve the balance of my time.

Ms. DELAURO. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I thank the gentlewoman very much for yielding me time.

The Freedom of Information Act provisions in this bill are a continuation of the current administration's onslaught on the public's right to know and they should be struck from the bill. Now we have the Davis amendment which dramatically expand them.

We know what this administration has done so far. It would not disclose what lobbyists and energy companies met with the Chaney energy task force. It issued an executive order limiting the release of presidential records. It repeatedly refused to release information requested by Congress, including even basic census information. Now it wants a huge statutory loophole inserted in the Freedom of Information Act. The majority says this is to protect information that may be necessary to protect homeland security.

Let me submit to the Members that what they really want to do is to protect lobbying groups, special interest groups, from having the fact that they have gone in and asked for special favors to be disclosed.

Under this amendment, a chemical company can go to the EPA and ask to relax the requirement that it report chemicals stored at its facility; it would make this request on the grounds that this information could be useful to terrorists. It could also be useful for the public to know. Under this amendment, they would say that has to be exempt from disclosure. A drug company could lobby the Department of Health and Human Services to relax human testing requirements for drugs that might have homeland security uses. And under this amendment, this information would be exempt from disclosure. A manufacturer can lobby the Department of Labor to relax worker safety regulations on the grounds that the regulations add unnecessary costs that limit its ability to implement securities measures, and under this amendment, this information would be exempt from disclosure.

Now in our committee I raised this point and the gentleman from Virginia (Mr. DAVIS) said absolutely not true. He said, this is not to protect lobbying and to assure the Members who were raising this point, he agreed, and everybody supported, an amendment I offered to the bill that said nothing in this subtitle shall apply to any information submitted in the course of lobbying any covered Federal agency.

So what happened? The bill went to the Select Committee on Homeland Security and it struck it out. What does that tell you? Why would the members of the Select Committee strike that out? Because they want to protect the lobbyists that come ask for special favors. This is just like they want to protect the groups that might be negligent in giving services or devices that they are going to sell to the government.

It is a giveaway. It is a giveaway to special interest groups that I am sure are major contributors to the Republican campaign committee. I believe it and I see evidence of it over and over again. There is no attempt to make this a bipartisan bill. They want it to be partisan and they want it for their special contributors.

The CHAIRMAN pro tempore (Mr. SWEENEY). The Chair wishes to advise Members that the gentlewoman from Connecticut (Ms. DELAURO) has 5 minutes remaining. The gentleman from Virginia (Mr. MORAN) has 1½ minutes remaining. The gentleman from Virginia (Mr. TOM DAVIS) has 3 minutes remaining.

Ms. DELAURO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Chairman, we are told over and over again as we create this Department of Homeland Security that we are at war, that these are very special times. And clearly we need to know about infrastructure vulnerabilities. There is no question about it. Such information is essential.

Well, I wonder if it occurred to the majority that one way to get that information might be to require it. For an issue as critical as national security, it is striking that the administration is apparently unwilling to require

companies to submit information on vulnerabilities, but instead willing only to rely on coaxing it from them voluntarily by relaxing the disclosure law that is a cornerstone of open government.

Now, the gentleman from Virginia (Mr. DAVIS) purported to give an example how information regarded as confidential by a company was released as an example of why we have to have this. But, instead, actually what he told us was how a company refused to give the information because they did not trust the government.

Again, over and over what we are told here is not that the Freedom of Information Act as currently written really does not have enough exemptions but that the lawyers for private corporations do not trust it. Do we not trust the new Secretary, whoever that may be, of the Department to say we will exempt those things that are a threat to national security, that are a threat to the confidential proprietary information of a company? We have put all kind of power in his hands. Certainly we can trust him to do that.

I think it was the gentleman from Virginia (Mr. DAVIS) also said that the Senate passed this language or the earlier language, the FOIA language, in their version of the bill, but that is not true. One important exception is the Senate bill does not preempt State and local Freedom of Information and other kinds of public information disclosure laws. It is important we should vote down this amendment. It is dangerous to our democracy.

The CHAIRMAN pro tempore. The Chair wishes to further inform Members that the order of closure will be the gentleman from Virginia (Mr. MORAN), who has 1½ minutes remaining, then the gentleman from Virginia (Mr. TOM DAVIS), who has 3 minutes remaining, and then the gentlewoman from Connecticut (Ms. DELAURO), who has 3 minutes remaining.

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

Mr. Chairman, let me put a couple of things to rest.

First of all, we are simply taking the base text of the bill as it is currently drafted as this House has approved, and we are extending the information that could be obtained by the Secretary of Homeland Security and are allowing in his discretion to share information that would not otherwise be attainable by the government, to share this information with other Federal agencies if it will help protect our critical infrastructure so that we can obtain the information that will keep our security systems, our cybersystems in the Department of Defense or in the FBI or the CIA, and the information that we receive through Homeland Security will protect those systems. We can share that information.

This is a very narrowly tailored amendment. This amendment, in fact, is more narrowly tailored than an exemption that was passed by this House and signed by the President on the Y2K Readiness Act. So we have done our best to make sure the Freedom of Information Act is protected.

This does not apply to lobbyists. I do not know why the language was taken out by the other committee. I certainly accepted antilobbying language at the committee level where we were before, but perhaps they took it out because such language is redundant.

The language here is very clear that only information that would otherwise not be attainable by government would now be able to be shared to protect our critical infrastructure and that it has to pertain to critical infrastructure information. If it pertains to anything else, it does not fit the exemption and it would be as it currently is, available under the current statute.

Now, this legislation has nothing to do with campaign contributions, and I think those kinds of statements belong in the political waste basket. I think we are people of good will here who are doing our best to make sure that in developing a Department of Homeland Security we are getting the best information available to combat terrorism.

We have to remember that in the caves of al Qaeda we found government documents obtained through the Freedom of Information Act that lay in terrorists' hands that they were using to destroy us. And just as the Romans built a system and a network that took them to all corners of the Earth, it was the same barbarians that used those roads to come in to destroy Rome.

What we want to do is as we build this infrastructure, we want to protect it from those barbarians, in this case, the terrorists.

Since the infrastructure is 90 percent owned by the private sector, we are soliciting comments, we are soliciting the experience from the private sector to share with the government in a way that will not be used to the private sector's detriment, so that the private sector's competitors, so that terrorists, so that lawyers cannot come in and get this information that would otherwise be attainable and use it against them. And without that protection, what we are finding out is companies, innovators, small innovators are reluctant to share that information with the government because it could bankrupt those companies.

This is narrowly crafted. The Senate agrees, at least, on the Federal portion of this. I concur with the previous speaker, it does not apply to State and local on the Senate side. We do because critical infrastructure also applies to State and local. I urge adoption of the amendment.

Ms. DELAURO. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Chairman, this amendment is the logical extension of a very bad idea of spreading secrecy throughout our government. It would enlarge a giant black hole. You pour taxpayer money in one side and out the other side, the only thing that comes out are the government-approved leaks.

For over 2 decades while the Soviet Union existed and the Berlin Wall divided Europe, the Freedom of Information Act maintained a careful balance between the public's right to know and our national security. Why today then have some leaders lost confidence in this landmark law?

Well, apparently, the answer is found in the language deleted from the bill that we are now told amazingly is ''redundant''. Language that clearly assumed that lobbying contacts would be revealed has been removed. And so the clear legislative history of this bill is that when lobbyists are seeking special treatment from this new bureaucracy, no one but them and their benefactors will know it occurred. Where our public safety is at stake, when we begin by burying secrets, we will end with burying bodies. This amendment ought to be rejected.

The CHAIRMAN pro tempore. Does the gentlewoman from Connecticut (Ms. DELAURO) wish to close?

Ms. DELAURO. Mr. Chairman, yes, I do. How much time do I have remaining?

The CHAIRMAN pro tempore. The gentlewoman from Connecticut (Ms. DELAURO) has 2 minutes remaining.

Ms. DELAURO. Mr. Chairman, I yield 1 minute to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentlewoman for yielding me time.

We all want to make sure the government has tools with which to operate efficiently, effectively, to safeguard the people and property of this country. The government is out there collecting information with its own resources, with tax dollars. All of that information is now available, accessible to the public under FOIA. Why is it we have to generate an exemption to the private sector for voluntary information?

If this information is necessary for homeland security, the government ought to be required to get that information; and then, if necessary, that information coming from a private source can be classified. It can be deemed to be business-related information that should be exempt.

I submit that all of the powers of the government that now allow these exemptions already exist in the nine categories that are in current law, that have been effective for the last 30 years to protect private interests, private business, trade secrets, everything else in the private sector; but we have not touched in any way the right of the public to know what it is that the government is doing, and there should be no secrets. Let the public have the absolute right to know.

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

Mr. Chairman, the distinguished gentleman from California (Mr. WAXMAN) threw me for a loop a bit there when he said the language restricting lobbying had been taken out. But in looking through this, it is moot because this has nothing to do with lobbying.

The Congress just passed legislation to address corporate accountability. The President is going to sign it. There are a total of 11 sections in title 18 of the Civil Service Code. These are criminal law provisions. They govern the behavior of Federal employees and they restrict and prohibit acting as a lobbyist, being lobbied, revolving-door activities, financial conflicts of interest, making political contributions, lobbying with appropriated monies.

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The information that we are talking about here has nothing to do with lobbying. It is critical infrastructure vulnerabilities to terrorism. Electric dam supervisors are not going to be having anything to do with lobbying. It has to be in good faith and no evasion of law is allowed. These are telecommunications managers, they are financial service people, they are people that have identified vulnerabilities, vulnerabilities that we need to be protected by. We have been told by the FBI, by the Office of Critical Infrastructure Protection.

They desperately need this kind of language. The Department of Homeland Security needs it. Otherwise we cannot act effectively. We are not going to be able to protect the people of this country if our private sector that runs 90 percent of critical infrastructure is not able to disclose all of the information that might be relevant to protecting the American people. That is the reason for this amendment. It has nothing to do with lobbying. And it has everything to do with protecting the security of the American people.

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

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentlewoman from Connecticut is recognized for 1 minute.

Ms. DELAURO. Mr. Chairman, this is really rather incredulous. We have through the Freedom of Information Act been protecting national security, trade secrets, other provisions of business information for the last 36 years. What have we been doing since we initiated this piece of legislation? Why if already the exemptions are built in here that they have worked for our Defense Department, they work for the FBI, they work for the CIA, do all of a sudden we put together a new Department here and those safeguards of the public's right to know are inoperable, they are abrogated? What is the reason?

And the very reason is what my colleagues, some on this side of the aisle and my colleagues on the other side of the aisle, say is that this provision is about protecting lobbyists. That is what it is all about, and we ought to vote it down. We ought to do what is the right thing to do, protect the public's right to know. The exemptions are built unto the law. They have been working. Let us continue to let them work.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. TOM DAVIS).

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

Ms. DELAURO. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. TOM DAVIS) will be postponed.

Mr. ARMEY. Mr. Chairman, I ask unanimous consent that after debate concludes on all amendments made in order under the rule, it be in order to recognize both the gentlewoman from California (Ms. PELOSI) and myself for the purpose of offering a pro forma amendment to conclude debate.

The CHAIRMAN pro tempore. Is there objection to the request from the gentleman from Texas?

There was no objection.

Ms. PELOSI. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN pro tempore. Is there objection to the request from the gentlewoman from California?

There was no objection.

Ms. PELOSI. Mr. Chairman, I sought that time in order to engage the majority leader in colloquy about section 770 of H.R. 5005.

Mr. ARMEY. Mr. Chairman, if the gentlewoman will yield, I would be happy to engage in colloquy with the gentlewoman from California.

Ms. PELOSI. Mr. Chairman, I thank the gentleman from Texas (Mr. ARMEY).

This section would prohibit the Government from putting in place the Bush administration's TIPS program, the Terrorist Information and Prevention System. Is it the majority leader's intent that section 770 ban both the program called ''TIPS'' and any other successor program that might be considered that would have the same or similar characteristics as TIPS? In other words, would section 770 bar the Government both from putting in place the same program under a different name or a program under a different name with similar characteristics to the proposed TIPS program?

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

Ms. PELOSI. I yield to the leader.

Mr. ARMEY. Mr. Chairman, I thank the gentlewoman for yielding.

Yes. Section 770 is intended not only to prohibit the TIPS program, but also any and all activities to implement the proposed plan. This means that section 770 prohibits the TIPS program no matter what name it is given and any program with the same or similar characteristics. This is not to say that the Government would be barred from receiving information about potential terrorism from any member of the public. Of course, it could and it does under current law.

Rather, what is prohibited is the creation of a Government program that would have the effect or purpose of encouraging workers and others who have access to our homes and our neighborhoods to report to the Government information that they think is suspicious. This work is best left to State and local law enforcement officials. There are much better ways to involve our communities in securing our homeland. After all, we are here today to defend our freedoms.

Ms. PELOSI. Mr. Chairman, I thank the majority leader.

Further, I would like to engage the majority leader in a colloquy about Section 815 of H.R. 5005. This section makes it crystal clear that nothing in this legislation authorizes the development a national identification system or card. Since September 11 there have been several proposals to institute a national identification system or national I.D., and all have been met with a great deal of controversy. Direct passage of a national I.D. card, however, is only one possible path to such a system. There have also been proposals to establish a national I.D. through the back door of the State driver's license.

For example, in a recent report, the nonpartisan National Research Council called the American Association of Motor Vehicle Administrators' standardization proposal a ''nationwide identity system.'' Does the majority leader agree that recent proposals to standardize State driver's licenses would be a back door route to a national I.D. and therefore prohibited under this provision?

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

Ms. PELOSI. I yield to the leader.

Mr. ARMEY. Mr. Chairman, the answer is yes on both counts. The Federal government does not have the authority to nationalize driver's licenses and other identification cards. And this legislation would not give them that authority. The authority to design and issue these cards shall remain with the States.

The use of uniform unique identifiers or Social Security numbers with driver's license or proposed ''smart cards'' is not consistent with a free society. This legislation rejects a national identification card in any form.

Ms. PELOSI. Mr. Chairman, I yield back the balance of my time.

Mr. HOLT. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN pro tempore. Without objection, the gentleman from New Jersey is recognized for 5 minutes.

There was no objection.

Mr. HOLT. Mr. Chairman, I wish to engage in a colloquy with the gentleman from Texas, who is the majority leader, the gentleman from New

York and the gentleman from Delaware.

Mr. Chairman, I am troubled by reports indicating that due to financial pressures, Amtrak has been forced to make drastic reductions in the security personnel that patrol the Trenton Train Station, Penn Station in New York City, 30th Street Station in Philadelphia and others.

According to recent media accounts in Trenton, New Jersey, the staff reductions are so severe that they are now time when no officers are on patrol. This lack of security personnel not only compromises security but the safety of passengers. A strong railroad security is an essential part of a strong homeland security, and I hope that the gentleman from Texas will make certain that the commitment to rail security, particularly Amtrak police officers, is not reduced.

I am currently working with the gentleman from New York (Mr. CROWLEY) on a letter to the Committee on Appropriations to ask that they address this important issue in their transportation appropriations bill, and I hope that we can address it in this legislation as well.

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

Mr. HOLT. I yield to the gentleman from Delaware.

Mr. CASTLE. Mr. Chairman, I thank the gentleman from New Jersey for yielding to me, and Mr. Chairman, I want to associate myself with the gentleman from New Jersey's comments because what he is talking about is indicative of a larger problem.

Unfortunately, last year Congress and the administration provided Amtrak only $5 million for rail security in comparison to $3.8 billion for the Transportation Security Agency to improve aviation security. In my opinion, this imbalance must be addressed.

I do not know how many Members are aware of this, but I would like to point out that Amtrak's tunnels run underneath the House and Senate office buildings and the Supreme Court. We literally cannot afford to ignore rail security any longer.

I would say to the gentleman from Texas (Mr. ARMEY) that I respectfully request that when the House and Senate meet to negotiate the final details of this bill, that adequate security funding will be provided for Amtrak.

Mr. HOLT. Mr. Chairman, I thank the gentleman for his comments.

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

Mr. HOLT. I yield to the gentleman from New York.

Mr. QUINN. Mr. Chairman, I share the sentiments expressed here by my two colleagues, and I thank the distinguished majority leader for engaging in this discussion this afternoon.

As the chairman of the Subcommittee on Railroads in our full Committee on Transportation and Infrastructure, I think it is important for us to remember that regardless of any Member's position on the future of Amtrak and passenger rail service here in our country, I think all of us can agree that security on that rail system is essential. Reducing rail security personnel while we continue to wage a war on terrorism is misguided and unacceptable.

I join my colleagues in asking the gentleman from Texas for his assurance, even during a period of uncertainty surrounding Amtrak, to reaffirm our commitment to the security of our national rail infrastructure, including police personnel.

Mr. HOLT. Mr. Chairman, I thank the gentleman for his remarks.

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

Mr. HOLT. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding, and let me say to all three of my colleagues, I thank them for their interest in the issue, and let me assure my colleagues that I share their concern about the security of our Nation's rail system.

I would also like to assure them that we will work in conference committee to make certain that the commitment to rail security, particularly Amtrak and Amtrak police officers, is not reduced so that rail stations such as the Trenton Train Station may remain secure.

Mr. HOLT. Mr. Chairman, I thank the gentleman from Texas for his comments and my colleagues.

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

The CHAIRMAN pro tempore. It is now in order to consider Amendment No. 26 printed in House Report 107–615.

AMENDMENT NO. 26 OFFERED BY MR. CHAMBLISS

Mr. CHAMBLISS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 26 offered by Mr. CHAMBLISS:

At the end of title VII add the following new subtitle:

Subtitle H—Information Sharing

SEC. 780. SHORT TITLE.

This subtitle may be cited as the ''Homeland Security Information Sharing Act''.

SEC. 781. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS.—The Congress finds the following:

(1) The Federal Government is required by the Constitution to provide for the common defense, which includes terrorist attack.

(2) The Federal Government relies on State and local personnel to protect against terrorist attack.

(3) The Federal Government collects, creates, manages, and protects classified and sensitive but unclassified information to enhance homeland security.

(4) Some homeland security information is needed by the State and local personnel to prevent and prepare for terrorist attack.

(5) The needs of State and local personnel to have access to relevant homeland security information to combat terrorism must be reconciled with the need to preserve the protected status of such information and to protect the sources and methods used to acquire such information.

(6) Granting security clearances to certain State and local personnel is one way to facilitate the sharing of information regarding specific terrorist threats among Federal, State, and local levels of government.

(7) Methods exist to declassify, redact, or otherwise adapt classified information so it may be shared with State and local personnel without the need for granting additional security clearances.

(8) State and local personnel have capabilities and opportunities to gather information on suspicious activities and terrorist threats not possessed by Federal agencies.

(9) The Federal Government and State and local governments and agencies in other jurisdictions may benefit from such information.

(10) Federal, State, and local governments and intelligence, law enforcement, and other emergency preparation and response agencies must act in partnership to maximize the benefits of information gathering and analysis to prevent and respond to terrorist attacks.

(11) Information systems, including the National Law Enforcement Telecommunications System and the Terrorist Threat Warning System, have been established for rapid sharing of classified and sensitive but unclassified information among Federal, State, and local entities.

(12) Increased efforts to share homeland security information should avoid duplicating existing information systems.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal, State, and local entities should share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SEC. 782. FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.

(a) PROCEDURES FOR DETERMINING EXTENT OF SHARING OF HOMELAND SECURITY INFORMATION.—

(1) The President shall prescribe and implement procedures under which relevant Federal agencies—

(A) share relevant and appropriate homeland security information with other Federal agencies, including the Department, and appropriate State and local personnel;

(B) identify and safeguard homeland security information that is sensitive but unclassified; and

(C) to the extent such information is in classified form, determine whether, how, and to what extent to remove classified information, as appropriate, and with which such personnel it may be shared after such information is removed.

(2) The President shall ensure that such procedures apply to all agencies of the Federal Government.

(3) Such procedures shall not change the substantive requirements for the classification and safeguarding of classified information.

(4) Such procedures shall not change the requirements and authorities to protect sources and methods.

(b) PROCEDURES FOR SHARING OF HOMELAND SECURITY INFORMATION.—

(1) Under procedures prescribed by the President, all appropriate agencies, including the intelligence community, shall, through information sharing systems, share homeland security information with Federal agencies and appropriate State and local personnel to the extent such information may be shared, as determined in accordance with subsection (a), together with assessments of the credibility of such information.

(2) Each information sharing system through which information is shared under paragraph (1) shall—

(A) have the capability to transmit unclassified or classified information, though the procedures and recipients for each capability may differ;

(B) have the capability to restrict delivery of information to specified subgroups by geographic location, type of organization, position of a recipient within an organization, or a recipient's need to know such information;

(C) be configured to allow the efficient and effective sharing of information; and

(D) be accessible to appropriate State and local personnel.

(3) The procedures prescribed under paragraph (1) shall establish conditions on the use of information shared under paragraph (1)—

(A) to limit the redissemination of such information to ensure that such information is not used for an unauthorized purpose;

(B) to ensure the security and confidentiality of such information;

(C) to protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(D) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

(4) The procedures prescribed under paragraph (1) shall ensure, to the greatest extent practicable, that the information sharing system through which information is shared under such paragraph include existing information sharing systems, including, but not limited to, the National Law Enforcement Telecommunications System, the Regional Information Sharing System, and the Terrorist Threat Warning System of the Federal Bureau of Investigation.

(5) Each appropriate Federal agency, as determined by the President, shall have access to each information sharing system through which information is shared under paragraph (1), and shall therefore have access to all information, as appropriate, shared under such paragraph.

(6) The procedures prescribed under paragraph (1) shall ensure that appropriate State and local personnel are authorized to use such information sharing systems—

(A) to access information shared with such personnel; and

(B) to share, with others who have access to such information sharing systems, the homeland security information of their own jurisdictions, which shall be marked appropriately as pertaining to potential terrorist activity.

(7) Under procedures prescribed jointly by the Director of Central Intelligence and the Attorney General, each appropriate Federal agency, as determined by the President, shall review and assess the information shared under paragraph (6) and integrate such information with existing intelligence.

(c) SHARING OF CLASSIFIED INFORMATION AND SENSITIVE BUT UNCLASSIFIED INFORMATION WITH STATE AND LOCAL PERSONNEL.—

(1) The President shall prescribe procedures under which Federal agencies may, to the extent the President considers necessary, share with appropriate State and local personnel homeland security information that remains classified or otherwise protected after the determinations prescribed under the procedures set forth in subsection (a).

(2) It is the sense of Congress that such procedures may include one or more of the following means:

(A) Carrying out security clearance investigations with respect to appropriate State and local personnel.

(B) With respect to information that is sensitive but unclassified, entering into nondisclosure agreements with appropriate State and local personnel.

(C) Increased use of information-sharing partnerships that include appropriate State and local personnel, such as the Joint Terrorism Task Forces of the Federal Bureau of Investigation, the Anti-Terrorism Task Forces of the Department of Justice, and regional Terrorism Early Warning Groups.

(d) RESPONSIBLE OFFICIALS.—For each affected Federal agency, the head of such agency shall designate an official to administer this Act with respect to such agency.

(e) FEDERAL CONTROL OF INFORMATION.—Under procedures prescribed under this section, information obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such a government to disclose information shall not apply to such information.

(f) DEFINITIONS.—As used in this section:

(1) The term ''homeland security information'' means any information possessed by a Federal, State, or local agency that—

(A) relates to the threat of terrorist activity;

(B) relates to the ability to prevent, interdict, or disrupt terrorist activity;

(C) would improve the identification or investigation of a suspected terrorist or terrorist organization; or

(D) would improve the response to a terrorist act.

(2) The term ''intelligence community'' has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term ''State and local personnel'' means any of the following persons involved in prevention, preparation, or response for terrorist attack:

(A) State Governors, mayors, and other locally elected officials.

(B) State and local law enforcement personnel and firefighters.

(C) Public health and medical professionals.

(D) Regional, State, and local emergency management agency personnel, including State adjutant generals.

(E) Other appropriate emergency response agency personnel.

(F) Employees of private-sector entities that affect critical infrastructure, cyber, economic, or public health security, as designated by the Federal government in procedures developed pursuant to this section.

(4) The term ''State'' includes the District of Columbia and any commonwealth, territory, or possession of the United States.

(g) CONSTRUCTION.—Nothing in this Act shall be construed as authorizing any department, bureau, agency, officer, or employee of the Federal Government to request, receive, or transmit to any other Government entity or personnel, or transmit to any State or local entity or personnel otherwise authorized by this Act to receive homeland security information, any information collected by the Federal Government solely for statistical purposes in violation of any other provision of law relating to the confidentiality of such information.

SEC. 783. REPORT.

(a) REPORT REQUIRED.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to the congressional committees specified in subsection (b) a report on the implementation of section 782. The report shall include any recommendations for additional measures or appropriation requests, beyond the requirements of section 782, to increase the effectiveness of sharing of information between and among Federal, State, and local entities.

(b) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (a) are the following committees:

(1) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

SEC. 784. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out section 782.

SEC. 785. AUTHORITY TO SHARE GRAND JURY INFORMATION.

Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (2), by inserting '', or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6,'' after ''Rule 6''; and

(2) in paragraph (3)—

(A) in subparagraph (A)(ii), by inserting ''or of a foreign government'' after ''(including personnel of a state or subdivision of a state'';

(B) in subparagraph (C)(i)—

(i) in subclause (I), by inserting before the semicolon the following: ''or, upon a request by an attorney for the government, when sought by a foreign court or prosecutor for use in an official criminal investigation'';

(ii) in subclause (IV)—

(I) by inserting ''or foreign'' after ''may disclose a violation of State'';

(II) by inserting ''or of a foreign government'' after ''to an appropriate official of a State or subdivision of a State''; and

(III) by striking ''or'' at the end;

(iii) by striking the period at the end of subclause (V) and inserting ''; or''; and

(iv) by adding at the end the following:

''(VI) when matters involve a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate federal, state, local, or foreign government official for the purpose of preventing or responding to such a threat.''; and

(C) in subparagraph (C)(iii)—

(i) by striking ''Federal'';

(ii) by inserting ''or clause (i)(VI)'' after ''clause (i)(V)''; and

(iii) by adding at the end the following: ''Any state, local, or foreign official who receives information pursuant to clause (i)(VI) shall use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''.

SEC. 786. AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.

Section 2517 of title 18, United States Code, is amended by adding at the end the following:

''(7) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to a foreign investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure, and foreign investigative or law enforcement officers may use or

disclose such contents or derivative evidence to the extent such use or disclosure is appropriate to the proper performance of their official duties.

''(8) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to any appropriate Federal, State, local, or foreign government official to the extent that such contents or derivative evidence reveals a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the At-

The CHAIRMAN pro tempore. Pursuant to House Resolution 502, the gentleman from Georgia (Mr. CHAMBLISS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Georgia (Mr. CHAMBLISS).

MODIFICATION TO AMENDMENT NO. 26 OFFERED BY MR. CHAMBLISS

Mr. CHAMBLISS. Mr. Chairman, I ask unanimous consent to modify the amendment with the modification that I have placed at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification to Amendment No. 26 offered by Mr. CHAMBLISS:

In lieu of amendment #26 printed in House Report 107–615,

At the end of title VII add the following new subtitle:

Subtitle H—Information Sharing

SEC. 780. SHORT TITLE.

This subtitle may be cited as the ''Homeland Security Information Sharing Act''.

SEC. 781. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS.—The Congress finds the following:

(1) The Federal Government is required by the Constitution to provide for the common defense, which includes terrorist attack.

(2) The Federal Government relies on State and local personnel to protect against terrorist attack.

(3) The Federal Government collects, creates, manages, and protects classified and sensitive but unclassified information to enhance homeland security.

(4) Some homeland security information is needed by the State and local personnel to prevent and prepare for terrorist attack.

(5) The needs of State and local personnel to have access to relevant homeland security information to combat terrorism must be reconciled with the need to preserve the protected status of such information and to protect the sources and methods used to acquire such information.

(6) Granting security clearances to certain State and local personnel is one way to facilitate the sharing of information regarding specific terrorist threats among Federal, State, and local levels of government.

(7) Methods exist to declassify, redact, or otherwise adapt classified information so it may be shared with State and local personnel without the need for granting additional security clearances.

(8) State and local personnel have capabilities and opportunities to gather information on suspicious activities and terrorist threats not possessed by Federal agencies.

(9) The Federal Government and State and local governments and agencies in other jurisdictions may benefit from such information.

(10) Federal, State, and local governments and intelligence, law enforcement, and other emergency preparation and response agencies must act in partnership to maximize the benefits of information gathering and analysis to prevent and respond to terrorist attacks.

(11) Information systems, including the National Law Enforcement Telecommunications System and the Terrorist Threat Warning System, have been established for rapid sharing of classified and sensitive but unclassified information among Federal, State, and local entities.

(12) Increased efforts to share homeland security information should avoid duplicating existing information systems.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal, State, and local entities should share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SEC. 782. FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.

(a) PROCEDURES FOR DETERMINING EXTENT OF SHARING OF HOMELAND SECURITY INFORMATION.—

(1) The President shall prescribe and implement procedures under which relevant Federal agencies—

(A) share relevant and appropriate homeland security information with other Federal agencies, including the Department, and appropriate State and local personnel;

(B) identify and safeguard homeland security information that is sensitive but unclassified; and

(C) to the extent such information is in classified form, determine whether, how, and to what extent to remove classified information, as appropriate, and with which such personnel it may be shared after such information is removed.

(2) The President shall ensure that such procedures apply to all agencies of the Federal Government.

(3) Such procedures shall not change the substantive requirements for the classification and safeguarding of classified information.

(4) Such procedures shall not change the requirements and authorities to protect sources and methods.

(b) PROCEDURES FOR SHARING OF HOMELAND SECURITY INFORMATION.—

(1) Under procedures prescribed by the President, all appropriate agencies, including the intelligence community, shall, through information sharing systems, share homeland security information with Federal agencies and appropriate State and local personnel to the extent such information may be shared, as determined in accordance with subsection (a), together with assessments of the credibility of such information.

(2) Each information sharing system through which information is shared under paragraph (1) shall—

(A) have the capability to transmit unclassified or classified information, though the procedures and recipients for each capability may differ;

(B) have the capability to restrict delivery of information to specified subgroups by geographic location, type of organization, position of a recipient within an organization, or a recipient's need to know such information;

(C) be configured to allow the efficient and effective sharing of information; and

(D) be accessible to appropriate State and local personnel.

(3) The procedures prescribed under paragraph (1) shall establish conditions on the use of information shared under paragraph (1)—

(A) to limit the redissemination of such information to ensure that such information is not used for an unauthorized purpose;

(B) to ensure the security and confidentiality of such information;

(C) to protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(D) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

(4) The procedures prescribed under paragraph (1) shall ensure, to the greatest extent practicable, that the information sharing system through which information is shared under such paragraph include existing information sharing systems, including, but not limited to, the National Law Enforcement Telecommunications System, the Regional Information Sharing System, and the Terrorist Threat Warning System of the Federal Bureau of Investigation.

(5) Each appropriate Federal agency, as determined by the President, shall have access to each information sharing system through which information is shared under paragraph (1), and shall therefore have access to all information, as appropriate, shared under such paragraph.

(6) The procedures prescribed under paragraph (1) shall ensure that appropriate State and local personnel are authorized to use such information sharing systems—

(A) to access information shared with such personnel; and

(B) to share, with others who have access to such information sharing systems, the homeland security information of their own jurisdictions, which shall be marked appropriately as pertaining to potential terrorist activity.

(7) Under procedures prescribed jointly by the Director of Central Intelligence and the Attorney General, each appropriate Federal agency, as determined by the President, shall review and assess the information shared under paragraph (6) and integrate such information with existing intelligence.

(c) SHARING OF CLASSIFIED INFORMATION AND SENSITIVE BUT UNCLASSIFIED INFORMATION WITH STATE AND LOCAL PERSONNEL.—

(1) The President shall prescribe procedures under which Federal agencies may, to the extent the President considers necessary, share with appropriate State and local personnel homeland security information that remains classified or otherwise protected after the determinations prescribed under the procedures set forth in subsection (a).

(2) It is the sense of Congress that such procedures may include one or more of the following means:

(A) Carrying out security clearance investigations with respect to appropriate State and local personnel.

(B) With respect to information that is sensitive but unclassified, entering into nondisclosure agreements with appropriate State and local personnel.

(C) Increased use of information-sharing partnerships that include appropriate State

and local personnel, such as the Joint Terrorism Task Forces of the Federal Bureau of Investigation, the Anti-Terrorism Task Forces of the Department of Justice, and regional Terrorism Early Warning Groups.

(d) RESPONSIBLE OFFICIALS.—For each affected Federal agency, the head of such agency shall designate an official to administer this Act with respect to such agency.

(e) FEDERAL CONTROL OF INFORMATION.—Under procedures prescribed under this section, information obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such a government to disclose information shall not apply to such information.

(f) DEFINITIONS.—As used in this section:

(1) The term ''homeland security information'' means any information possessed by a Federal, State, or local agency that—

(A) relates to the threat of terrorist activity;

(B) relates to the ability to prevent, interdict, or disrupt terrorist activity;

(C) would improve the identification or investigation of a suspected terrorist or terrorist organization; or

(D) would improve the response to a terrorist act.

(2) The term ''intelligence community'' has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term ''State and local personnel'' means any of the following persons involved in prevention, preparation, or response for terrorist attack:

(A) State Governors, mayors, and other locally elected officials.

(B) State and local law enforcement personnel and firefighters.

(C) Public health and medical professionals.

(D) Regional, State, and local emergency management agency personnel, including State adjutant generals.

(E) Other appropriate emergency response agency personnel.

(F) Employees of private-sector entities that affect critical infrastructure, cyber, economic, or public health security, as designated by the Federal government in procedures developed pursuant to this section.

(4) The term ''State'' includes the District of Columbia and any commonwealth, territory, or possession of the United States.

(g) CONSTRUCTION.—Nothing in this Act shall be construed as authorizing any department, bureau, agency, officer, or employee of the Federal Government to request, receive, or transmit to any other Government entity or personnel, or transmit to any State or local entity or personnel otherwise authorized by this Act to receive homeland security information, any information collected by the Federal Government solely for statistical purposes in violation of any other provision of law relating to the confidentiality of such information.

SEC. 783. REPORT.

(a) REPORT REQUIRED.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to the congressional committees specified in subsection (b) a report on the implementation of section 782. The report shall include any recommendations for additional measures or appropriation requests, beyond the requirements of section 782, to increase the effectiveness of sharing of information between and among Federal, State, and local entities.

(b) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (a) are the following committees:

(1) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

SEC. 784. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out section 782.

SEC. 785. AUTHORITY TO SHARE GRAND JURY INFORMATION.

Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (2), by inserting '', or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6,'' after ''Rule 6''; and

(2) in paragraph (3)—

(A) in subparagraph (A)(ii), by inserting ''or of a foreign government'' after ''(including personnel of a state or subdivision of a state'';

(B) in subparagraph (C)(i)—

(i) in subclause (I), by inserting before the semicolon the following: ''or, upon a request by an attorney for the government, when sought by a foreign court or prosecutor for use in an official criminal investigation'';

(ii) in subclause (IV)—

(I) by inserting ''or foreign'' after ''may disclose a violation of State'';

(II) by inserting ''or of a foreign government'' after ''to an appropriate official of a State or subdivision of a State''; and

(III) by striking ''or'' at the end;

(iii) by striking the period at the end of subclause (V) and inserting ''; or''; and

(iv) by adding at the end the following:

''(VI) when matters involve a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate federal, state, local, or foreign government official for the purpose of preventing or responding to such a threat.''; and

(C) in subparagraph (C)(iii)—

(i) by striking ''Federal'';

(ii) by inserting ''or clause (i)(VI)'' after ''clause (i)(V)''; and

(iii) by adding at the end the following: ''Any state, local, or foreign official who receives information pursuant to clause (i)(VI) shall use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''.

SEC. 786. AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.

Section 2517 of title 18, United States Code, is amended by adding at the end the following:

''(7) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to a foreign investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure, and foreign investigative or law enforcement officers may use or disclose such contents or derivative evidence to the extent such use or disclosure is appropriate to the proper performance of their official duties.

''(8) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to any appropriate Federal, State, local, or foreign government official to the extent that such contents or derivative evidence reveals a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''.

SEC. 787. FOREIGN INTELLIGENCE INFORMATION.

(a) DISSEMINATION AUTHORIZED.—Section 203(d)(1) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001 (Public Law 107–56; 50 U.S.C. 403–5d) is amended by adding at the end the following: ''Consistent with the responsibility of the Director of Central Intelligence to protect intelligence sources and methods, and the responsibility of the Attorney General to protect sensitive law enforcement information, it shall be lawful for information revealing a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, obtained as part of a criminal investigation to be disclosed to any appropriate Federal, State, local, or foreign government official for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''.

(b) CONFORMING AMENDMENTS.—Section 203(c) of that Act is amended—

(1) by striking ''section 2517(6)'' and inserting ''paragraphs (6) and (8) of section 2517 of title 18, United States Code,''; and

(2) by inserting ''and (VI)'' after ''Rule 6(e)(3)(C)(i)(V)''.

SEC. 788. INFORMATION ACQUIRED FROM AN ELECTRONIC SURVEILLANCE.

Section 106(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806) is amended by inserting after ''law enforcement officers'' the following: ''or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political

subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)''.

SEC. 789. INFORMATION ACQUIRED FROM A PHYSICAL SEARCH.

Section 305(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825) is amended by inserting after ''law enforcement officers'' the following: ''or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)''.

Mr. CHAMBLISS (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The CHAIRMAN pro tempore. Is there objection to the modification offered by the gentleman from Georgia?

There was no objection.

Mr. CHAMBLISS. Mr. Chairman, I ask unanimous consent, that unless we have someone rising in opposition, that the gentlewoman from California (Ms. HARMAN) be entitled to the 10 minutes that normally would be claimed by the opposition.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. CHAMBLISS. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, information sharing is the key to cooperation and coordination in homeland security, and better information sharing among government agencies and with State and local agencies needs to be a higher priority.

The idea for this amendment was developed during a series of public hearings which my Subcommittee on Terrorism and Homeland Security held last fall. Witnesses ranging from former New York City Mayor Rudy Guiliani to Oklahoma Governor Frank Keating stressed the importance of increasing the level of information sharing between Federal intelligence and law enforcement agencies and local and State law enforcement personnel.

□ 1815

We must make certain that relevant intelligence and sensitive information relating to our national security be in the hands of the right person at the right time to prevent future terrorist attacks.

The gentlewoman from California (Ms. HARMAN) and I introduced the Homeland Security Information Sharing Act, which overwhelmingly passed this House in June. Our bill has strong support from groups such as the National Association of Police Organizations as well as the American Ambulance Association and the National Sheriffs Association.

Our amendment is virtually the same as H.R. 4598. We believe that it is critical that we increase the level of cooperation between State, local, and Federal law enforcement officials. Only by communicating on a more regular basis and sharing more information can we effectively prepare for and defend against future attacks.

In talking to community leaders and emergency responders all across Georgia, I am convinced that we must get this legislation signed into law. We know that gaps in information-sharing opened the door to the tragic events of September 11. Our amendment will go a long way toward filling those gaps and helping our law enforcement officials protect us by giving them the tools they need to do their jobs better.

I appreciate the improvements to the amendment that were made by the gentleman from Connecticut (Mr. SHAYS), the gentleman from New Jersey (Mr. MENENDEZ), and others. I urge my colleagues to join me in supporting this very important amendment.

Mr. Chairman, I submit for the RECORD letters of support from the groups I previously mentioned:

AMERICAN AMBULANCE ASSOCIATION,
McLean, VA, June 26, 2002.

Hon. SAXBY CHAMBLISS,
House of Representatives,
Washington, DC.

DEAR SAXBY: It is with great honor that I send this letter of support to you for your introduction of the Homeland Security Information Sharing Act (H.R. 4598).

As you and I have discussed, the American Ambulance Association (AAA) represents ambulance services across the United States that participate in serving more than 95% of the urban U.S. population with emergency and non-emergency care and medical transportation services. The AAA is composed of individual ambulance operations which serve patients in every state. Our membership is comprised of all types of ambulance service providers including for and not for profit, municipal and fire department and hospital based.

Our members greatly appreciate the commonsense approach that you and the Subcommittee you chair used in drafting this legislation. Visiting with local ambulance providers about their real needs, and then formulating federal law that is consistent with these needs, is indeed refreshing to us out there on the frontline of providing health care to our communities. As you have identified in your bill, first responders at the state and local level need access to specific, credible threats in order to help prevent and better respond to a terrorist incident. H.R. 4598 would greatly improve the flow of this information and enhance the emergency response system. The focus on local providers and their needs will give first responders and medics the tools and capabilities to better ensure the safety of the American public.

Again, thank you for your tireless efforts and tremendous work in drafting this piece of legislation. You are truly a representative of the people of this great nation. The AAA stands ready to help assist you in anyway to ensure passage of H.R. 4598.

Sincerely,

BEN HINSON,
President.

NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.,
Washington, DC, July 3, 2002.

Hon. SAXBY CHAMBLISS,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE CHAMBLISS: On behalf of the National Association of Police Organizations (NAPO) representing 220,000 rank-and-file police officers from across the United States, I would like to bring to your attention our wholehearted support for H.R. 4598, the ''Homeland Security Information Sharing Act of 2002.''

If enacted, this bill will significantly improve the ability of state and local law enforcement to access important information regarding federal investigations and possible terrorist threats. As the 2001 Anti-Terror legislation expanded information sharing between government agencies, H.R. 4598 will improve on this by setting up positive guidelines and facilitating successful information dissemination.

In the past, legal hurdles, coupled with an overarching federal culture that limited federal external communication, have blocked potentially useful information from being fully utilized. As our nation combats the threat of terrorism, state and local law enforcement will be on the front lines protecting the public and keeping the peace. In this role, necessary information about terrorist threats or investigation leads should not be kept out of reach due to procedural concerns.

As H.R. 4598 now moves to the Senate for consideration, NAPO looks forward to working with you and your staff to insure the bill's passage.

Sincerely,

WILLIAM J. JOHNSON,
Executive Director.

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

Ms. HARMAN. Mr. Chairman, I yield myself such time as I may consume.

Sadly, Mr. Chairman, today we have had a few votes that were more partisan than I believe they needed to be. This amendment is not one of those, and I would hope that the managers of this bill might accept it. I certainly would hope that the House, if we vote on it, would vote on it by the margin it received last time, the small margin of 422 to 2.

As I stand here today, I know that the gentleman from Connecticut (Mr. SHAYS), the gentleman from New Jersey (Mr. MENENDEZ), and others, on a bipartisan basis, also plan to speak for this amendment. We have all worked together on this amendment. It is improved because of some language that they suggested, and I would like to thank the gentleman from Connecticut (Mr. SHAYS) for his action in his committee to include it in the draft of this bill as it was reported by his committee.

As my partner, the gentleman from Georgia (Mr. CHAMBLISS), has said, this amendment is nearly identical to H.R. 4598, which, as I said, passed overwhelmingly. The reason for offering this amendment today as part of this bill is to get in place as soon as possible procedures to share terrorist threat information across the Federal Government, which certainly includes the CIA, the FBI, and other intelligence agencies, and on down to first responders.

As our Subcommittee on Terrorism and Homeland Security Report found last week, information-sharing is the most critical need in our intelligence community and the best way to arm our first responders and average Americans to stop terrorist attacks. What we hear in the field, and all of us go home each weekend, from police, fire, emergency responders, and average people is they are receiving all this general information, but they do not know what to do about it.

The sooner we can get more specific threat warning information, stripped of sources and methods so that those without security clearances can get it, the sooner we can reduce panic, empower Americans, and make certain that, to the maximum extent, we prevent attacks, shore up our infrastructure, and respond effectively should they come our way.

So this amendment, I think, is our first tool in the homeland security arsenal we are considering today. It received the overwhelming support of this body, and it is supported by the White House and by the office of Governor Ridge. It is vital for our hometowns. And as Governor Ridge often says, we cannot have homeland security without hometown security. I urge support of this amendment.

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

Mr. CHAMBLISS. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS), the chairman of the Subcommittee on National Security, Veterans' Affairs and International Relations of the Committee on Government Reform, a gentleman who has been very actively involved in the issue of terrorism for a number of months, even before September 11.

Mr. SHAYS. Mr. Chairman, I am very pleased to join the gentleman from Georgia (Mr. CHAMBLISS), the gentlewoman from California (Ms. HARMAN), and the gentleman from New Jersey (Mr. MENENDEZ) in offering this amendment.

Protecting the safety and security of the Nation against terrorist attacks requires absolute unprecedented cooperation between Federal, State, and local agencies. Timely information-sharing is an indispensable element of the Nation's ability to detect, preempt, disrupt or respond to any terrorist threat.

The Committee on Government Reform's Subcommittee on National Security, Veterans' Affairs and International Relations has heard repeatedly from State and local officials about the stubborn procedural and cultural barriers blocking access to sensitive information. In particular, elected officials and law enforcement officers have said they need the ability to obtain security clearances in order to get meaningful access to data on terrorist threats.

Whether it is intelligence about terrorist activity at the international level, or criminal history information shared between local jurisdictions, the electronic exchange of information is one of the most powerful tools available to protect our communities. This amendment calls for new procedures to maximize the potential of modern technologies, reduce bureaucratic barriers to information-sharing, and make sure essential homeland security data flows where it is needed most.

Mr. Chairman, the day is late; we started last evening, and so I would like to just use this time to thank my colleagues, the gentleman from Georgia (Mr. CHAMBLISS) and the gentlewoman from California (Ms. HARMAN) for the incredible job they have done. I also wish to thank the gentlewoman from California (Ms. PELOSI) and the majority leader for the work they have done. I also would like to thank the gentlewoman from California (Ms. HARMAN) and the gentleman from Texas (Mr. THORNBERRY) for the work they did with the gentleman from Florida (Mr. GIBBONS) and the gentlewoman from California (Mrs. TAUSCHER) on homeland security legislation before it was in vogue.

I am in awe to have had the opportunity to work with these colleagues. I believe that they have answered the call of the Nation in responding to the terrorist threat. I know we have a lot of work ahead of us. I am a little troubled by some of the partisan debate that has happened in the past few hours. I was hoping there might be an amendment or two our side of the aisle could have accepted during the debates today. But that notwithstanding, this is excellent legislation drafted by people of good will on both sides of the aisle.

I think the President can be proud of what the House will do today. I am certainly proud to have worked with such wonderful men and women on both sides of the aisle.

Ms. HARMAN. Mr. Chairman, I thank my colleague for his lovely and generous comments, and would inquire of the Chair as to how much time remains.

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentlewoman from California (Ms. HARMAN) has 7½ minutes remaining, and the gentleman from Georgia (Mr. CHAMBLISS) has 4½ minutes remaining.

Ms. HARMAN. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. REYES), a member of the Permanent Select Committee on Intelligence.

Mr. REYES. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I rise in strong support of this amendment, because since September 11 we have been in the process of learning several important lessons. One of the most crucial was the lack of effective intelligence dissemination and analysis.

For a while the buzzword was that we did not have the ability to connect all the dots. Machiavelli once said, ''There is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success, than to take the lead in the introduction of a new order of things.'' This amendment directs the administration to develop procedures for Federal agencies to share homeland security information with appropriate State and local authorities, both classified and declassified information.

After spending some 26½ years in Federal law enforcement, I know how important it is for the first responder to have access to tactical intelligence. Between 600,000 and 800,000 police officers protect our homeland every day, and have been on the job since the inception and the birth of this country. This amendment will build those bridges, those interagency bridges, that will get the information to the folks that need it. Those brave law enforcement men and women, who are literally our boots on the ground with respect to fighting domestic terrorism, need and deserve this capability.

So, Mr. Chairman, I rise in strong support of this amendment, and, in closing, I want to note the great job that both my colleagues, the gentleman from Georgia (Mr. CHAMBLISS) and the gentlewoman from California (Ms. HARMAN) have done, both on this amendment and also on the great work in working with the antiterrorism task force.

Mr. CHAMBLISS. Mr. Chairman, I thank the gentleman for his kind comments.

Mr. Chairman, I yield 3 minutes to the gentleman from Nevada (Mr. GIBBONS), the vice chairman of my Subcommittee on Terrorism and Homeland Security, and also the chairman of the Subcommittee on Human Intelligence, Analysis and Counterintelligence within the House Permanent Select Committee on Intelligence.

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

Mr. GIBBONS. Mr. Chairman, I thank the gentleman from Georgia for yielding me this time, and I do support this amendment.

Mr. Chairman, over the last several years, many of our government organizations, both State and Federal, have handled information-sharing and analysis in vastly different ways, much like various people would do in trying to put a puzzle together. For many of these organizations, when they get information, it is like reaching into a bag or box full of mixed-up puzzle parts, grabbing a handful of it, and running into their office to try to put the puzzle together without ever sharing the information about what they have with anyone else in another room. Just trying to put it all together all alone. And this has led to information gaps and analytical failures. The so-called Phoenix memo is a perfect example of this type of information hoarding.

I am pleased to support this bipartisan legislation which I believe helps

our government organizations connect the dots much more effectively than it had before September 11. Over the past 10 months, it has become frighteningly clear that the terrorists targeting our Nation are far more advanced than previously thought. The new Department of Homeland Security must have complete and unobstructed access to every piece of information, whether Federal or State, and this information regarding cyberterrorism, weapons proliferation, terrorist financial activities and narcotics trafficking, to name a few, are critical for every organization to have at hand.

H.R. 5005 establishes a key counterintelligence division within the Department of Homeland Security that will keep vital information out of the hands of our enemy, tighten the noose around the neck of terrorist organizations, such as al Qaeda, Hamas, Islamic Jihad, and others, while being able to share that information with our first responders down at the local level.

The Information Analysis Center is another integral part of this overall legislation, and this Center will have several key missions, including correlating and evaluating information and intelligence; producing all-source collaborative intelligence analysis, warnings, and assessments of the terrorist threat and disseminating these assessments.

Improving the lines of communication between the States and the Federal Government, local public safety agencies, and the private sector through the timely dissemination of information pertaining to threats of terrorism is critical and a key part of this amendment.

Coordinating elements of the intelligence community with Federal, State and local law enforcement agencies is also a critical part of this. If the new Department is to make credible threat warnings, it must be able to obtain and analyze information from all possible sources. It is not enough to rely on whatever the CIA and FBI themselves choose to tell them.

To put it simply, Mr. Chairman, knowledge is good, all-source analysis is even better, an all-source, collaborative analytical center within the Department that shares information is best. This legislation gives the Department of Homeland Security the information and resources necessary to make its own conclusions.

Mr. Chairman, I have had the privilege to work closely with both my colleagues, the gentleman from Georgia (Mr. CHAMBLISS) and the gentlewoman from California (Ms. HARMAN) on this legislation, and they are great leaders. I applaud their work, and this is a strongly supported amendment to this overall legislation. It is important for our country today, and I urge my colleagues to vote ''yes'' on it.

Ms. HARMAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI), the ranking member on the House Permanent Select Committee on Intelligence, on which I serve, and the Democratic whip.

Ms. PELOSI. Mr. Chairman, I thank the gentlewoman for yielding me this time, for her kind words, but most of all for her leadership.

□ 1830

Mr. Chairman, I am very pleased that this amendment is being considered on the floor today. I commend the gentleman from Georgia (Mr. CHAMBLISS) and the gentlewoman from California (Ms. HARMAN) for their work on this over the long term.

This bill passed the floor 412–2. It had been our hope to include it in the base bill that would come to the floor, but it was rejected by a 5–4 vote in the Select Committee. I am pleased that we have another chance for Congress to work its will on this important issue on the floor this evening.

As I have quoted previously real estate, the three most important words are location, location, location. When it comes to homeland security, the three most important words are localities, localities, localities. Our work on homeland security should begin and end in the localities. That is largely where the threat is. That is where the ideas are, and that is where the needs are. The gentleman from Georgia (Mr. CHAMBLISS) and the gentlewoman from California (Ms. HARMAN) have traveled the country having hearings on this subject.

We hear from our experts that information sharing is absolutely essential. They have pled with us to make this part of any homeland security. I want to praise them for the response they have received thus far from Congress, and hope that result will even be better today.

In any event, the need for information is essential for us to reduce risk to protect the American people better, and that is why this is so essential. I hope that we can do it in a department of homeland defense that is technologically maximizing the capabilities of the new technologies, and it will further enable information to be shared to protect the American people.

Ms. HARMAN. Mr. Chairman, I yield myself such time as I may consume.

This is the kind of bipartisan debate that this bill, H.R. 5005, deserves. I am pleased that on a bipartisan basis, every single speaker has been for this good idea. I hope our first responders are listening because they are about to get some very important new tools, the critical one of which is the ability to get accurate, credible threat information in time to know what to do.

Mr. Chairman, I yield the balance of my time to the gentleman from New Jersey (Mr. MENENDEZ), who has shown extraordinary leadership on this issue and the related issues in this bill we are considering today as head of the House Democratic Caucus on Homeland Security.

Mr. MENENDEZ. Mr. Chairman, I commend the gentlewoman from California (Ms. HARMAN) and the gentleman from Georgia (Mr. CHAMBLISS) and the gentleman from Connecticut (Mr. SHAYS) for the work that they have been producing for quite some time, for the vote that was taken overwhelmingly in the House, and I am glad to have not only offered it in the Select Committee to lay the foundation, but to offer some additional language that was accepted.

This amendment is about the key problem with the Federal Government's performance leading up to September 11. Most important, it is about Congress acting to correct in part what went wrong. The crux of the issue of September 11, it seems to me, is the need for information sharing, both within the Federal Government and between the Federal Government and State and local authorities.

The crux of this amendment is to guarantee that critical threat information will be shared. We have to get this right from the start, and I believe this certainly is. Simply moving agencies as proposed into a new Department without requiring agencies to share information is simply insufficient. We would be remiss not to guarantee, as this amendment would, that critical homeland security information sharing will occur.

We learned that from Coleen Rowley, the courageous FBI whistleblower, among others, about the unacceptable failure to share information critical to the events surrounding September 11 within the Federal Government. This amendment would make sure that those failures are not repeated.

Lastly, the amendment directs the President to prescribe and implement new procedures to share information on terrorist threats. Adding implement to the equation is necessary to ensure that these procedures do not end up collecting dust on the shelves of Washington's bureaucracies.

This amendment requires that through those procedures, the information will be shared, and the information must be shared both across the Federal Government and down to the State and local governments and first responders. Local responders have told all of us in meetings throughout the country that they need threat information on terrorist activities along with clear guidance on what to do with it.

Only with the guarantees in this amendment can we be secure in knowing that a process is in place to make sure that the secretary, police, firefighters, all first responders, get all of the critical information that they need and that they know what to do with it.

Governor Ridge often says if the hometown is secure, the homeland is secure. Shared information will empower the local communities to protect themselves. And shared information will also supplement the administration's homeland security advisory system by giving those responders useful and actionable information.

Lastly, this amendment recognizes that the sharing of information is more

effective when it is unclassified, but it protects all of the sources and methods and the work that my colleagues have done in this regard, which is I think exceptionable and is to be commended to the House in that regard.

I think that by having this amendment adopted, we can guarantee that information sharing takes place across the Federal Government and then across the landscape of our country from States, counties, and municipalities. With that when we know that information is being shared, we are secure. I urge adoption of the amendment.

Mr. CHAMBLISS. Mr. Chairman, I yield myself such time as I may consume.

We are coming to a close of two long days of debate on what is the most major restructuring of the Federal Government that we have seen in 60 years. This is probably the most important piece of legislation that in, my 8 years, that I have served in this great institution that we will take up and pass. I am very pleased that this particular amendment is going to be included in the bill that is going to be finally passed in this House, because I am totally confident that because of this particular amendment, because we are going to be able to now get information in the hands of local and State officials, law enforcement officials, the folks who are on the front line, the folks like Sheriff Richie Chaifin, Sheriff Bunch Conway, those folks on the front lines are going to have information now to be able to disrupt and stop terrorist activities.

I want to conclude by just commending our President under his leadership, his particular step to take this bold action of restructuring our Federal Government to ensure that our children and our grandchildren are able to live in the same safe and secure society that all of us have enjoyed is a major, major step in the right direction.

This Department of Homeland Security is going to allow us to give our children and grandchildren that safe and secure America. I again thank the gentlewoman from California (Ms. HARMAN) for the gentlewoman's hard work on this. We have traveled a long trail with this, and it is good that we are coming to a conclusion with it.

Mr. BALDACCI. Mr. Chairman, I rise in support of this amendment, which will improve the sharing of relevant terrorist threat information between federal agencies and local governments and our first responders.

To me, this is the very foundation of our efforts, and the fundamental basis of a sound homeland security and an effective Department of Homeland Security. Since September 11th, I have worked closely with my colleagues to secure funding to equip our first responders, as they are our first line of defense in the fight against terrorism. However, to successfully win this fight against terrorism, we must provide our first responders with more than equipment and money. In order to safely and effectively perform their jobs and prevent or respond to a terrorist attack we must share critical homeland security threat information with our first responders and local officials.

I am sure that we have all heard from first responders and local officials in our districts about the need to strengthen lines of communication between federal and local governments regarding Homeland Security information. This amendment directly addresses the concerns that I have heard from Maine officials. The more information provided to them, the better they are able to perform their duties and protect our citizens.

Finally, I would like to thank my colleagues for their work on this important amendment.

The CHAIRMAN pro tempore (Mr. SWEENEY). The question is on the amendment, as modified, offered by the gentleman from Georgia (Mr. CHAMBLISS).

The amendment, as modified, was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 27 printed in House Report 107–615.

AMENDMENT NO. 27 OFFERED BY MR. WELDON OF FLORIDA

Mr. WELDON of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 27 offered by Mr. WELDON of Florida:

At the end of section 402 (relating to functions transferred) insert the following:

(9) The Visa Office of the Bureau of Consular Affairs of the Department of State, including the functions of the Secretary of State, relating thereto.

In section 403 (relating to visa issuance) strike subsections (a) through (f) and insert the following (and redesignate subsection (g) as subsection (i)):

(a) AUTHORITY.—Notwithstanding the provisions of section 104 of the Immigration and Nationality Act (8 U.S.C. 1104) or any other law, the Secretary shall have exclusive authority to issue regulations with respect to, administer, and enforce the provisions of that Act and all other immigration and nationality laws relating to the granting or refusal of visas.

(b) TRANSITION.—

(1) IN GENERAL; DETAILS.—During the 2-year period beginning on the effective date of this Act, there shall be a transition period. During this period consular officers (as defined in section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9))) of the Department of State and other foreign service officers in the Visa Office, to the extent they are involved in the granting or refusal of visas or any other documents required for entry into the United States, shall be detailed to the Department of Homeland Security. A detail under this subsection may be terminated at any time by the Secretary.

(2) MAINTENANCE OF ROTATION PROGRAM.—During the transition period described in paragraph (1), the Secretary of State shall maintain and administer the current rotation program (at least at the employment level in existence on the date of enactment of this Act) under which foreign service officers are assigned functions involved in the adjudication, review, or processing of visa applications.

(3) TERMINATION OF TRANSITION PERIOD.—The transition period may be terminated within the 2-year period described in paragraph (1) by the Secretary after consultation with the Secretary of State.

(4) EXISTING EMPLOYEES OF VISA OFFICE.—Employees of the Visa Office who are not foreign service officers shall become employees of the Department of Homeland Security immediately upon the effective date of the transfer of the Visa Office to the Department under this title.

(c) TRAINING.—

(1) TRAINING PROGRAM.—The Secretary shall provide for the training of Department personnel involved in the adjudication, review, or processing of visa applications, specifically addressing the language skills, interview techniques, fraud detection techniques, and other skills to be used by such personnel.

(2) STUDY REGARDING USE OF FOREIGN NATIONALS.—During the transition period, the Secretary shall study the role of foreign nationals in the review and processing of visa applications, specifically addressing the following:

(A) The proper role, if any, of foreign nationals in such processing.

(B) Any security concerns involving the employment of foreign nationals.

(C) Whether there are cost-effective alternatives to the employment of foreign nationals.

(3) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on the findings of the study under paragraph (2) to the Committee on Government Reform, Committee on the Judiciary, and Committee on International Relations of the House of Representatives and the Committee on Governmental Affairs, Committee on the Judiciary, and Committee on Foreign Relations of the Senate.

(d) LEGAL EFFECT.—

(1) IN GENERAL.—The transfer of authority to the Secretary in section 403(a) shall not be construed to modify—

(A) any ground for such refusal authorized by law (including grounds under sections 212 and 221(g) of such Act (8 U.S.C. 1182 and 1201(g)));

(B) the presumption of immigrant status established under section 214(b) of such Act (8 U.S.C. 1184(b)) or the effect of failure to establish eligibility for nonimmigrant status described in such section; or

(C) the burden of proof placed upon persons making application for a visa or any other document required for entry under section 291 of such Act (8 U.S.C. 1361) or the effect of failure to establish eligibility for such visa or other document described in such section.

(2) NONREVIEWABILITY.—No court shall have jurisdiction to review the granting or refusal of a visa by the Secretary or a designee of the Secretary.

(e) REFUSAL OF VISAS AT REQUEST OF SECRETARY OF STATE.—Upon request by the Secretary of State, the Secretary of Homeland Security shall refuse to issue a visa to an alien if the Secretary of State determines that such refusal is necessary or advisable in the interests of the United States.

(f) REVIEW OF PASSPORTS ISSUED TO AMERICANS OVERSEAS.—The Secretary shall have the authority to review requests for passports by citizens of the United States living or traveling overseas.

(g) CONFORMING AMENDMENTS.—Section 104 of the Immigration and Nationality Act (8 U.S.C. 1104) is amended as follows:

(1) In subsection (a), by striking ''conferred upon consular officers'' and inserting ''conferred upon the Secretary of Homeland Security''.

(2) In subsection (c)—

(A) in the first sentence, by striking '', a Visa Office,''; and

(B) in the second sentence, by striking ''Directors of the Passport Office and the Visa

Office'' and inserting ''Director of the Passport Office, and the head of the office of the Department of Homeland Security that administers the provisions of this Act and other immigration and nationality laws relating to the granting or refusal of visas,''.

(3) By striking subsection (e).

The CHAIRMAN pro tempore. Pursuant to House Resolution 502, the gentleman from Florida (Mr. WELDON) and the gentleman from California (Mr. LANTOS) each will control 10 minutes.

The Chair recognizes the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, why are we passing this bill? Why are we creating this Department of Homeland Security? As I see it, we are doing it because if we are ever attacked again, we want to be able to respond better; but more importantly, we never want to be attacked again. We also believe that this is going to be a very long fight. Why else would we be rearranging all of these agencies like this. We certainly would not be doing this if we thought that this was just going to last for a few short years.

It is important to note that this is not primarily an issue of protecting real estate, although the damage to the Pentagon and the loss of the Twin Towers hurt us, and hurt us badly. What hurt us much, much more is the loss of lives. I knew someone who was killed September 11. Many Members knew people as well. Thousands of innocents are dead. We all agree, never again do we want to see Americans killed like we did on 9/11. I ask Members, what is the single most effective thing that we can do to prevent another terrorist attack on American soil. I think the answer is obvious, never let another terrorist into our Nation, a difficult task, granted, but nothing less than that should be our goal. It should be our mandate.

I ask Members, what are we doing in this bill to respond to this mandate? Well, we are moving border patrol and INS into homeland security. We are moving the Customs Service, the Coast Guard, even APHIS. Why are we leaving the State Department's visa office, the very agency responsible for issuing all 19 of the September 11 terrorist visas, why are we leaving them out of the new department?

Members will hear some of the reasons from some of the opponents to my amendment. I want to make two important points. We may hear that Colin Powell will be able to reform State's troubled visa office and give homeland security the priority it needs. Colin Powell is not going to be there forever. Deciding who we let into this country is arguably the most important homeland security function of all. Why leave this in the hands of diplomats? We may be fighting this battle for decades.

The structural changes made in our government by Harry Truman provided the tools that were used throughout the Cold War by all Presidents who followed, Democrat and Republican alike. Should we leave the visa office out of the Department of Homeland Security simply because today we have a very capable person who understands security at the Department of State?

I say that is not a valid reason. I will tell Members another reason why many people are fighting to move the Office of Visa Issuance into the Department of Homeland Security. The office next year will generate $630 million for the State Department. They do not spend that much money on visa services.

Concerns about jurisdiction and money must not prevent us from doing what is best for our Nation. This amendment transfers the visa function to the Department of Homeland Security where it belongs, and provides singular management of the visa process. It allows for a 2-year transition period during which those foreign service officers currently on the visa line will remain there, and the State Department's current rotation system remains in place. It preserves the Secretary of State's authority to deny a visa for reasons of national interest, and it preserves the nonreviewability of visa refusals in the courts. It also provides for comprehensive training for visa officers.

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

Mr. LANTOS. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE).

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

□ 1845

Mr. HYDE. Mr. Chairman, this is a simple issue. There are 12 million, give or take, applications for visas every year submitted around the world. There are about 200 stations around the world where American foreign service officers process those applications for visas. What the gentleman from Florida wishes to do is to take the issuing of the visas, the administrative function, 12 million of them every year, and put them in the Homeland Security Agency. I am suggesting that that is impractical, that it is not going to work.

You are not doing the Homeland Security Agency any favor by dumping an administrative task in their lap. The present foreign service officers have done, for the most part, a very good job, although I will agree with the gentleman from Florida, we do need some changes. This is not status quo. The gentleman from California (Mr. LANTOS) and the gentleman from California (Mr. BERMAN) are cosponsors of this bipartisan bill which has been approved by the Committee on the Judiciary, the Committee on International Relations, the Committee on Government Reform, and the Select Committee on Homeland Security.

What we do is we do turn over the administration of the office to the Homeland Security. The training, the review, the regulatory power, the authority, the running of the whole operation is turned over to Homeland Security. But the ministerial work out in the field, in the 200 offices around the globe, is left with the Foreign Service Department of State because they have the experience, they know what they are doing, and they are in place. It would take 2 years to replace them all. I do not know where you would get the people to replace them all.

This is not going to work. You are not helping Homeland Security by giving them this monumental task which has little to do with homeland security.

I do not ask that the gentleman reconsider, I know that is not going to happen; but I hope that his amendment is defeated and this compromise that has been worked out with the administration and with four standing committees is not upset.

Mr. WELDON of Florida. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida (Mr. KELLER).

Mr. KELLER. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise tonight in support of the Weldon amendment to move the visa office from the State Department to the new Department of Homeland Security. I have the happy privilege of representing Orlando, Florida, which is the world's number one tourist destination. Orlando was devastated by the events of September 11. Nothing would be more harmful to Orlando's tourism-based economy than another terrorist attack. So I care deeply about this issue.

Some of you may initially be reluctant to support the Weldon amendment because you have heard that Colin Powell and Henry Hyde oppose any attempt to strip the State Department of its power to issue visas to foreigners. I certainly do not blame you for deferring to these individuals, and I do not pretend to have the same level of expertise in foreign relations as these two esteemed gentlemen. But I am reminded of the words of President Ronald Reagan: facts are stubborn things. So let me give you the facts with respect to one country, Saudi Arabia:

Fifteen of the 19 airplane hijackers on September 11 were from Saudi Arabia and were issued visas by the State Department. Ten of those visas were issued by a single foreign service officer, yet we know from a recent GAO investigation that the State Department did not interview that officer after 9–11 to learn what might have gone wrong. Three of the other Saudi terrorists obtained their visas through the State Department's ''visa express'' travel agency program and were never even interviewed by the State Department prior to obtaining their visas. In fact, in the 3 months prior to 9–11, the State Department failed to do a personal interview on 97 percent of the 22,360 Saudis they issued visas to.

Shockingly, despite September 11, the State Department continued the

visa express program until just this week. Let me ask my colleagues a simple question: As a Member of Congress, how will you feel if there is another airplane hijacked in the United States because a poorly trained, entry-level State Department diplomat-wannabe issued a visa to yet another terrorist from Saudi Arabia?

Vote ''yes'' on the Weldon amendment.

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

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

Mr. LANTOS. Mr. Chairman, I find myself in the unusual position of representing the position of the President of the United States, George W. Bush; the Secretary of State, Colin Powell; the President's adviser on homeland security, Governor Ridge; and, of course, the unanimous voice of the House Committee on International Relations which voted without a single dissenting vote for the Hyde-Lantos-Berman proposal.

Our distinguished chairman, Chairman HYDE, outlined the main reasons for our position. Four House committees approved our position. It is a position which is a rational, sensible compromise. It leaves the issuance of over 11 million visas to competent foreign service officers all over the country, but it gives the Homeland Security Department the authority to place as many of their people into every single one of these offices that issues visas and they will have the sole and exclusive jurisdiction of final decision.

It is inconceivable to me why the gentleman from Florida does not find this arrangement a perfectly safe, rational, and foolproof arrangement. Not a single visa will be issued under our plan if Homeland Security objects. Every single approval must come from Homeland Security.

I think it is important to realize that the thousands of foreign service officers who perform the ministerial function do not choose to join the foreign service because they want to spend a lifetime issuing visas. That is their initial step. Their hope is to be an ambassador to a country 25 or 30 years into their career. The notion that we will set up a duplicate foreign service which has no other function but to issue visas simply boggles the mind. What quality individuals will we be able to find who will be dedicating their entire lives to issuing visas? Not the kinds of people we now find for our foreign service.

I would like to suggest, Mr. Chairman, that our compromise, which has the support of four of our committees with jurisdiction in this matter, the President of the United States, the Secretary of State and Governor Ridge is the only rational formula. I urge all of my colleagues to reject the Weldon amendment.

Mr. Chairman, I rise to claim the time in opposition to the Weldon amendment.

Mr. Chairman, I rise in strong opposition to the Weldon amendment and I ask unanimous consent to revise and extend my remarks.

Mr. Chairman, Chairman HYDE and I worked together on a bipartisan basis on H.R. 5005 with other members of the International Relations Committee to craft a sensible proposal relating to visas. This provision is now in section 403 as reported by the Select Committee.

Under our proposal, the Secretary of Homeland Security would have exclusive authority to set visa policy, while State Department consular officers will continue to process the visas. The Secretary of Homeland Security can overturn decisions of consular officers to grant a visa, alter visa procedures now in place, and can develop programs of training for consular officers. In addition, our proposal would allow Homeland Security employees to be assigned abroad to review cases that present homeland security issues and deal with homeland security issues that arise abroad.

I am very pleased that the White House has announced its support for this proposal, and that in addition to the Select Committee, all three other House committees that considered it adopted virtually the same amendment. Moreover, I understand that Governor Ridge confirmed the Administration's support for the amendment in testimony before the Select Committee last week. I am simply asking that the House endorse what all four Committees considering this matter have done and what the Administration has supported.

Mr. Chairman, I want to take a brief moment to tell you why I feel so strongly about maintaining the provision as it exists in the Select Committee.

The talented young people who join the Foreign Service, at the average age of 32 for the last entering class, have the ambition to become an ambassador to an important country or some other high level position in the Department of State. It is on this basis that they are willing to dedicate years of their lives to focus their talents on questions related to visas. It is inconceivable that we can attract quality people to jobs that have no such promise of advancement, with employees facing an entire career of visa interviews.

Even more important, any proposal transferring the entire visa function to Homeland Security would risk overwhelming Homeland Security personnel with non-homeland security functions and thereby make it difficult or impossible for them to perform their central mission. The last thing this Department should be focused on is creating a whole new system for adjudicating over 11 million visas per year, at a huge and unknown cost.

Mr. Chairman, I know people are concerned about the visas that were issued to the terrorists who attacked New York, and the amount of training that consular officers have on conducting interviews of visa applicants.

Under our amendment, the Secretary of Homeland Security will be able to order exactly what kind of training consular officers should receive, specifically direct that certain persons will not be issued visas (irrespective of the Department of State's views), and will ensure that security concerns are properly considered both in Washington and abroad. If he believes that ''Visa Express'' or other similar programs should be closed, he can close it.

Moreover, Mr. Chairman, the Weldon Amendment undercuts the very structure of this legislation. The Select Committee mark keeps the visa processing element of INS in the Department of Justice. The Gentleman's amendment would have the bizarre effect of keeping domestic visa issues out of Homeland Security, but overseas visa processing in Homeland Security. This is an absurd outcome.

Finally, Mr. Chairman, the version in the Select Committee also includes a provision that Mr. WELDON already added in the Government Reform Committee, requiring assignment of Homeland Security personnel to Saudi Arabia and review of all Saudi visa applications by such personnel. But this does not seem to be enough for Gentleman—he wants another bite at the apple.

In conclusion, Mr. Chairman, I think that the Hyde-Lantos-Ros-Lehtinen-Berman Amendment adopted by four committees on a bipartisan basis, addresses all the Gentleman's concerns. I urge my colleagues to support section 403, which has been endorsed by the President, Governor Ridge, the President's adviser on Homeland Security, and Secretary of State.

By retaining a role for consular officers in adjudicating the millions of applications presenting no security-related issues, the President's plan will allow Homeland Security officers to perform their homeland security mission. By authorizing the presence of Homeland Security officers in our overseas posts to identify and deal with homeland security issues, Section 403 as written offers the best protection for our homeland security.

Do not upset this balance. Oppose the Weldon Amendment.

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

Mr. WELDON of Florida. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Chairman, many of our colleagues have come to the floor today to express their deep commitment to doing everything that can be done to ensure the protection of the American people. It is a laudable sentiment, but one that rings hollow when juxtaposed against the fact that today our borders are just as porous and just as undefended as they were on September 11, 2001.

We may indeed wish to go home to our constituents and tell them that we have done everything we can do, but that would be far from the truth. Just last week a television program documented the ease with which human smugglers illegally bring people into the United States, including potential terrorists. This is 10 months after September 11. This situation will improve only marginally by the creation of this new agency, and that is because of only one thing. It is the consolidation of the various border enforcement activities that now reside in a myriad of Federal agencies, each one operating within a vacuum, with little if any communication between and among them. But even this effort is being crippled because perhaps the most moribund of all of these agencies, namely, the Department of State does not want to give up a responsibility that they have so dismally failed to uphold.

We have heard the horror stories, but it is not all due to just incompetence. Much of the slipshod process is a result of a culture within the Department of State. Consular officials are told that their primary responsibility is to treat every applicant for a visa as if they were a ''customer'' and to expedite the process as quickly as possible with as little inconvenience to the ''customer'' as possible. Hence, most interviews are completed literally in seconds. Of course, some of those ''customers'' showed their appreciation for this consideration by crashing airplanes into our buildings.

Even today, attempts to enforce security standards are resisted by the State Department. In Mexico, consular officials today have been told to ignore FBI requests to fingerprint and record all applicants on particular watch lists. They are told that it would take, quote, ''too much time.''

I ask you, if you were leaving home at night, would the State Department be the type of neighbor with whom you would leave the keys to your house? Vote for the Weldon amendment.

Mr. LANTOS. Mr. Chairman, I am delighted to yield 2 minutes to the distinguished gentleman from California (Mr. BERMAN).

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

Three points: first, the logic of the amendment from the gentleman from Florida is simple. Consular employees, State Department consular employees have granted visas to bad people. They have made mistakes. Therefore, eliminate them. Eliminate the State Department role. Under that logic, the CIA should be taken out of intelligence-gathering because they did not know that Iraq was developing nuclear weapons during the 1980s. The central office of the FBI should be collapsed because they did not act on messages from the Phoenix and Minneapolis offices regarding suspicious activities by people in the United States. And the National Security Agency should be folded up because it did not translate intercepted communications fast enough to warn us about September 11.

I would suggest that for 2 days we have been debating amendments with arguments tossed back and forth. ''Listen to the committees of jurisdiction, they have expertise.''

''Defer to the administration, they know what is best.''

''Take the approach of the Special Committee on Homeland Security because they have the right synthesis.''

Well, in this case the administration, the three committees of jurisdiction, and the Special Committee on Homeland Security have considered the gentleman's amendment and have rejected it. Moreover, had the other gentleman from Florida (Mr. KELLER) talked to the gentleman from Florida (Mr. WELDON), I am sure he would have learned that in the case of Saudi Arabia, the Weldon amendment, the other Weldon amendment, exists in this bill that says as to Saudi Arabia visas, someone from Homeland Security has to make every single interview in this context.

In this bill, policies, training and ultimate final decisions are made by the Department of Homeland Security but do not try to re-create, because you will not be able to, an incredible bureaucracy of language-trained people in many countries to do this process. It will not work. It will fall on its face. This compromise is the sensible compromise. I urge the amendment be rejected.

Mr. WELDON of Florida. Mr. Chairman, may I inquire who has the right to close?

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentleman from Florida, the proponent of the amendment, has the right to close.

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

Mr. LANTOS. Mr. Chairman, I am delighted to yield 1 minute to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. President, I want a Homeland Security Department, but I want a deliberative and thoughtful process. I thank the ranking member, I thank the gentleman from California (Mr. BERMAN), and the gentleman from Illinois (Mr. HYDE) for a thoughtful process. This is the way to have this work effectively.

How does it work? First, it gives the Homeland Security officers authority to oversee the visa process. Those officers can actually refuse visas and develop programs for training the consular offices. But at the same time, we do not throw away the expertise of the State Department and all the expertise of our outstanding foreign service staff persons who deal with diplomacy every day, who understand the language and the culture. We keep the employees in the State Department, but the hardline rules and the instructions and the way to protect us and the security direction is with the Department of Homeland Security. I believe the Weldon amendment will undermine this expertise and will take us further away from being secure; and it should be defeated and we should keep the language and the format as it is in the bill.

Mr. President, I want a bill, but I want it to be deliberative and effective on behalf of the security of the American people.

As the ranking member of the Judiciary Subcommittee on Immigration, Border Security and Claims, I, like many others in this body, have sat through many a hearing and markup about the creation of the Department of Homeland Security (DHS). At every hearing and every markup that I have attended regarding the DHS, visa processing has been a contentious and difficult issue. There are the State Department for its role in the events of September 11.

Yes, we all know that the nineteen terrorist who attacked the U.S. on this infamous date, traveled to the United States on legally issued visas. What they fail to realize, however, is that the consular agents who man the front lines of the war on terror and interview and carry out the rules which govern visa processing, have no way of knowing that a visa applicant is a terrorist, but for the information they are provided about the applicant through the FBI, CIA or other organizations and institutions that make up the Intelligence Community in the United States. I distinctly recall the testimony of the Under Secretary for Management at the State Department before my Subcommittee. He unflinchingly stated that ''There is no way, without prior identification of these [applicants] as terrorists through either law enforcement or intelligence channels and the conveyance of that knowledge to consular officers abroad, that we could have known [the terrorists] intention.'' I would underscore this point by adding that the largest of these intelligence organizations, we all know who they are, are not even a part of the newly created DHS.

I, for one, find the prospect of placing the entire visa issuance function, currently the responsibility of the State Department, within the exclusive authority of the Secretary of Homeland Security troubling. Everyday, in consular posts around the world, issues arise as to how a policy or regulation should apply in a specific case. Cases often turn on questions that have a significant impact on U.S. foreign policy interests, U.S. business interests, or the American values of family unity and humanitarian protection. These issues all properly reside within the expertise of the State Department and should be resolved in consultation with it.

During, the Judiciary Committee's markup of its recommendations for the Department of Homeland Security, my colleagues Mr. HYDE and Mr. BERMAN, offered an amendment that addresses these important issues. I spoke in favor of the provisions of the Hyde-Berman amendment and I do the same today as it is currently the prevailing language of H.R. 5005. This bill provides that the administration of visa issuance function be carried out by State Department employees under the policy and regulatory guidance of the DHS. I had planned to offer an amendment creating a fifth division of the DHS. My amendment includes the Hyde-Berman Amendment language.

The Weldon amendment is opposed by the White House and Secretary of State Powell and is contrary to the bipartisan decision of the four House Committees that considered this issue, including the Select Committee. If adopted, the amendment will distract the Secretary of Homeland Security from the task of securing the United States by forcing the new Department not only to absorb all the agencies described in H.R. 5005, but also to create a whole new bureaucracy and career track for processing between 10 and 12 million visa applications a year—of which the overwhelming majority are from bona fide tourists, business people, and relatives of U.S. citizens who pose no danger to homeland security.

The House International Relations, Judiciary and Government Reform Committees considered this issue and determined that the visa function should remain with the State Department, which will act under the guidance of the policies and regulations developed by the new

Department of Homeland Security. Transferring exclusive policy and regulatory authority over visa issuance to the Secretary of Homelands Security will put security concerns at the forefront of visa decisions without losing the talent, training and experience of consular officials currently serving at the State Department.

Mr. Chairman, I urge my colleagues to oppose the Weldon amendment.

□ 1900

Mr. LANTOS. Mr. Chairman, I yield myself my remaining time.

Mr. Chairman, my colleagues have made all the arguments but one: Buying into the Weldon amendment would incur a vast and indeterminable cost in building a gigantic overseas bureaucracy to perform administerial functions. Homeland Security has full authority to reject any visa application they choose. The State Department officers must continue to issue visas. I ask all of my colleagues to reject this ill-advised amendment.

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

Mr. WELDON of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this body passed a bill creating a large bureaucracy to protect our airline security, so the argument that was just made, as far as I am concerned, is not really valid, particularly when you look at the fact that I do not create a new bureaucracy. I transfer the visa office to the Department of Homeland Security.

What will happen if we do that? Well, some of the Department of State personnel will stay on in the new Department of Homeland Security, because they have been doing visa issues for years, and then the Department of Homeland Security will have to hire new people.

The important thing they will do is they will hire people who are trained more like police officers, that have more security in mind. The people who are currently occupying these positions essentially are people who are interested in becoming diplomats. Is that the right thing? Do we want the people who screen who comes in to be people who really want to do diplomatic and economic policy?

Finally, I want to say one important thing about the current supposed compromise. Under current law, the Justice Department under the Attorney General defines policy for visa issuance and the State Department carries it out. Under this supposed compromise, the Department of Homeland Security will define those policies and the State Department will carry it out.

I do not really see the current language as going obviously far enough. In committee I managed to get an amendment through that at least gave the Department of Homeland Security Secretary the authority to deny a visa, which I would have to say is somewhat of an improvement. But it simply does not go far enough.

The most effective thing we can do is transfer the visa office. I ask my colleagues again, why are we moving all of these other functions into the Department of Homeland Security and leaving this vital function out?

I was in the Army. When you deploy to the field, protecting your perimeter was the most important thing. If you could not do that, you were not going to be able to be a fighting force.

Protecting our borders is the most important thing. Vote yes on the Weldon amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, as the ranking member of the Judiciary Subcommittee on Immigration, Border Security and Claims, I, like many others in this body, have sat through many a hearing and markup about the creation of the Department of Homeland Security (DHS). At every hearing and every markup that I have attended regarding the DHS, visa processing has been a contentious and difficult issue. There are the State Department for its role in the events of September 11.

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I, for one, find the prospect of placing the entire visa issuance function, currently the responsibility of the State Department, within the exclusive authority of the Secretary of Homeland Security troubling. Everyday, in consular posts around the world, issues arise as to how a policy or regulation should apply in a specific case. Cases often turn on questions that have a significant impact on U.S. foreign policy interests, U.S. business interests, or the American values of family unity and humanitarian protection. These issues all properly reside within the expertise of the State Department and should be resolved in consultation with it.

During, the Judiciary Committee's markup of its recommendations for the Department of Homeland Security, my colleagues Mr. HYDE and Mr. BERMAN, offered an amendment that addresses these important issues. I spoke in favor of the provisions of the Hyde-Berman amendment and I do the same today as it is currently the prevailing language of H.R. 5005. This bill provides that the administration of visa issuance function be carried out by State Department employees under the policy and regulatory guidance of the DHS. I had planned to offer an amendment creating a fifth division of the DHS. My amendment includes the Hyde-Berman Amendment language.

The Weldon amendment is opposed by the White House and Secretary of State Powell and is contrary to the bipartisan decision of the four House Committees that considered this issue, including the Select Committee. If adopted, the amendment will distract the Secretary of Homeland Security from the task of securing the United States by forcing the new Department not only to absorb all the agencies described in H.R. 5005, but also to create a whole new bureaucracy and career track for processing between 10 and 12 million visas applications a year—of which the overwhelming majority are from bona fide tourists, business people, and relatives of U.S. citizens who pose no danger to homeland security.

The House International Relations, Judiciary and Government Reform Committees considered this issue and determined that the visa function should remain with the State Department, which will act under the guidance of the policies and regulations developed by the new Department of Homeland Security. Transferring exclusive policy and regulatory authority over visa issuance to the Secretary of Homeland Security will put security concerns at the forefront of visa decisions without losing the talent, training and experience of consular officials currently serving at the State Department.

Mr. Chairman, I urge my colleagues to oppose the Weldon Amendment.

The CHAIRMAN pro tempore (Mr. SWEENEY). All time for debate on this amendment has been exhausted.

The question is on the amendment offered by the gentleman from Florida (Mr. WELDON).

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

Mr. WELDON of Florida. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida (Mr. WELDON) will be postponed.

Ms. PELOSI. Mr. Chairman, I ask unanimous consent to speak for 1 minute.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. PELOSI. Mr. Chairman, I rise to speak to inquire of the distinguished majority leader how he would like to proceed.

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

Ms. PELOSI. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, we have come to the conclusion now of the consideration of all our amendments. We will soon move on to votes. The gentlewoman from California may note that under a previous unanimous consent request, both she and I will be recognized for 5 minutes to speak out of order for the purpose of appreciating the process and our colleagues.

Mr. Chairman, it would be my suggestion the gentlewoman take her 5

minutes and then, as has been my custom, I will cling to the last word.

Ms. PELOSI. Mr. Chairman, reclaiming my time, if I may further inquire of the distinguished majority leader, would it then be the intention that we would move to the votes and any other business before we move to final passage?

Mr. ARMEY. The gentlewoman is right.

Ms. PELOSI. Mr. Chairman, would the gentleman like to shed any light on the schedule for the remainder of the evening?

Mr. ARMEY. Mr. Chairman, if the gentlewoman will continue to yield, we will soon be completing this bill. I would guess we would probably go to the bankruptcy conference report that so many of us have waited upon with such great expectations. Then, should other business make itself available after that, we would be prepared.

I would advise Members to be prepared to work until sometime later in the evening, but that we should conclude our work before we adjourn tonight's session and be available, I think, for first flights in the morning.

Ms. PELOSI. Mr. Chairman, I thank the distinguished gentleman for the information, and look forward to making further inquiries into the night as may be required.

The CHAIRMAN pro tempore. Pursuant to the prior unanimous consent request, the gentlewoman from California (Ms. PELOSI) is recognized for 5 minutes.

Ms. PELOSI. Mr. Chairman, I thank you and all of those who have presided over this debate in the last 2 days on an issue of very, very immediate importance to the American people, the safety of our country and their personal safety. I wish to commend all of the Members of Congress, of this House, on both sides of the aisle for their enthusiastic embrace of the issues involved in this legislation.

I particularly want to commend the staff, the bipartisan staff of the standing committee, as well as of the committees of jurisdiction, who worked very, very hard over the past few weeks. Personally I want to commend on my own staff Carolyn Bartholomew, George Crawford and Nathan Barr for their good work; Kristi Walseth of the staff of the gentleman from Texas (Mr. FROST); Pedro Pablo Permuy of the staff of the gentleman from New Jersey (Mr. MENENDEZ); and Becky Salay of the staff of the gentlewoman from Connecticut (Ms. DELAURO), and as I say, all of the staff of the standing committee.

Mr. Chairman, we are gathered here today to honor a compact that our government has with the American people, and that compact is to provide for the common defense. It is embodied in our preamble to the Constitution, wherein our civil liberties are enshrined. Our Founding Fathers knew that we could do both, protect and defend our country and protect and defend our Constitution and our civil liberties, and that is what we set upon to do in this legislation.

On September 11, our country was attacked in a way that was unimaginable up until that time, and is unforgettable from then on. Anyone who has visited Ground Zero in New York, the Pentagon or the crash site in Pennsylvania knows that they have walked on hallowed ground. Indeed, in our work here today and in the past few weeks, we, too, are on hallowed ground. We have a solemn obligation to those heroes who died as martyrs to freedom and to their families to respond in a way that reflects the greatness of our country. That greatness, again, calls for protecting our country and our civil liberties in the best possible way, to reduce risk, to protect the American people in the best possible way.

Mr. Chairman, I am sad to report that I do not think that the legislation before us meets that standard. We have tried to find our common ground, and where we found agreement, we resolved differences. But on some issues that are fundamental to us on both sides, we could not find agreement.

We are in a stage of the legislative process, and it is my hope that, as we go forward, we will be able to resolve some of these differences further, so that at the end of the day we will have bipartisan agreement on the Department of Homeland Security, which we all agree we need, but have some disagreement over what form it should take.

I myself had hoped that we could present to the American people a Department of Homeland Security that was lean and of the future, not a monstrous bureaucracy of the '50s that would have been obsolete even then. I had hoped that this new lean department would, instead of bulk, capitalize on the technological revolution in order to increase communication and coordination.

I had hoped that the Secretary of Homeland Security would be able to coordinate functions, rather than have to manage and administer staff. Indeed, the very size of this Department is alarming. It will have, by low estimate, 170,000 employees, and the Government Accounting Office says it may even have 200,000 employees.

Mr. Chairman, there are 85,000 jurisdictions in the United States, cities, towns, municipalities, governments, and only 120 of them, of the cities in our country, have a larger population than the Department of Homeland Security. Salt Lake City, Utah, Providence, Rhode Island, Portsmouth, Maine, Reno, Nevada, to name a few, are all smaller in their population than the Department of Homeland Security will be.

I am sad that in the bloated bureaucratic approach we are taking that we are looking backward rather than forward in protecting the American people. But hopefully we can resolve some of that as we go forward. That speaks to the need for a strong Office of Homeland Security in the White House.

The CHAIRMAN pro tempore. The time of the gentlewoman from California has expired.

Ms. PELOSI. Mr. Chairman, I would ask the distinguished chairman, the gentleman from Texas (Mr. ARMEY), if he would agree to an additional 5 minutes on both sides. I will ask unanimous consent to have an additional 5 minutes on each side. I understand that the gentleman from Texas (Mr. DELAY) wishes to speak. I will use our time.

Mr. ARMEY. Mr. Chairman, if the gentlewoman makes that request, I can say to the gentlewoman that I certainly would not object, and I would encourage my colleagues to not do so, if the gentlewoman would direct the request to the Chair.

Ms. PELOSI. Mr. Chairman, I ask unanimous consent for an additional 5 minutes on both sides.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. PELOSI. Mr. Chairman, I am afraid that we do not see the respect for the civil service that I think that this Homeland Security Department legislation should contain. There is a serious reason why we have a civil service. It came into existence to eliminate corruption and favoritism, and, here, we have here a diminishing of the rights of our workforce, rather than enhancement of our civil service.

We sing the praises of our first responders, of our public employees who stand as the first line of defense, physically and intellectually, in protecting America, and yet in this new Department we want to diminish their rights.

I am also concerned about the safety issues. It took my breath away in committee when the chairman's mark had in it the elimination of a deadline for putting detection devices in place to detect explosives in baggage. We end up in this bill with an extension. But I hope that that will not be an endless extension, but I fear that it may be. I do not think that is the way to protect the American people best.

I am very concerned about the liability provisions, the total immunity given to businesses, even those guilty of fraud and wrongdoing. Unlimited immunity. We had a nice alternative, a good alternative that the business community agreed to offered by the gentleman from Texas (Mr. TURNER) which lost by one vote on the floor. I hope that we can revisit that issue.

□ 1915

So I put it to my colleagues. Is it your judgment that a bloated bureaucracy that undermines the civil service, that gives unlimited immunity even to wrongdoers is the best way to protect the American people?

As my colleagues know, our tragedy started at the airports, Mr. Chairman, and in this legislation, there is protection for the very kinds of security companies that were a part of the problem

to begin with. Not only are we not trying to improve the situation, we are protecting the wrongdoers very specifically.

So as my colleagues can see, I have some concerns about the bill. It does not mean I have some concerns about the idea; we all know that we want a Department of Homeland Security. We all hope that in working together through the rest of the legislative process, we can come closer to a department that will do the job. What we have now is the department that the Government Accounting Office says will take 5 to 10 years to be up and running, and that will cost $4.5 billion to set up. We will spend any amount of money to protect the American people, but is that $4.5 billion spent in the best way to protect the American people?

After all is said and done, Mr. Chairman, it comes back to the families. I have had them say to me that a plane flying overhead is a source of terror to them. We owe it to them to reduce risk, to bring life as close to normal as possible for them.

The goal of terrorists is to instill fear. We cannot let them have that victory. We must work together to again, protect the American people best, and to do so in a way that is not only a comfort to the families, but removes sources of terror for them.

Again, though, I want to commend all of my colleagues on both sides of the aisle for the respect and dignity for those families they have brought to this debate. I know we all have a common goal; we have different ways of reaching it. But those of us who have certain beliefs about how government should look in the future, and have experience that speaks to the possibilities of technology being the source of coordination and communication, rather than having cohabitation in a building for 170,000 people, believe that we can reach that goal.

In closing, I want to compliment the majority leader. He is never listening, so my colleagues will have to tell him what I say, and that is that he, throughout the process, has been a champion for protecting our civil liberties every step of the way.

Not only has he been vigilant, he has taken leadership, and for that I want to commend him. We did not have many other areas of agreement, but I hope the American people know that we are all of good intent when it comes to their welfare.

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

Mr. ARMEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at this time I yield to the gentleman from Texas (Mr. DELAY), the distinguished whip, and a member of the Select Committee on Homeland Security.

Mr. DELAY. Mr. Chairman, I thank the majority leader for yielding me time.

Mr. Chairman, we need to move forward, and we need to move forward to provide the President with the tools that he needs to secure our homeland. Our current structure simply cannot meet the demands of an age in which the primary threats to the United States have shifted. New threats have surfaced. We face asymmetrical warfare from rogue regimes. We face grave danger from terrorist organizations plotting to use weapons of mass destruction.

America needs an overhauled, comprehensive agency that is engineered to combat the dangers that are unique to our time. We need to move beyond our current dysfunctional organization of domestic security responsibility. We need to apply ingenuity and experience to craft a combined agency whose employees will arrive at work each morning with a single defining mission: protecting the people, resources, and institutions of the United States.

To be organized effectively and function efficiently, the Homeland Security Department must be consolidated. It has to be flexible, and its employees must be readily accountable to its Secretary.

The President's focus is a department that is lean, focused, and operating under the highest standards of accountability. Unfortunately, many of the amendments that we saw through this process had little or nothing to do with protecting our homeland.

We saw attempts to freeze out private enterprise. We saw efforts to water down the Homeland Security Secretary's power to hold the Department's employees to the highest standards of performance and conduct. We saw initiatives to deny flexibility. We saw proposals that would have opened a whole banquet for trial lawyers and dissuaded companies offering high-tech, terror-fighting tools; amendments that would serve a divergent agenda; amendments that would weaken the Department to placate entrenched interests; amendments designed by the bureaucracy to preserve bureaucratic unaccountability.

We should be pursuing a common goal. We should only consider change that would increase the effectiveness of the new Department to catch and preempt terrorists. Changes that do not should be rejected out of hand. We do not have the luxury of weakening our last line of defense.

Let me just close with a word about the extraordinary job that the gentleman from Texas (Mr. ARMEY) performed in stewarding the President's plan through the Select Committee on Homeland Security process.

Mr. Chairman, the majority leader was fair, he was open to constructive ideas, even-tempered, and generous to the minority. He was a true leader in the best sense of the term. Unfortunately, his generosity was not met in kind. He was rewarded with a raw dividend of stale partisanship.

I take my hat off to the majority leader. I take my hat off to the majority leader for accomplishing his mission and producing a plan that upheld the President's vision and brought us closer to a safer, stronger America. Members were right to keep a sharp eye against any measure that would cripple our effort. We simply could not afford to invest this new Department with the ponderous inefficiency that hobbles much of the Federal bureaucracy. This is a reorganization that we can be proud of, a reorganization that will ensure our security at home.

Mr. ARMEY. Mr. Chairman, as we said earlier, on June 18, the President of the United States sent up here a request for legislation to create a Department of Homeland Security which we all recognize to be a daunting task. On the very next day, on June 19, this body enacted resolution 449, which established the Select Committee on Homeland Security and the procedure by which we would act upon the President's request. In just these few short weeks, all 12 of our standing committees have acted and have acted judiciously and comprehensively, with a sense of focus on this Nation's security that demands and commanded our respect.

The Select Committee on Homeland Security was privileged to have the work of these 12 different committees and to work with that work, and I hope with all of my heart that that which we brought before this body tonight justifies the quality of commitment that we saw in our colleagues on those 12 committees. We will vote on that in a minute, but one thing is for certain. By the time we take a final vote tonight, every Member of this body will know: I had my say, I had my influence, I had my input, and I have a part of what we produced here.

Let me, if I may, talk about a few people in addition to, of course, our standing committees, those members of the President's administration and cabinet, Governor Ridge, I suppose, in particular, but virtually every member of the cabinet came before us and shared their insight, their advice, their understanding. We had what I like to call our congressional entrepreneurs who worked with us so much of the time, shared their insight, their understanding. We had so many people, but we also had some remarkable staff work, and I would like to talk about those people we call staff that make it possible for us to take bows.

Let me mention a few. Brian Gunderson, my chief of staff. Brian and I had the extraordinary opportunity in the years 1987, 1988 as a couple of green horns to earn some spurs around here over this thing called base closing. We have been working together on so many products since, and now we come to a parting for us. Brian is moving on, I am sure to better things. I will miss him, my friend, my advisor, my partner.

Brian served as the Select Committee on Homeland Security staff director, and Paul Morrell as the deputy staff director. Paul covered everything,

and I think you all will agree, with consideration and charm.

Margaret Peterlin served as the Select Committee on Homeland Security's general counsel, and she has been my right-hand man. Margaret worked day and night, and we may have, I say to my colleagues, we may have owned the days around here, but Margaret Peterlin owned the nights and she kept everything on hand, and everybody enjoyed working through her good cheer and her kindness.

Stephen Rademaker, you even worked through your birthday, Stephen, bless your heart, as the Select Committee on Homeland Security's chief counsel. He came to us from the House Committee on International Relations and his expertise was outstanding, and we now know your secret, Mr. Chairman, why your committee produces such quality work.

Hugh Halpern served as the Select Committee on Homeland Security's Parliamentarian. Hugh took a temporary leave of duty from the House Committee on Financial Services to serve with the Select Committee on Homeland Security, and he sat at my side through some of the difficult things. I always wondered why the gentleman from Ohio (Chairman OXLEY) looks so good in committee. I hope I look nearly as good. But for the extent to which I may or may not have, it was Hugh that made it possible for me to not look as bad as I could have.

Kim Kotlar served as the senior professional staff member. Kim came to the Select Committee on Homeland Security from the office of one of our brightest stars in this Chamber, my good friend, the gentleman from Texas (Mr. THORNBERRY), long before September 11. The gentleman from Texas (Mr. THORNBERRY) was on the job on this deal, and Kim obviously is the brains of that, and she has been so sharing with us.

Richard Diamond served as the Select Committee on Homeland Security's Press Secretary. Richard first started in my Texas office, he has done so many things, but he is, I say to my colleagues, the conscience of the conservative when it comes to basic foundation human rights. In my office, Richard is my guy. He is the one that spots the transgressions and calls them to my attention.

Joanna Yu overcame an educational handicap as a Princeton graduate. Joanna has worked so hard as the select staff member providing support to all of our general efforts.

Michael Twinchek from the House Committee on Resources served as clerk for the Select Committee on Homeland Security. Mike kept our hearings and markup running smoothly, and proved that it was not just the chairman that knew how to mispronounce a name.

Will Moschella, as counsel from the Committee on the Judiciary to the Select Committee on Homeland Security, was a vast resource for us.

I would also like to thank members of the majority leader staff who pitched in to help. Liz Tobias and Tiffany Carper who helped to plan, organize, and implement our grueling days of hearings and markup. Terry Holt, who served double duty on the press front, and I do believe helped the Nation to see and appreciate what it is we were trying to accomplish. Those are just a few of the people I might mention.

Let me say what it is I think we tried to do, all of us working together. The need for a Select Committee on Homeland Security to work with the President's proposal and the 12 committees of jurisdiction and the Members of this body to create a Department of homeland defense was born out of one of the most horrible moments of terror in the history of this Nation.

□ 1930

It was certainly the most in any of our lifetimes. But we believed that we could rise beyond that. America is a great Nation that refuses to have its future and its expectations about its future defined by its fears.

We believe that we have helped to craft a department of this government that will focus the resources of this government on our safety and on our security, on the defeat of villainy, so thoroughly well that this great Nation can get back to its business of living by its greatest expectations, its hopes, and dreams.

Should we have done that right, Mr. Chairman, we will look back some day and we will say, we had a hand in that, and are we not proud?

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore (Mr. SWEENEY). Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment 23 offered by the gentleman from Minnesota (Mr. OBERSTAR); amendment No. 24 offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY); amendment No. 25 offered by the gentleman from Virginia (Mr. TOM DAVIS); amendment No. 27 offered by the gentleman from Florida (Mr. WELDON).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 23 OFFERED BY MR. OBERSTAR

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 211, noes 217, not voting 5, as follows:

[Roll No. 362]

AYES—211

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Berman
Berry
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Ford
Fossella
Frank
Frelinghuysen
Ganske
Gephardt
Gonzalez
Gordon
Graves
Green (WI)
Grucci
Gutierrez
Hall (OH)
Harman
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kolbe
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Shimkus
Shows
Simmons
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tierney
Towns
Turner
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOES—217

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Biggert
Bilirakis
Bishop
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Castle
Chabot
Chambliss
Coble
Collins
Cooksey
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers

Ehrlich
Emerson
English
Everett
Flake
Fletcher
Foley
Forbes
Frost
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Green (TX)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
Kingston
Kirk
Kleczka
Knollenberg
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCrery
McHugh
McInnis
McKeon
Meek (FL)
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Otter
Oxley
Pastor
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shuster
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Udall (CO)
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—5

Blunt
Combest
Cox
Meehan
Roukema

□ 1958

Messrs. HEFLEY, HUNTER, HOBSON, REGULA, KENNEDY of Minnesota, and SCHAFFER changed their vote from ''aye'' to ''no.''

Messrs. ROEMER, HILL, and WYNN, and Ms. MILLENDER-McDONALD changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 24 OFFERED BY MS. SCHAKOWSKY

The CHAIRMAN pro tempore (Mr. SWEENEY). The pending business is the demand for a recorded vote on the amendment No. 24 offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 188, noes 240, not voting 5, as follows:

[Roll No. 363]

AYES—188

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
LaFalce
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Morella
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Petri
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Skelton
Slaughter
Solis
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—240

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Berry
Biggert
Bilirakis
Bishop
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dicks
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Lampson
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
McCrery
McHugh
McInnis
McIntyre
McKeon
Menendez
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
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)

NOT VOTING—5

Blunt
Combest
Meehan
Roukema
Terry

□ 2007

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 25 OFFERED BY MR. TOM DAVIS OF VIRGINIA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. TOM DAVIS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 195, noes 233, not voting 5, as follows:

[Roll No. 364]

AYES—195

Aderholt
Akin
Armey
Baker
Ballenger
Barr
Bartlett
Barton
Bass

Bereuter
Biggert
Bilirakis
Boehlert
Boehner
Bonilla
Bono
Boozman
Boucher
Brady (TX)
Brown (SC)
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Castle
Chambliss
Coble
Collins
Condit
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Foley
Forbes
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Graves
Greenwood
Grucci
Hall (TX)
Hansen
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hobson
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kind (WI)
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Moran (VA)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Pombo
Portman
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—233

Abercrombie
Ackerman
Allen
Andrews
Baca
Bachus
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Bryant
Burr
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Chabot
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Ford
Fossella
Frank
Frost
Ganske
Gephardt
Gonzalez
Gordon
Granger
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall (OH)
Harman
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kirk
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Linder
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Petri
Phelps
Platts
Pomeroy
Price (NC)
Pryce (OH)
Rahall
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schaffer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tierney
Toomey
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Woolsey
Wu
Wynn

NOT VOTING—5

Blunt
Combest
Meehan
Rangel
Roukema

□ 2015

Mr. TURNER, Mr. FOSSELLA, and Mr. ADERHOLT changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT 27 BY MR. WELDON OF FLORIDA

The CHAIRMAN pro tempore (Mr. SWEENEY). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. WELDON) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 118, noes 309, not voting 6, as follows:

[Roll No. 365]

AYES—118

Aderholt
Baker
Barr
Bartlett
Barton
Bilirakis
Bonilla
Brady (TX)
Brown (SC)
Bryant
Burton
Buyer
Calvert
Camp
Castle
Coble
Cooksey
Crane
Cubin
Culberson
Cunningham
Deal
DeFazio
DeLay
DeMint
Doolittle
Duncan
Ehlers
Ehrlich
Emerson
Everett
Fletcher
Forbes
Fossella
Gallegly
Gilchrest
Gillmor
Goode
Goodlatte
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hayworth
Hefley
Hilleary
Hobson
Hostettler
Hulshof
Hunter
Isakson
Israel
Istook
Jenkins
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Lewis (KY)
Lofgren
Lucas (OK)
Maloney (CT)
Manzullo
McInnis
Miller, Jeff
Moran (KS)
Myrick
Northup
Norwood
Ose
Paul
Pence
Pickering
Pitts
Platts
Pombo
Putnam
Ramstad
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ryun (KS)
Schaffer
Sensenbrenner
Sessions
Shadegg
Shimkus
Shows
Shuster
Smith (TX)
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Thune
Tiahrt
Upton
Vitter
Wamp
Watkins (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (SC)

NOES—309

Abercrombie
Ackerman
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Boehner
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Burr
Callahan
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Collins
Condit
Conyers
Costello
Cox
Coyne
Cramer
Crenshaw
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Flake
Foley
Ford
Frank
Frelinghuysen
Frost
Ganske
Gekas
Gephardt
Gibbons
Gilman
Gonzalez
Gordon
Goss
Graham
Green (TX)
Greenwood
Gutierrez
Hall (OH)
Hart
Hastings (FL)
Hastings (WA)
Hayes
Herger
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hyde
Inslee
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
LoBiondo
Lowey
Lucas (KY)
Luther
Lynch
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Mink
Mollohan
Moore

Moran (VA)	Rivers	Stenholm
Morella	Rodriguez	Strickland
Murtha	Roemer	Stump
Nadler	Ros-Lehtinen	Stupak
Napolitano	Ross	Sununu
Neal	Rothman	Tanner
Nethercutt	Roybal-Allard	Tauscher
Ney	Royce	Taylor (NC)
Nussle	Rush	Terry
Oberstar	Ryan (WI)	Thomas
Obey	Sabo	Thompson (CA)
Olver	Sanchez	Thompson (MS)
Ortiz	Sanders	Thornberry
Osborne	Sandlin	Thurman
Otter	Sawyer	Tiberi
Owens	Saxton	Tierney
Oxley	Schakowsky	Toomey
Pallone	Schiff	Towns
Pascrell	Schrock	Turner
Pastor	Scott	Udall (CO)
Payne	Serrano	Udall (NM)
Pelosi	Shaw	Velazquez
Peterson (MN)	Shays	Visclosky
Peterson (PA)	Sherman	Walden
Petri	Sherwood	Walsh
Phelps	Simmons	Watson (CA)
Pomeroy	Simpson	Watt (NC)
Portman	Skeen	Watts (OK)
Price (NC)	Skelton	Waxman
Pryce (OH)	Slaughter	Wexler
Quinn	Smith (MI)	Whitfield
Radanovich	Smith (NJ)	Wilson (NM)
Rahall	Smith (WA)	Wolf
Rangel	Snyder	Woolsey
Regula	Solis	Wu
Rehberg	Souder	Wynn
Reyes	Spratt	Young (AK)
Reynolds	Stark	Young (FL)

NOT VOTING—6

Blunt	Lipinski	Roukema
Combest	Meehan	Waters

□ 2023

Mrs. KELLY changed her vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PREFERENTIAL MOTION OFFERED BY MR. MURTHA

Mr. MURTHA. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. MURTHA moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. MURTHA) is recognized for 5 minutes in support of his motion.

Mr. MURTHA. Mr. Chairman, let me explain the problem. Last night, as my colleagues are aware, in my district we had a mine incident where we have nine miners trapped. The gentleman from Kentucky (Mr. ROGERS) offered an amendment which I was interested in and was concerned about and was not able to talk about because of the work we were doing with the mine rescue effort.

Just to report to the Members, the drill bit broke, as many saw on TV, and we are trying to drill another hole. The shafts are big and it is very, very difficult. We have not heard anything for over a day and a half. We have gone as far as 5 days, but the water, we are pumping the water out and hot air in and doing everything we can.

There has been marvelous cooperation with the Federal Government, the State government, the local commissioners, and my guy has been out there for 2 straight days. So we are hopeful.

But the reason I rise is that the gentleman from Kentucky offered an amendment last night which I am concerned about. I am concerned that it involves posse comitatus. We are allowing the military to get involved in civilian affairs. I worry that even the Germans had the Gestapo picking people up; I worry that the Russians had their special agency picking people up; and I am worried that this amendment would delegate to an unelected official the ability to have police authority.

Now, after talking to the gentleman from Kentucky (Mr. ROGERS), he and I talked about it, and I want him to put on the RECORD, so that we understand, the concerns that he has, but I first have a couple of people who want to speak.

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

Mr. MURTHA. I yield to the gentleman from Ohio.

Mr. KUCINICH. Mr. Chairman, the concerns that some of us have had is that the amendment that was passed by the House would open up the possibility for the military to be empowered to act as a domestic police force and would be a clear invitation to put the Posse Comitatus Act at risk.

The American constitutional experience has required the separation of the military from domestic police authority. Countries where the military has the power to act as a domestic police force include dictatorships and totalitarian regimes. I think many of us believe the Federal military is no substitute for civilian police authority.

Now, notwithstanding that the underlying bill contains language reaffirming the posse comitatus, I think many of us in this Chamber are familiar with statements by some high-ranking administration officials indicating a strong interest in employing the military in a domestic police force setting. So that is what causes our concern to arise here and why we bring this matter to the House.

Mr. Chairman, I want to thank the gentleman from Pennsylvania for allowing this opportunity for this discussion.

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

Mr. MURTHA. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Chairman, no one doubts for a moment the motivation of the gentleman from Kentucky (Mr. ROGERS). No one doubts the desire of the body to move forward in this area, not just with dispatch but with a focus that will accomplish the task.

The problem I think that we have is that some of this has been debated, including this amendment, in a late hour, without much opportunity for exchange between the Members. The plain fact is that those of us on the Committee on Armed Services know there are some folks, perhaps in the Pentagon and elsewhere, who have a separate political agenda on this which may be in contrast to what the intentions are here, and that is why I think the question is being raised at this point.

□ 2030

Mr. MURTHA. Mr. Chairman, I yield myself the balance of my time.

I am willing to withdraw or not ask for a revote after we hear the explanation from the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS of Kentucky. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentleman from Kentucky (Mr. ROGERS) is recognized for 5 minutes.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment simply tries to use the template, the model, of the Nation's drug interdiction program which is coordinated in two different places, in Key West, Florida, for the east side, South America, and the Caribbean, and Alameda, California, for the West Coast, Mexico and South America.

These centers are under no one's command. These are voluntary, governmental agencies that cooperate together in those centers under a memorandum of understanding. It is not controlled by anyone. Yet in those centers, and I recommend that Members visit them, we see the Nation's military, our civilian agencies, our intelligence agencies, in a boiler-room operation, all working 24 hours a day, 7 seven days a week, receiving intelligence from all sorts of places, and then acting on it with whatever resource may be available from whatever agency of the government that may be on the scene.

Now, they recognize posse comitatus; military is only used offshore. If there is a domestic or civilian aspect of what they do, they turn to the proper domestic civilian authorities, the sheriffs, the police departments, and so on. So there is a high recognition of posse comitatus there. This amendment requires if the secretary sets up such an operation, that he must model it after those models that I mentioned, which recognize posse comitatus.

Number two, the underlying bill in the manager's amendment reaffirmed that we are operating under posse comitatus. That we cannot violate in the bill posse comitatus. All civil liberties are completely protected under this amendment. The amendment grants no new authorities or powers to the components of the proposed task force, recognizing the existing Posse Comitatus Act.

Number two, we wrote this amendment so it is even permissive. We do not direct the Secretary to do this. He may if he chooses; but if he does, he must recognize posse comitatus. If Members believe that the war against foreign terrorism must be coordinated, then Members should be for this. There is no better model that we have than

what exists in Key West and Alameda, which can easily be transferred if the secretary deems necessary to the fight against foreign terrorism.

Mr. Chairman, I appreciate the concerns of the gentlemen who have expressed interest. It is too bad we had to debate this last night at 12:30 or 1 in the morning. We had 5 minutes, and it was too bad that the gentleman was busy in his home district in Pennsylvania. If the gentleman has questions about it, I will be happy to answer by whatever means the gentleman deems necessary.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MURTHA).

The motion was rejected.

Mr. OXLEY. Mr. Chairman, I rise today in strong support of H.R. 5005 and the hard work of the Select Committee on Homeland Security. By creating the Department of Homeland Security we will send a clear message to the world that the United States will not sit idly by while our enemies plot against us. It is critical that we quickly approve this measure in order to ensure that the President has the tools necessary to protect our citizens from evil acts perpetrated by those who hate our free and open society.

The creation of a Department of Homeland Security is a logical and necessary step. There are over 100 different federal agencies which are charged with protection of our borders. By consolidating this collection of bureaucracies into one agency, we will eliminate duplication of effort and conserve resources.

As Chairman of the Financial Services Committee, I have reviewed the Committee's jurisdiction over three programs within the Federal Emergency Management Agency that would become the responsibility of the new department. These programs are: the National Flood Insurance Programs, the Defense Production Act, and the Emergency Food and Shelter Program. FEMA's mission is to prevent, prepare for, respond to and recover from disasters of all types. The Financial Services Committee believes that FEMA's expertise in consequence management is critical to the function of the proposed Office of Homeland Security and that all of these programs should remain within FEMA at this time.

I commend the Committee's proposal to move the United States Secret Service to the new Department and maintain it as a ''distinct entity'' outside the four major jurisdictional cylinders established under the new Secretary. The long dual-role history of the Service—investigation and protective—combined with its more recently developed expertise in preventing and investigating cyber crimes, and its core mission of protecting the financial system of the United States make the Secret Service uniquely suited to draw from and augment the work of the other component agencies of the new Department.

Mr. Chairman, I would like to thank the Majority Leader and the other Members of the Select Committee for all their efforts in crafting this bill. The creation of this new department will be reflected in the history of our Nation as occurring at a time when Americans joined together in a unified fight against terrorism and against those who seek to suppress freedom. I strongly urge my colleagues to cast aside partisan differences and vote in favor of this legislation.

Mr. KOLBE. Mr. Chairman, I rise in strong support of the Homeland Security Act.

The Select Committee on Homeland Security and the other Committees, recognizing the gravity of this matter, have moved swiftly to bring this legislation to the Floor. But they have given adequate consideration for the many different points of view about the legislation. One of the guiding principles of the Select Committee is that there should be no greater priority than defending the promise of America and that individual liberty and personal safety come before bureaucratic regulations, rules and red tape. I could not agree more.

I represent the people of southeastern Arizona, an area of the country that borders Mexico and has considerable experience with border security needs. We have been struggling for years to reform and improve the coordination and effectiveness of federal law enforcement efforts along the southwest border.

During the debate on reorganizing the INS earlier this year, I hoped to offer my legislation implementing the Jordan Commission's recommendation to separate the two divergent functions within the INS—immigration services and benefits, but I was not provided the opportunity to offer this substitute. The bill before us today does include this fundamental restructuring the INS by placing enforcement functions within the new Department of Homeland Security and leaving the immigration services functions in a different Cabinet-level department—the Department of Justice. Although I would go further by consolidating all the immigration services that are shared by the Department of Justice and the Department of State, this bill does most of what I proposed and is needed to make our immigration system work.

Some have argued in the past that the two functions—enforcement and services—are complementary and must be coordinated by a single government official. But this concept was tried for decades through a failed experiment known as the INS, and has caused great harm to America. We cannot make the same mistake again. The price is too high as we wage our war on terrorism.

As we create this new Cabinet department, we must give the highest priority to ensuring that the responsibilities given to the Undersecretary for Border and Transportation are not assigned based simply on the current structure of the affected bureaucracies. The various agents and inspectors at a port-of-entry today, such as Customs officials, INS officials, Transportation officials, and Agriculture officials, should all be ''Homeland Security officials'' with the same management, same uniform, same communication and information networks, and the same policies and guidelines. We should not maintain the current bureaucracies separately within the new Bureau for Border and Transportation Security. It is essential that all these border functions be fully consolidated under the same, seamless management structure. Of course, the consolidation of the many agencies along the border will take time, but the bill before us today moves us significantly towards this vision.

Finally, I am pleased that the Select Committee on Homeland Security's recommendation would keep the statutory authority for revenue collecting with the Department of Treasury, while transferring law enforcement and trade responsibilities exercised by the existing Customs Service to the Department of Homeland Security. However, we must not diminish the capability of the Customs Service to carry out its diverse missions. Trade responsibilities of Customs should be separated from the enforcement activities. Activities that should remain at the Department of Treasury or be shifted to the U.S. Trade Representative's office include: rulings; legal determinations and guidelines relating to classification and value of merchandise; and the responsibility for identifying and planning for major trade issues.

Trade is a critical component of the U.S. economy. The flow of imports and exports contribute enormously to our economic growth as well as that of the global economy. We should not assign purely commercial decision making responsibilities to the new Homeland Security Department. It will have neither the mission nor the core competency to perform that role adequately. Nonetheless, it should be obvious that the Department of Homeland Security will perform a host of front line enforcement responsibilities that in fact will intersect with commercial or trade related spheres. This is a delicate balancing act, and we're not quite there with this bill.

This legislation to create a new Homeland Security Department comes as close to solving our illegal immigration border woes as could be done without a comprehensive overhaul of our immigration policies. I enthusiastically support this bill. I believe it will have a positive impact on southern Arizona and the entire nation in the years to come.

I urge my colleagues to support this legislation.

Mr. DREIER. Mr. Chairman, in creating a new Department of Homeland Security, the House of Representatives is considering legislation which realigns the federal government in order to properly address a new threat. This bill promotes security, integrates new solutions to address new threats, recognizes the value and service of first responders, and defines clear lines of government authority.

The primary mission of this new department will be the prevention of terrorist attacks within the United States, to reduce America's vulnerability to terrorism, and to minimize the damage and recover from attacks that may occur. In carrying out this mission, the Department of Homeland Security must be equipped with the proper expertise available in the various government agencies which currently perform the functions of border security, emergency preparedness and response, information analysis, and infrastructure protection.

In all of this, the focus must remain the basic protection of our neighborhoods and communities from the threat of terrorism. On the front lines of that effort are first responders—local law enforcement, firefighters, rescue workers, and emergency response teams. This bill establishes a National Council of First Responders charged with the responsibility to provide first responder best practices, latest technological advances, identify emerging threats to first responders, and identify needed improvements for first response techniques, training, communication, and coordination.

With this emphasis on improving first responder capabilities, we must not ignore the integral role of our local governments in the ability of first responders to succeed in their mission. Local governments have already

dedicated millions of dollars on increased security, preparedness, and emergency response costs since September 11. Cities and counties have upgraded security at key public facilities, enhanced information technology and communications systems, and improved local bioterrorism response capabilities.

Congress approved the Fiscal Year 2002 Emergency Supplemental Appropriations bill this week, which includes $151 million in grants to first responders. In providing this federal assistance, I requested consideration of local input regarding the application of federal first responder grants. In response, the bill requires state strategic plans for terrorism response to fully consult local governments. While this provides a good first step in integrating our local governments, we must keep the application of resources for first responders a top legislative priority.

In order to successfully secure our communities and provide effective emergency response, it is critical that local governments are integrally involved in the National Council of First Responders, and in any regional strategic planning for terrorism response. Most importantly, local governments must be given the opportunity to directly access available resources. The task at hand is too critical to allow funding and other assistance to be swallowed up by bureaucracy, or hijacked to mask deficits. Local governments are in the best position to understand what the first responders in their community need and must remain integrally involved in determining the allocation of resources.

I strongly support H.R. 5005 and commend the various committees of jurisdiction that deliberatively and expediously contributed to the creation of the new Department of Homeland Security. I also applaud the leadership of the Select Committee on Homeland Security, without which we may not have had the opportunity to enact this historic legislation.

Mrs. CHRISTENSEN. Mr. Chairman, I rise as a staunch supporter of homeland defense, but in strong opposition to H.R. 5005, the Homeland Defense Bill.

This bill is seriously flawed in many areas, and several of its measures would undermine civil liberties and deny work protections, while protecting contractors who could supply flawed, even deadly products.

Overall, the bill as currently constructed, would in my opinion put us more at risk than we are now, or was in September 10, 2001.

While the leadership sought input from the relevant committees in writing the bill, in the end that process turned out to be no more than a sham. As they have done time and time again, the regular order, processes that have served this body and our country well for over 200 years have been cast aside. That sets a dangerous precedent, and does nothing to ensure expert input into a very complex bill and agency.

I am particularly concerned about the rush to create headlines by having the bill ready on September 11th of this year. There can be no other reason.

This is a massive undertaking, and reorganization. It needs to be well thought out, and planned. Personally, I do not feel that the merging of the different agencies is at all necessary, and jeopardizes the other important functions of many of them.

We should look at the difficulties encountered with a much smaller project—the creation of the Transporting Security Agency, and take counsel on what happens when we rush headlong into something, without proper forethought and expert input.

Our homeland Defense is too important to give it such short shrift in our deliberations. As we have done time and time again since September 11th, we are throwing everything at the problem, hoping that something will stick and be effective. That is no way to lead.

Because caution, due diligence, and respect for process has already been called for by many on my side of the aisle, I know that this plea will also fall on deaf ears, but nevertheless, I am asking the leadership of this body, to stop this rush to meet an unnecessary and unwise deadline. The people of this country don't want a sound bite or photo-op, they want real leadership from us, and they want real homeland security.

Mr. BORSKI. Mr. Chairman, I would like to take this opportunity during debate on H.R. 5005 to apprise my colleagues of a Coast Guard issue that, if not properly addressed, will have serious consequences on our ability to defend our homeland. As the Coast Guard is to be transferred to the Department of Homeland Defense under this Act, the subject is most relevant to today's debate.

The Coast Guard recently launched a new mission known as HITRON. A combination of ships, boats and helicopters pursue drug runners in fast boats. Following a competition in 2000, the Coast Guard leased 8 MH–68A helicopters as a part of a new mission to dramatically improve the nation's ability to interdict drug traffickers. The helicopters fleet became fully operational this winter and has had a 100 percent interdiction success rate with 13 chases, 13 busts and a seizure of cocaine and marijuana valued at nearly $2.4 billion. Thus the mission is proven, the effectiveness of the helicopter is proven and HITRON has been made permanent by the Commandant.

On April 26, Congressman Howard Coble and I led 39 Members of Congress in a request to the Appropriations Committee to provide the Coast Guard with plus-up funding of $60 million the purpose of purchasing 8 MH–68A helicopters currently under short-term lease to the Coast Guard, plus 4 additional helicopters. We believe buying the helicopters would be a better investment than a continuation of leasing arrangements. Leasing is an expensive alternative to purchase.

Mr. Coble and I kept the Coast Guard Commandant and staff informed of our every step while we worked with the appropriations and authorization processes. On May 7, I met with representatives of the Commandant led by Admiral Harvey Johnson. Admiral Johnson informed me that while the helicopter was performing well; the Coast Guard did not want to make a purchase at this time. The reason is the Coast Guard was evaluating the option of deploying a ''multi-mission'' aircraft which would have drug interdiction capability as a part of the Deep Water modernization program. The USCG was awaiting a recommendation from the newly selected Integrated Coast Guard Systems group (ICGS), which is led by Lockheed and Northrop Grumman.

Congressman Coble and I responded to the Coast Guard that we understood the interest in a multi capability aircraft, and did not want to foreclose the Coast Guard option through a congressional mandate to purchase the existing MH–68A fleet. However, a very serious problem remains. The lease on the existing HITRON fleet expires this January 2003. It will be five years before new multipurpose helicopters are introduced. I am extremely worried that there could be an interruption in this program. Mr. Coble and I called on the Coast Guard to extend the lease of eight or more MH–68A helicopters for five years or until a permanent Deepwater multipurpose helicopter is fully operational and in the Coast Guard DeepWater inventory. An independent, but identical request for a five year lease extension was made by Congressman Bob Filner on June 28.

Last week, on July 17, the ICGS group presented its findings to the Coast Guard. It recommended a USCG-Industry team evaluate the trade offs between a single mission and multi-mission helicopter for drug interdiction. ICGS selected the Bell/Agusta Aerospace Company's AB–139 as the multi-mission aircraft. Consistent with the request made by Mr. Coble, Mr. Filner and myself, ICGS recommended an extension of the MH–68A lease for up to five years.

Mr. Chairman, Mr. Speaker, I urge the Coast Guard to adopt the recommendation of the ICGS to extend the MH–68A lease up to 5-years to get us from here to there. I also support specific funding to provide more protection for the crews of these helicopters. I hope my colleagues will join my efforts to ensure that there is no interruption in this vital homeland security program, and to secure the resources necessary to add further protection for our brave pilots and crew who have already done so much.

Mr. PAUL. Mr. Chairman, the move to create a federal Department of Homeland Security was initiated in response to the terrorist attacks of September 11 and subsequent revelations regarding bureaucratic bungling and ineptness related to those attacks. Leaving aside other policy initiatives that may be more successful in reducing the threat of future terror attacks, I believe the President was well-intentioned in suggesting that a streamlining of functions might be helpful.

Mr. Speaker, as many commentators have pointed out, the creation of this new department represents the largest reorganization of federal agencies since the creation of the Department of Defense in 1947. Unfortunately, the process by which we are creating this new department bears little resemblance to the process by which the Defense Department was created. Congress began hearings on the proposed department of defense in 1945—two years before President Truman signed legislation creating the new Department into law! Despite the lengthy deliberative process through which Congress created the new department, turf battles and logistical problems continued to bedeviled the military establishment, requiring several corrective pieces of legislation. In fact, Mr. Speaker, the Goldwater-Nicholas Department of Defense Reorganization Act of 1986 (PL 99–433) was passed to deal with problems stemming from the 1947 law! The experience with the Department of Defense certainly suggests the importance of a more deliberative process in the creation of this new agency.

This current proposed legislation suggest that merging 22 government agencies and departments—compromising nearly 200,000 federal employees—into one department will address our current vulnerabilities. I do not see

how this can be the case. If we are presently under terrorist threat, it seems to me that turning 22 agencies upside down, sparking scores of turf wars and creating massive logistical and technological headaches—does anyone really believe that even simple things like computer and telephone networks will be up and running in the short term?—is hardly the way to maintain the readiness and focus necessary to defend the United States. What about vulnerabilities while Americans wait for this massive new bureaucracy to begin functioning as a whole even to the levels at which its component parts were functioning before this legislation was taken up? Is this a risk we can afford to take? Also, isn't it a bit ironic that in the name of ''homeland security'' we seem to be consolidating everything except the government agencies most critical to the defense of the United States: the multitude of intelligence agencies that make up the Intelligence Community?

Mr. Speaker, I come from a Coastal District in Texas. The Coast Guard and its mission are important to us. The chairman of the committee of jurisdiction over the Coast Guard has expressed strong reservations about the plan to move the Coast Guard into the new department. Recently my district was hit by the flooding in Texas, and we relied upon the Federal Emergency Management Agency (FEMA) to again provide certain services. Additionally, as a district close to our border, much of the casework performed in my district offices relates to requests made to the Immigration and Naturalization Service.

There has beem a difference of opinion between committees of jurisdiction and the administration in regard to all these functions. In fact, the President's proposal was amended in no fewer than a half dozen of the dozen committees to which it was originally referred.

My coastal district also relies heavily on shipping. Our ports are essential for international trade and commerce. Last year, over one million tons of goods was moved through just one of the Ports in my district! However, questions remain about how the mission of the Customs Service will be changed by this new department. These are significant issues to my constituents, and may well affect their very livelihoods. For me to vote for this bill would amount to giving my personal assurance that the creation of this new department will not adversely impact the fashion in which the Coast Guard and Customs Service provide the services which my constituents have come to rely upon. Based on the expedited process we have followed with this legislation, I do not believe I can give such as assurance.

We have also received a Congressional Budget Office (CBO) cost estimate suggesting that it will cost no less than $3 billion just to implement this new department. That is $3 billion dollars that could be spent to capture those responsible for the attacks of September 11 or to provide tax-relief to the families of the victims of that attack. It is three billion dollars that could perhaps be better spent protecting against future attacks, or even simply to meet the fiscal needs of our government. Since those attacks this Congress has gone on a massive spending spree. Spending three billion additional dollars now, simply to rearrange offices and command structures, is not a wise move. In fact, Congress is actually jeopardizing the security of millions of Americans by raiding the social security trust fund to rearrange deck chairs and give big spenders yet another department on which to lavish pork-barrel spending. The way the costs of this department have skyrocketed before the Department is even open for business leads me to fear that this will become yet another justification for Congress to raid the social security trust fund in order to finance pork-barrel spending. This is especially true in light of the fact that so many questions remain regarding the ultimate effect of these structural changes. Moreover, this legislation will give the Executive Branch the authority to spend money appropriated by Congress in ways Congress has not authorized. This clearly erodes Constitutionally-mandated Congressional prerogatives relative to control of federal spending.

Recently the House passed a bill allowing for the arming of pilots. This was necessary because the Transportation Security Administration (TSA) simply ignored legislation we had passed previously. TSA is, of course, a key component of this new department. Do we really want to grant authority over appropriations to a Department containing an agency that has so brazenly ignored the will of Congress as recently as has the TSA?

In fact, there has been a constant refusal of the bureaucracy to recognize that one of the best ways to enhance security is to legalize the second amendment and allow private property owners to defend their property. Instead, the security services are federalized.

The airlines are bailed out and given guaranteed insurance against all threats. We have made the airline industry a public utility that get to keep its profits and pass on its losses to the taxpayers, like Amtrak and the post office. Instead of more ownership responsibility, we get more government controls. I am reluctant, to say the least, to give any new powers to bureaucrats who refuse to recognize the vital role free citizens exercising their second amendment rights play in homeland security.

Mr. Speaker, government reorganizations, though generally seen as benign, can have a deleterious affect not just on the functioning of government but on our safety and liberty as well. The concentration and centralization of authority that may result from today's efforts should give us all reason for pause. But the current process does not allow for pause. Indeed, it militates toward rushing decisions without regard to consequence. Furthermore, this particular reorganization, in an attempt to provide broad leeway for the new department, undermines our Congressional oversight function. Abrogating our Constitutionally-mandated responsibilities so hastily now also means that future administrations will find it much easier to abuse the powers of this new department to violate constitutional liberties.

Perhaps a streamlined, reconfigured federal government with a more clearly defined and limited mission focused on protecting citizens and their freedoms could result from this reorganization, but right now it seems far more likely that the opposite will occur. That is why I must oppose creation of this new department.

Until we deal with the substance of the problem—serious issues of American foreign policy about which I have spoken out for years, and important concerns with our immigration policy in light of the current environment—attempts such as we undertake today at improved homeland security will amount to, more or less, rearranging deck chairs—or perhaps more accurately office chairs in various bureaucracies. Until we are prepared to have serious and frank discussions of policy this body will not improve the security of American citizens and their property. I stand ready to have that debate, but unfortunately this bill does nothing to begin the debate and nothing substantive to protect us. At best it will provide an illusion of security, and at worst these unanswered questions will be resolved by the realization that entities such as the Customs Service, Coast Guard and INS will be less effective, less efficient, more intrusive and mired in more bureaucratic red tape. Therefore, we should not pass this bill today.

Mr. EVANS. Mr. Chairman, I rise in support of legislation creating the Department of Homeland Security.

We will never forget the tragic events of September 11th. That day truly ushered in a new era when we, as a nation, can never take for granted the security of our borders or terrorist threats.

If anything, the tragedies that unfolded on that day demonstrated that we have much work to do to guarantee the safety of average Americans. There were too many warning signs that should have been acted on by our government. It is clear that there are many gaping holes between numerous agencies in responding to terrorist threats and that those same agencies have not cooperated properly in analyzing and working to eliminate these threats.

The legislation before us today addressed areas such as border security, immigration enforcement, and infrastructure preparedness, that must be immediately reorganized to better deal with these threats. This reorganization will better facilitate communication and intelligence sharing between many of these agencies that are on the front line of fighting and preventing terrorist acts. The reorganization will also prepare our communities to address weaknesses in physical cyber-security.

Despite the strengths of the legislation, I do have serious reservations about some provisions that needlessly restrict the rights of Americans and would not contribute to the goals of a more secure homeland. For example, provisions in this legislation unnecessarily abridge civil service protections for the 170,000 federal employees being transferred to the Department of Homeland Security. We should not view civil service protections as a hindrance to fighting terrorism, nor should the cover of anti-terrorism be used to roll back these protections.

This legislation would allow employees transferred to the new department to have their salaries arbitrarily reduced, as well as deny thousands of federal servants due process in merit board proceedings. Many Americans are making sacrifices to fight terrorism, but to ask federal employees to forfeit these basic job protections is callous and unnecessary. There are some in this body that would like to eliminate all civil service protections, but using the cover of terrorism is offensive.

The bill also has a blanket waiver for contractors who produce anti-terrorist devices and products from civil product liability. Contractors who even exhibit fraud or willful misconduct in manufacturing could not be brought to justice under the act. This would even apply to the very servicemen and women who would use this equipment. I believe this is unconscionable and should not be allowed to stand.

I am also very disappointed that the committee did not include an amendment by Representative DELAURO to deny government contracts to American firms that skirt their tax liability by using offshore havens. The DeLauro amendment would have restored a similar bipartisan provision that passed unanimously in the Ways and Means but was deleted by the Republican leadership when they drew up their version of the legislation to be offered on the floor of the House. I believe that Companies that avoid their tax liability should not be eligible for contracting and procurement for a department with a budget the size of Puerto Rico's entire economy.

I encourage my colleagues to support this legislation and support the Morella and DeLauro amendments when they come up for a vote. Their addition would help improve what is largely a worthwhile and effective piece of legislation that will greatly aid our nation in its war on terrorism.

Ms. DEGETTE. Mr. Chairman, although I believe it is imperative to install explosion detection devices at our airports as soon as possible, we must also understand what is reasonable and not lull the public into false hopes by setting arbitrary and unattainable deadlines. We need to listen to the experts and agree to an extended deadline for implementing explosion detection systems to improve baggage screening at our nation's airports. That is why I am voting against the amendment to strike the language form the homeland security bill to extend the Transportation Safety Administration (TSA) deadline. I remain deeply concerned about passenger safety and I believe we ought to continue to take aggressive steps to ensure it. Nevertheless, December 31, 2002 is an arbitrary deadline. Worse than that, it is an arbitrary deadline that our nation's largest airports cannot meet.

For example, in my district, Denver International Airport (DIA) has already implemented many safeguards that exceed TSA standards. However, TSA has failed to fund the equipment that needs to be installed. As a result, if we push forward with a band-aid solution, the large machines that are currently TSA-certified would force passengers to stand outside waiting for their bags to be checked. We are talking about Denver, Colorado. We have cold winters. And having crowds of people waiting outside where cards drive up to let out passengers would create a new safety hazard. An interim solution that provides a less-than-optimal level of security and that will result in unacceptable delays to the traveling public is unacceptable.

Increasing passenger safety is our mutual goal and there is technology that will better achieve that awaiting certification this November. It has been shown to have a greater rate of positive detection, a decreased rate of false positives, and it is a more reasonable size. Denver is planning on implementing this technology and DIA will serve as a test site for the rest of the nation. TSA needs to certify this superior technology and make the financial commitment to allow airports like DIA to begin working on these vital projects. Thus far, the TSA's funding delays have hindered DIA's ability to commence building the necessary infrastructure. DIA and other airports should not be punished for the lack of coordination and support from the TSA.

Let's get it right the first time and implement the technology that will best achieve greater safety and reassure the flying public. We need to recognize the very real, very serious and very costly obstacles the TSA and airports face and allow the airports to continue to utilize one or more of the current screening methods required by the TSA beyond the December 31, 2002, deadline.

Let's not insist on an arbitrary deadline that will not and cannot be met. This should not be construed as a weakening of Congress' resolve. Our nation's airports and airlines have a responsibility to ensure the safety of the flying public. However they determine to achieve this, it needs to happen with all due speed.

Mr. CRANE. Mr. Chairman, today I rise in support of House Resolution 5005 creating a new Department of Homeland Security.

Like the rest of Congress, I applaud the President for his bold decision to reorganize the government and make homeland security the highest priority. Like others, however, I also have had questions about the details of this transition and how it would affect the many responsibilities of those agencies transferred to the new department. The bill before us has answered my questions and provides real protection for our Nation.

Let me focus on one of the important sections dealing with the security of collecting revenue and the economically critical mission of trade facilitation.

Mr. Chairman, the requirement to generate revenue for this country through Customs duties, which was the very first Act of Congress, was the primary reason Customs was established in the fifth Act of Congress as the first Federal agency of the new Republic. This function is still important today as demonstrated by the fact that Customs collects over $20 billion of revenue.

Today, under the authority of the Department of the Treasury, Customs enforces well over 400 provisions of law for at least 40 agencies. In addition to collecting revenue, Customs safeguards American agriculture, business, public health, and consumer safety and ensures that all imports and exports comply with U.S. laws and regulations.

Through the work of this Congress, the new Department now has the tools it needs to protect our borders while at the same time ensuring that revenue continues to be collected and that goods keep moving across the border with little delay.

For these reasons I urge a YES vote on H.R. 5005.

Mr. CAMP. Mr. Chairman, today I rise in support of H.R. 5005, the Homeland Security Act of 2002. I would like to thank the distinguished Majority Leader for his hard work and leadership on the Select Committee to bring this legislation to the Floor.

The U.S. government has no higher purpose than to ensure security of American citizens and to preserve our democratic way of life. The proposal before us creates the Department of Homeland Security, a Cabinet-level agency that will unite essential agencies for better coordination, greater preparedness and quicker response time. Currently, there is no one department that has homeland security as its primary mission. In fact, responsibilities for homeland security are dispersed among more than 100 different government organizations. We need to strengthen our efforts to protect America, and the current governmental structure limits our ability to do so.

As a northern border state, Michigan is on the frontline in border security. We enjoy the longest unmilitarized border in the world with our friend and ally, Canada. With over $1.9 billion in goods and over 300,000 people crossing the border every single day, the connection between our societies is critical to maintain the economic stability of both nations. However, this openness can become a vulnerability when exploited by the mobility and destructive potential of terrorists.

Currently, border security involves multiple agencies—including INS, which is under the Department of Justice; Customs, which is part of the Department of Treasury; and plant and livestock inspectors from the Department of Agriculture. All of these entities have different bosses, different equipment, and even different regulations that govern them. This legislation moves these principal border and transportation security agencies into the Department of Homeland Security. This will provide a direct line of authority and clear chain of command administered by the Secretary of Homeland Security, who is answerable to Congress and the President.

Homeland security should not be a partisan issue. We must rise above politics and jurisdictional disputes to send to the President a strong bipartisan bill that will be effective in improving America's security. I urge my colleagues to vote in favor of H.R. 5005 because it is the right thing to do.

Mr. UNDERWOOD. Mr. Chairman, H.R. 5005, a bill to establish the Department of Homeland Security to safeguard our homeland, to secure our nation for the protection of citizens and property, to defend and preserve our democracy for posterity, to reorganize our government to strengthen emergency preparedness throughout the country, and to reduce the vulnerability of the United States to terrorism, is a bold undertaking that deserves our most serious consideration and attention. As we take up the task of establishing this new department, I want to reiterate and emphasize several important points that concern my constituency, the people of Guam.

In this debate, it is important to recognize that the American homeland extends far beyond the 50 states, and includes the U.S. territories, including my home island of Guam, some 9,500 miles away from Washington, D.C. I have long maintained that in concept, the American homeland should consist of all U.S. jurisdictions which Americans reside and call home. I was pleased to learn that the President's ''National Strategy for Homeland Security,'' unveiled last week, takes into account the U.S. territories. I feel it is equally important for the House to ensure that the bill before us today properly takes into account the U.S. territories. The domestic defense and emergency response capability needs of Americans residing in the U.S. territories are just as critical as the needs of Americans residing in the 50 states.

The territories present unique challenges in planning for homeland security and defense. These unique needs and challenges should be addressed and assessed by the new Department of Homeland Security. Critical resources need to be harnessed and clear lines of communication must be established for the local law enforcement officials in the territories, just as they should be for the 50 states, to combat terrorism at the front lines. In this regard, I am pleased that this bill defines the U.S. territories as part of the geographic homeland. I am

equally pleased that this bill ensures coordination on the part of the Department of Homeland Security with the territorial and local governments of Guam, American Samoa, Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

I want to thank the Select Committee on Homeland Security, in particular the Majority Leader, Mr. ARMEY, and the Democratic Whip, Ms. PELOSI, for their acceptance of my request to add a specific definition of ''State'' to the bill that includes Guam and the U.S. territories. This specific definition is needed in order to ensure that the other provisions of the bill adequately take into account how guidelines will be carried out and implemented in and for the U.S. territories. The Select Committee's inclusion of my proposal as well as the House Armed Services Committee's recognition of this matter is important to guarantee that information, intelligence, and analysis produced and gathered by the Department is shared with the territories. This action also makes certain that public advisory notices issued and infrastructure vulnerability assessments conducted by the Department include the territories. Furthermore, border control measures implemented, regulations promulgated, policy formulated, communication facilitated, and comprehensive planning will be for the benefit of the territories as well as the states.

The people of Guam proudly continue to stand united with our country in the war against terrorism, but we want to ensure that we stand together when it comes to the planning and preparation to safeguard our homeland, even in distant shores. Let us pass a bill that will help protect all Americans, both in the states and the territories.

Mr. CHAMBLISS. Mr. Chairman, the events of September 11 changed the way Americans view the safety of air travel by exposing loopholes in security procedures at our nation's airports. Aviation security is now more than ever a top priority for all Americans, and it is the responsibility of the federal government to provide for the security and safety of every passenger on a commercial flight originating in this country. In my home state of Georgia is Hartsfield Atlanta International Airport the world's busiest airport.

Hartsfield's Aviation General Manager, Ben DeCosta, has implored Secretary Norman Mineta to assist in moving the arbitrary December 31, 2002 deadline to screen 100% of checked baggage. I agree with Mr. DeCosta, if this artificial deadline is maintained and we do not allow for a more measured approach, we will compromise the very security that we are trying to restore. Waiting until later in the year to extend the deadline is a tragic public policy failure. I have submitted for the record Mr. DeCosta's letter urging support for legislative relief from this deadline for my colleagues to view.

HARTSFIELD ATLANTA INTERNATIONAL AIRPORT,
Atlanta, GA, June 12, 2002.

Rep. SAXBY CHAMBLISS,
U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVE CHAMBLISS: I thought you would be interested in hearing from me directly regarding a letter that I, along with 38 other airport directors, wrote to Transportation Secretary Norman Mineta to stress our concerns about the December 31, 2002 congressional deadline to screen 100% of checked baggage. I also have enclosed a copy of the letter for your review.

We fully support the Transportation Security Administration's efforts to fulfill the nation's goal of strengthening the security of aviation in this nation. Tight deadlines have focused the attention of everyone to get things done expeditiously. But, in the case of the 100% baggage screening deadline, it will drive the TSA to implement a program at Hartsfield that will not give us the best security or an acceptable level of customer service.

We believe that an integrated and automated Explosive Detection System is a must for many airports. But, the TSA will not implement such a system because it cannot be completed by December 31, 2002. We fear that harried efforts to meet an artificial deadline will compromise efforts to enhance security, frustrate our aims to increase capacity and slow the return of the industry to financial health. We should do the bag screening right the first time. We may not be able to afford to do it over again.

We urge you to support our request for legislative relief from the December 31, 2002 deadline. A more measured approach can lead to successful results in both enhanced security and good customer service. I will provide you with additional information and analysis when TSA finalizes its approach for Hartsfield.

Sincerely,

BENJAMIN R. DECOSTA,
Aviation General Manager.

Mr. BLUMENAUER. Mr. Chairman, strengthening the capacity of our government agencies to defend our nation from terrorist attacks is necessary and vital to our security. Our Nation will benefit from better communication among federal agencies and from improved safety of air travel, our borders, our ports, and our water supplies. However, we must develop a focused strategy to protect our Nation rather than taking cosmetic actions. The proposed Homeland Security Department, as proposed in this bill, does not achieve this end.

We need to address the intelligence failures that led up to the events of September 11th. We need to work with local governments to coordinate responses to future attacks. The proposed Department does not address either. Instead we will create a new bureaucracy that, I fear, gives more the illusion of safety. By concentrating on a massive restructuring of the federal government, we will not be able to focus on actually improving the security of our Nation. Under this proposal, those working at all levels will have to divert their attention from national security to bureaucratic reorganization.

As has been documented time and again in jarring detail by the news media, the FBI and CIA were not properly coordinated before September 11. This massive reorganization, rather than dealing with fundamental problems between these two agencies, adds a third governmental department to the uncoordinated mix.

There are real questions about whether we are spending the necessary amount of time to ensure the success of this new Department or are setting it up for failure. We need only look to the Department of Energy reorganization, which occurred over 25 years ago, and today still has failed to become a streamlined, effective department with an efficient process. Past successful reorganizations required more time and enjoyed fuller cooperation and interaction between the administration and Congress.

The proposed Homeland Security Department would include agencies like the Coast Guard and FEMA, whose primary responsibilities are not related to the terrorist threat. Focusing the resources of these agencies instead on homeland security could well detract from the majority of their other vital services that affect the health and safety of millions of Americans every day.

The cost of this new department is another factor that needs more attention. The President has suggested that the most massive reorganization in 50 years will not require any new spending. History and my own experience in governmental reform and reorganization suggest the contrary.

This proposal was developed in private by the Administration with very little Congressional deliberation and input. For such a significant reorganization we should include all segments of our community: local government officials, first responders, and private entities. Homeland security should not be a Washington-driven agenda and we must ensure that local consultation is part of the process.

Finally, the timing is problematic. There appears to be an imperative to rush this into law before the anniversary of September 11th. A more fitting tribute than marking the anniversary with questionable legislation would be to honor those who lost their lives with our best efforts, even if it takes a few more weeks. It would be a shame if this critical legislation left America in greater jeopardy after its passage than it is today.

Mr. TIAHRT. Mr. Chairman, I rise today in support of HR 5005, the Homeland Security Act of 2002. This important legislation will bring more than 100 different security and safety units from around the nation together into a newly created Cabinet department. This new department will work to control movement at the borders, emphasize coordination with state and local emergency responders, merge intelligence units to identify, map threats, and address vulnerabilities, and develop technologies to protect the homeland.

The attacks on September 11th changed the everyday lives of Americans. As a result of these attacks, our country is now at war with an invisible enemy that lurks in the shadows. We face the real possibility of additional attacks of a similar or even greater magnitude. Terrorists around the world are conspiring to obtain chemical, biological and nuclear weapons with the express intent of killing large numbers of Americans. We saw on September 11th that terrorist will use unconventional means to deliver their terror.

These new times require new thinking. Creating a Department of Homeland Security will give the Government the flexibility necessary to make the right decision that are needed to protect the American people. Consolidating these agencies into one Cabinet-level Department will support the President's National Strategy for Homeland Security, it will facilitate the ability of the private sector to more effectively communicate and coordinate threat and vulnerability management, and it will centralize response and recovery management with the federal government. The Department of Homeland Security will have three mission function. They are (1) to prevent terrorist attacks within the United States, (2) to reduce America's vulnerability to terrorism and, (3) to minimize the damage and recover from attacks that do occur.

H.R. 5005 transforms many government functions into a 21st century Department. In order to protect the freedom of our citizens,

we must protect America's borders from those who seek to cause us harm. Under this legislation, protection of our borders is a primary function. This legislation will encompass INS enforcement functions, the Customs service, the border functions of the Animal Plant Health Inspections Service and the Coast Guard all together in the new Department of Homeland Security. H.R. 5005 will also ensure that our neighborhoods and communities are prepared to address any threat or attack we may face. The Federal Emergency Management Agency (FEMA) will also be included in the Department of Homeland Security.

Thus, if an attack should occur, it will be clear who is responsible for consequence management and whom our first responders can quickly communicate with. Additionally, HR 5005 places a high priority on transportation safety. The Transportation Security Agency is transferred entirely to the Department of Homeland Security. TSA has the statutory responsibility for security of all modes of transportation and it directly employs transportation security personnel.

These are just a few of the agencies that will encompass the Department of Homeland Security. Only those agencies whose principal missions align with the Department's mission of protecting the homeland are included in this proposal. The current unfocused confederation of government agencies is not the best way to organize if we are to effectively protect our homeland, as responsibility is too scattered across the federal government. This has led to confusion, redundancy and ineffective communication.

Even though this legislation addresses issues concerning personal privacy, government disclosure, and individual rights, lawmakers and citizens alike must be vigilant against government encroachment of traditional liberties. Specifically, this bill prohibits the implementation of the Terrorism Information and Prevention System (TIPS), a national ID card system, guarantees whistle-blower protections, details Freedom of Information provisions, and establishes a Privacy Officer responsible for ensuring privacy rights of citizens. I believe an unaccountable government is an irresponsible government and in addition to a vigilant watch against abuses of individual rights, we must be accountable to taxpayers and not allow the Department to expand beyond its fiscal and bureaucratic parameters.

Mr. Chairman, the new Department of Homeland Security will be the one department whose primary mission is to protect the American Homeland. It will be the one department to secure our borders, transportation sector, ports, and critical infrastructure. One department to synthesize and analyze homeland security intelligence. One department to coordinate communications with state and local governments, private industry and first responders, and one department to manage our federal emergency response activities.

We owe the American people nothing less than the absolute best to protect its citizens. Reorganization of America's homeland security functions is critical to defeating the threat of terrorism and is vital to the nation's long-term security.

Mr. NETHERCUTT. Mr. Chairman, I rise today in support of H.R. 5005, a bill to create a much-needed Department of Homeland Security in the Presidential Cabinet.

For the first time, America will have all its border protection services under one authority. The Immigration and Naturalization Service (INS) enforcement, the Customs Services, the border activities of Animal and Plant Health Inspection Service (APHIS) and the Coast Guard will be able to work more closely than ever to ensure that our borders—especially our northern border, the longest undisputed border in the world—are protected from threats. Whether those threats are from terrorists, illegal immigrants, drug smugglers or smugglers of other contraband, the Department of Homeland Security will be in a position to protect against those threats, while utilizing technology to aid the free flow of legal commerce.

The legislation before us today varies from the President's initial proposal in a very meaningful and positive way. It incorporates language I supported with the Science Committee to include an Undersecretary for Science and Technology who will be given the task of coordinating homeland security-related scientific research government-wide. One aspect I fought to keep in this bill is the flexibility for federal partnerships with small businesses that have innovative technologies to offer. Other Transaction Authority, as it is called, has been used successfully by the Defense Advanced Research Projects Agency (DARPA), and I believe it has equal merit to advance time-critical and life-saving technologies in this new Department. I am pleased that the President has embraced these changes.

Mr. Chairman, I am also pleased that this Department will be organized almost entirely out of existing government agencies. Congress could have easily taken this opportunity to create more government bureaucracy. The terrorist threat that faces our great Nation could have easily been used as an excuse to broaden the size and scope of the federal government. The bill before us today does not take that approach, but rather reorganizes, consolidates, streamlines and focuses those federal agencies responsible for homeland security. With those agencies under one Secretary of Homeland Security, I am confident that our nation is in a better position to prepare for and responds to any threat to our domestic security.

This legislation will provide the flexibility the President needs in order to make staffing changes and provide for the national security, and to reorganize activities within the Department so that agencies work with one another to make our country safe. At the same time, this bill provides the Constitutionally mandated Congressional oversight necessary to maintain separation of powers and prevent excessive and abusive government. For example, this bill preserves the authority of Congress and the Appropriations Committee to prescribe levels of funding for Executive Branch functions. Furthermore, H.R. 5005 will prohibit the unwise Terrorism Information and Prevention System (TIPS) program, which would have encouraged neighbors to spy on neighbors. I am pleased with the privacy protections built into this act, which will prevent an intrusive 'Big Brother' government which violates our Constitution.

I thank the members of the Select Committee on Homeland Security, and the distinguished Majority Leader and Chairman of the Committee, Mr. ARMEY, for their hard work crafting this bill.

Mr. ETHERIDGE. Mr. Chairman, I rise in support of H.R. 5005, a bill that establishes the new U.S. Department of Homeland Security.

Since September 11th, the United States has made protecting the American homeland from terrorism and fighting terrorism abroad our top priority. I support the reform and reorganization of the departments and agencies with responsibilities for homeland defense, as well as a thorough review of events and factors that led to the tragic events of September 11.

Such reform and reorganization, coupled with a comprehensive threat assessment and strategy to address threats to the American homeland, are the best way to improve the safety and security of the American people. I call on the Secretary to operate the new Department in an open and fiscally responsible manner. Through this legislation we have given the Department Secretary the requisite statutory and budget authority to effectively and efficiently protect America from terrorism.

Make no mistake: this bill is far from perfect. The House Republican leadership in too many instances misused H.R. 5005 to score political points instead of legislating responsibly. I am hopeful the conference with the Senate will overcome these deficiencies and Congress can pass a final Homeland Security bill that produces real security for the American homeland.

As we protect and defend our country, we must also protect and defend the Constitution, the Bill of Rights, our civil liberties, and the protection of civil service employees. Futhermore, the development and operation of the Department of Homeland Security must involve a bottom-up process, with the input and recommendations of local first responders and local officials from America's cities, small towns and rural communities. They are our first line of defense against terrorism, and also the first to answer a call in case of attack.

The security of our country, our people and our freedoms are paramount. The new Department of Homeland Security will allow us to devote time, people and resources in a coordinated and effective manner to deter any more tragedies like September 11.

Mr. STENHOLM. Mr. Chairman, I rise today in support of the bill H.R. 5005, the ''Homeland Security Act of 2002.''

At the very outset, I want to express my thanks to the Members of the Select Committee on Homeland Security, from both sides of the isle, all of whom were very gracious in considering and ultimately accepting the recommendations from the House Agriculture Committee. I am convinced that through this cooperation we were able to make significant improvements to the sections involving the transfer of the Plum Island Animal Disease Laboratory and the border inspection functions of the USDA Animal and Plant Health Inspection Service (APHIS). In addition, I want to acknowledge the support and cooperation of the Administration in our efforts to improve these specific provisions as well.

Despite my support for moving the process forward today, however, I would not be fully honest if I didn't express serious concern about the accelerated pace at which we have developed this legislative package and about some of the uncertainties associated with it. Many in Congress are concerned that, in our haste, we may not have given adequate consideration to unintended consequences that could result from the current effort.

Little that I have heard during this abbreviated process has reassured me that the American people will be significantly safer from terrorist threats as a result of the passage of this bill and its enactment into law. Of course, the vast majority of this bill is really not about creating new protections for the American Homeland. Rather, much of this bill relates to a gigantic reshuffling and potential expansion of the federal bureaucracy—the largest new federal bureaucracy created since World War II. This too is a source of serious concern to me.

While I realize that efforts have been made to ensure that no important functions are lost or degraded by this reorganization, I would feel much more comfortable if we had been able to question the Administration about these matters during the hearings held by the House Agriculture Committee. Unfortunately, representatives for the Administration did not choose to accept our invitation to appear, and we consequently had to do our work with less information and assistance from them than I would have liked.

Nonetheless, I do remain hopeful, that through our actions today, some improvements in inter-governmental communication and coordination may take place. I am also pleased that we were able to address the issues related to the USDA Animal and Plant Health Inspection Service in a way that will preserve important agricultural functions, while assisting the effort to consolidate homeland security protections.

Given these positive steps, I will be voting for the legislation before us today. I am hopeful that, as a result of this legislation, at least one American family will be spared additional loss and suffering at the hands of those who hate us and our way of life.

Mr. SERRANO. Mr. Chairman, I rise in reluctant but strong opposition to the Homeland Security Act before us today.

It has been clear since September 11th—indeed it was clear well before that date—that the Federal government needs to change to better face the threats posed by terrorists, to better coordinate and focus prevention, preparation, and response efforts. The bill before us attempts to do that. But I have several serious concerns with the approach the President and the majority are taking.

First, let me praise the Select Committee for including in the new department an Office for Civil Rights and Civil Liberties. This represents an acknowledgement that our fundamental values must be preserved as we fight against forces that seek to destroy those values.

However, on a number of other issues, equally important values, such as fairness and openness, are undercut.

I am deeply concerned that what is proposed in this bill goes too far too fast and actually risks disrupting our efforts to detect and prevent future terrorist acts against America and Americans. Changed priorities and restructuring are very disruptive to any organization, and it will be extremely difficult to maintain a new department's focus on its primary missions when so many different entities with so many different cultures are being merged. The Comptroller General has testified that, based on review of organizations undertaking similar ''transformational change efforts'', it could take between five and ten years for the department to become fully effective.

I am also deeply concerned that the non-homeland security activities of many of the agencies proposed to move to the new department will suffer within an organization focused on homeland security. While the new department's primary mission is critical to the well-being of our people, so are the Coast Guard's search and rescue function and FEMA's response to natural disasters. They must not lose attention or resources because the main focus of the department and its top managers is on homeland security.

Another problem I see with the bill is that it rewrites or even abandons an array of good government protections in the name of ''flexibility''. As several of my colleagues have noted, we got through World War II, the Cold War, Korea, and Vietnam without needing to exempt the federal workforce from civil service protections, ranging from collective bargaining to whistleblower protection. It is simply wrong to turn hardworking, loyal civil servants into second-class employees because their box is moved to a new place on an organizational chart.

It is also wrong and unnecessary to fiddle with the Freedom of Information Act and the Federal Advisory Commission Act. Both have sufficient protections against disclosure of sensitive information and should be retained.

Mr. Chairman, others have identified other serious problems with this bill, but I believe the fundamental problem is that it tries to do too much all at the same time. The real problems were not the structure of the government; they involved priorities that did not include counter-terrorism, as well as failures of coordination and information-sharing among existing agencies.

As an example of a more focused, less disruptive approach, a team from the Brookings Institution suggested concentrating initially on agencies involved in border and transportation security and infrastructure protection and creating a new intelligence analysis unit, and stressed strong management in the department and central White House coordination of government-wide strategy and budgets as crucial to the success of the reorganization. Other activities and agencies could be considered for inclusion later, as the department finds its footing. This is not the only approach, but shows it is possible to address the real need for restructuring on a smaller, less disruptive scale.

Mr. Chairman, I continue to believe that we must reorganize our government—and Congress—to meet the terrorist threats against us. But this is not the right way to do it and I urge my colleagues to vote against it and start over.

Mrs. TAUSCHER. Mr. Chairman, I reluctantly must rise in opposition to the Oberstar-Menendez amendment.

As a Member of the Transportation Committee, I have a great deal of respect for my Ranking Member and Mr. Menendez, but I must oppose their amendment.

As a Member of the Aviation Subcommittee, making air travel safer is my highest priority.

But I do not believe that forcing arbitrary deadlines on our local airports will actually make air travel any safer.

On the contrary, if airports are forced to set up temporary solutions to meet these deadlines, the result will be wasted tax dollars and huge crowds of passengers standing in lines inside and outside airport lobbies, which will create an entirely new security risk.

Congress has taken many bold, new steps to respond to the terrorist attacks since September 11th.

One of these is the sweeping aviation security reforms we passed last year.

As a member of the committee that drafted last year's bill, I can tell you that the deadlines established in the legislation were arbitrary and are unenforceable.

The United States had never experienced such an attack.

And because Congress' response was swift, the details on how to achieve such sweeping reforms were untested.

Our airports, which are responsible for implementing these mandates on the ground, have told us for months that these deadlines are unworkable.

I have been contacted by all of the Bay Area airports: SFO, Oakland, San Jose and Sacramento International airports urging me to allow the TSA to have the flexibility it needs to deploy the most reliable explosive detection equipment as soon as possible.

Secretary Mineta testified before our subcommittee three days ago that due to the funding cuts and new mandates in the supplemental appropriations bill, the TSA could not meet these deadlines.

I think the Secretary knew before two days ago that these deadlines were unachievable.

And I find it too convenient that the administration is now trying to blame Congress for this.

But the underlying fact still remains: These deadlines are not realistic.

We should not be playing political chicken with common-sense aviation security.

Instead, we should be working together to find real solutions at each of our airports.

The Granger language included in the underlying bill requires the TSA to work with every airport to customize its unique security needs and establish a plan to achieve 100 percent baggage screening.

The Frost language sets an outer limit of one year to achieve this goal at every airport.

My understanding is that most airports will be able to comply with this well before the year deadline.

I, like all of you, want to keep the pressure on to ensure that all baggage is screened as soon as possible.

I believe the underlying bill will do that while still addressing the reality of implementing this at all our nation's airports in a cost effective and responsible way.

I urge my colleagues to oppose the amendment and support the common-sense language in the underlying bill.

Mr. SCHROCK. Mr. Chairman, first I would like to thank the members of the Select Committee for all of their hard work to craft this legislation. I also want to thank the President for moving forward to establish a Department of Homeland Security. The Government Reform Committee and many other House Committees gave the Select Committee many amendments to work with, and they skillfully sifted through these amendments to come up with what I think is a bill that sets up the best framework to protect our nation.

The creation of this department is of particular interest to the people I represent as they live every day with the threat of terrorism. The greatest security threat that we in the Second Congressional District of Virginia face is an attack on our seaport.

The characteristics that make Hampton Roads an ideal seaport—a great location and an efficient intermodal transportation system—also makes it a prime target.

A ship sailing through Hampton Roads steams within a few hundred yards of the Norfolk Naval Base, home to the Atlantic Fleet, and Fort Monroe, home of the US Army Training and Doctrine Command. The detonation of a ship-based weapon of mass destruction would have disastrous effects on our military and our economy.

Under the current framework, the Coast Guard, the Customs Service, the Immigration and Naturalization Service, and the Animal and Plant Health Inspection Service all have some jurisdiction over ships coming into the Port of Hampton Roads.

These agencies have different, often limited, powers to search and inspect ships and cargo and lack a formal process for sharing information with each other. In some cases, federal laws even prevent the sharing of information between these federal agencies.

These problems became clear at a workshop I recently held on port security. Putting these agencies under one umbrella will enable them to communicate more effectively and work together, filling the security gaps that exist today.

Also, this homeland security plan will help goods get to market more efficiently. Under the current system, a ship and its containers are stopped and searched several times by different agencies. This system unnecessarily impedes the flow of commerce.

I am confident the President's proposal will ensure security remains our top priority during the inspection of ships, while also providing for a more efficient flow of goods to their ultimate destination through the reduction of duplication.

Many government agencies want to work together to ensure homeland security, but in the past, either the framework did not exist or legal barriers prohibited their cooperation. This legislation will create the necessary framework for the collaboration needed to keep our ports, our airports and our entire homeland safe from terror.

This legislation will establish the structure necessary to address today's new problems. But as we develop this legislation it is imperative that we not amend the legislation such that this new department is a static one, difficult to change and unable to address the unforeseen problems of tomorrow. We must not unnecessarily tie the hands of this and future Presidents, robbing them of their ability to best address the threats of the future.

I am proud to support this legislation, and I urge my colleagues to do the same.

Ms. HOOLEY of Oregon. Mr. Chairman, the Rules Committee Wednesday was presented with a tremendous number of amendments to the Homeland Security Legislation. Their task was certainly a monumental one. However, the Committee did not allow my amendment to be considered on the floor or be included in the Manager's amendment, which I believe to be an erroneous decision.

As such, I have converted that amendment into a bill, the ''Secure Identity Protection Act of 2002.'' This bill would effectively prevent the theft of Social Security numbers of the deceased by requiring the White House to issue a report on the advisability of requiring State DMVs to subscribe to the Social Security Administration's Death Master File. The report, in turn, must be submitted to Congress.

This bill is not a mandate. It is not a proposal to create a national ID card, nor is it an effort to ban Social Security Numbers from general usage. Rather, it is a common sense proposal that would greatly benefit our national security, as well as prevent billions of dollars in fraudulent charges by identity thieves.

Identity theft is not just a financial crime, it is a threat to our national security. An individual suspected of training four of the September 11 terrorists used the Social Security number of a New Jersey woman who died in 1991 to establish his identity in the U.S. Untold numbers of other terrorists may have done the same.

The financial services industry, the medical community, the insurance industry, educational institutions and state and local governments rely upon our Social Security Numbers as a means to uniquely identify us. Each of these entities reproduces our Social Security number within their own files and generates documents that make this information available to others in some form. That's why the vast majority of us have our Social Security numbers emblazoned upon our medical insurance cards in our policy numbers or on our driver's licenses as our license numbers.

Even more alarming is that by using the Internet, the ability to gain access to personal identifying information such as Social Security numbers is growing at a tremendous and frightening pace. The ability to exploit that information has empowered a new generation of identify thieves who have in turn made identity theft the fastest growing crime in the world.

Unfortunately, only 18 state DMVs currently subscribe to the Death Master File. So, if a terrorist provides a Social Security number of a deceased individual to a state DMV, it is highly likely that terrorist will be successful in his or her endeavor to obtain a driver's license or identification card. We should all shudder to think of the consequences.

Compounding the problem, Congress has already recognized the need to improve the current system in ensuring states certify the identities of commercial truck drivers, and included $5.1 million in federal funds for states to access the Death Master File in the FY '02 Supplemental appropriations bill. Unfortunately, not every terrorist is going to apply for a CDL.

We have failed for too long to address the problem of identity theft. We have failed to help protect the citizens of the United States from additional terrorists illegally gaining identification and access to numerous resources to plot their attacks.

My bill is a step in the right direction, and I urge all my colleagues to assist me in ensuring our government takes common sense steps to safeguard our national security.

Mr. CARDIN. Mr. Chairman, I support the creation of a new Federal Cabinet Department of Homeland Security. Therefore, I shall vote for H.R. 5005, but I have major reservations about many of its provisions that I hope will be corrected in conference. It is important to let the process move forward.

I agree that we need to consolidate our existing agencies that have homeland security and counter-terrorism functions by creating a new Department with the primary mission to prevent, disrupt, and respond to terrorist attacks. I believe that Congress will enhance the national security interest of the United states by creating this new Department of Homeland Security. The security and safety of the homeland and its citizens is perhaps our greatest responsibility.

I am very disappointed that the House rejected several amendments that could have strengthened this legislation—amendments that would have subjected this new agency to the Freedom of information Act (FOIA), civil service rules, whistleblower protections. The House also rejected amendments that would have stricken the delay in implementing explosives screening for baggage at our airports, as well as an amendment that would have clarified the liability immunity for homeland security contracts.

In each of these areas, I am hopeful that the conference committee will modify these provisions.

We also have to ensure that many of the agencies that would be included in this new department not lose sight of their original missions. An example of that is the U.S. Coast Guard, which boaters rely on in emergency situations. I support strengthening the Coast Guard to deal with border security issues, but I do not want the result to be that Maryland boaters in the Chesapeake Bay are at greater risk because the Coast Guard focus has changed. The new Department of Homeland Security should not jeopardize those functions of different departments and agencies that are not specifically related to security.

In order for me to support this legislation on final passage, it is important that we not only establish the consolidated agency for homeland security, but that it is constituted in a manner that protects the civil liberties of its workforce and the people of this country. I am hopeful that when the legislation returns from conference the legislation will accomplish these goals.

Mr. ROEMER. Mr. Chairman, I rise to express my serious reservations about H.R. 5005, creating the new Department of Homeland Security. On the occasion of this historic vote, I wish to expres my concerns about the Administration's proposal and implementing legislation considered by the House of Representatives today.

The September 11 tragedy confirmed a problem that exists in our domestic security and exposed on vulnerability to outside attacks. The existing bureaucracy and the intelligence community made some mistakes and errors. In addition, there are existing problems with management, organization, ''stove piped'' agencies, outdated technology, and not enough effective communication between key people and departments. I fear that some of these problems and organizations are replicated here in H.R. 5005.

The President proposed to create a new Department constituting the largest federal reorganization in half a century. I hope and pray it works, but I don't think it will. Understanding the urgency of possible future terrorist threats, Congress pledged to enact a bill quickly so that the President can sign it as the Nation approaches the one-year anniversary of September 11th. We should take more time and get this bill right. This organization will last for decades to come.

Homeland security has now become one of the most important challenges facing the Nation, and the vote we cast today to address terrorist threats will have profound and lasting consequences for national security, the economy, the future of our children, and our way of life for the next several generations. It is

therefore critically important that we make our decisions based on careful and thoughtful analysis before voting to institute far-reaching changes altering the face of government and the way we prepare for and respond to terrorist threats. It is vitally important to combine the newest and most effective organizational ideas and theories.

There is considerable agreement in America, including Congress, that some kind of organizational reform is necessary. I applaud President Bush for proposing a plan. The question now is not whether to reorganize but how and to what extent. In Congress, twelve committees considered the President's proposal and offered some thoughtful improvements, although most of them were rejected by the Select Committee.

While I have strongly supported the President's creation of the White House Office of Homeland Security, I maintain serious reservations about this approach to establishing a new Department. My objections are not solely based on the Department's personnel policies or even the absence of Posse Comitatus protections to safeguard individual liberties. Rather, my reservations are based on this ''1960's'' type of approach to reorganizing existing agencies and my belief that this form of restructuring will not be able to respond to terrorist threats with improved agility, flexibility and dispatch. As the management theory of the day promotes synergy and symmetry, this proposal reflects big bureaucracy, big budgets, and big problems.

The legislation considered today is the only solution we are being offered. The bill will shuffle tens of thousands of government employees and billions of dollars in new federal spending without achieving what should be the core mission: to provide sufficiently flexible and responsive intelligence resources and information gathering; reliable analysis and effective sharing to executive agencies; and field agents, intelligence personnel and first responders who are thoroughly trained and prepared. Indeed, the last thing our nation needs now is a hastily conceived Department of Homeland Security. This monumental undertaking, if not carefully and cautiously thought through, could produce an unwieldy and overblown bureaucracy that would exacerbate the current situation and render the country more vulnerable to certain weaknesses.

I have been proud to serve on the Select Committee on Intelligence and on the Congressional Joint Inquiry, which has for the last two months been intensely focused on the role of the core components of the intelligence community, particularly the CIA, FBI and NSA. This inquiry has also heavily scrutinized information management particularly with regard to intelligence collection, analysis and information sharing. Following dozens of special briefings and lengthy hearings, I have concluded that increasing resources and technology for intelligence and improving information management are some of the keys to reform. We must improve the ability of our services to turn lots of information into knowledge and therefore actionable intelligence.

Rather than folding dozens of executive agencies under one tent and moving desks from one department to another, the bill should increase efficiencies for computers, equipment, and technology in order to assure that we communicate more quickly between federal offices with e-mail and databases to the field where terrorists might be located. The intelligence community is challenged by the use of increasingly sophisticated technology, such as encryption systems, that require a far different effort than we have employed over the last few decades to combat technology used by terrorists.

One of the amendments I proposed, which was not accepted by the Committee on Rules, would have bolstered the intelligence functions of the Department by creating stronger directorates for intelligence and critical infrastructure protection. These directorate's missions would have fused and analyzed intelligence from all sources in a more integrated approach than that proposed by the Administration's proposal.

Another amendment I proposed would have prohibited the transfer of the Federal Emergency Management Agency into the new Department. FEMA's mission is reactive, responsive, and rehabilitative. Folding them into the Department would threaten to disrupt one of our most respected and effective independent federal agencies from delivering premier first-responder relief that has added tens of thousands of Americans devastated by natural disasters, such as fires, floods, earthquakes and hurricanes. Focus for FEMA would then be split between a proactive and preventive priority and secondly, the traditional rehabilitative mission. My amendment would have retained FEMA's independent status and ensured that our nation's increased focus on terrorism preparedness will be in addition to, and not at the expense of, FEMA's natural disaster response capabilities.

Mr. Speaker, H.R. 5005 focuses on reorganization and insists on the misguided notion that if law enforcement and related agencies are swept under one roof, they will be able to communicate and respond to threats more quickly and efficiently. Our agents should be able to communicate via email and hand-held technology with tremendous speed and efficiency. It is not always necessary for them to be located under the same roof to achieve their mission. Information management is another key to securing homeland security, preventing future attacks, and protecting valuable assets. Effectively using intelligence is one of the most useful and powerful instruments we have to prevent, or at least mitigate, the likelihood and consequences of a possible future attack. However, the bill's approach toward information management and accountability seems limited and flawed. If the new Department is to function effectively, its access to information relating to terrorist threats must not be restricted as it is under this bill.

For example, the Secretary of Homeland Security is granted only limited access to ''raw data'' on information collected by the intelligence community and law enforcement agencies. The bill specifically provides that the Secretary can obtain unanalyzed information ''only if the President has provided that the Secretary shall have access to such information.'' This approach seems designed to keep the new department dependent on the good will of the intelligence community and law enforcement agencies and hostage to their partial clues on insufficient information. This would be a grave mistake.

I believe we should modestly increase the size and scope of the current White House Office of Homeland Security, headed now by Director Ridge. That position should have Cabinet level status, a larger budget, and analytical intelligence function, and jurisdiction over the Coast Guard, among some other agencies and responsibilities. But it should not be combined with 22 federal departments and 180,000 workers costing taxpayers $38 billion.

Mr. Speaker, for many of these reasons, I have serious reservations about the bill. I do not cast this vote lightly. I believe that we should provide accountability and maximum efficiency in our effort to provide homeland security. Congress should rework this bill and try again. We should break the mold, think ''outside the box,'' and create the agency of the new century, not the bureaucracy of the 1960's. After all, we are not targeting the former USSR and missile silos in Siberia, but targeting against terrorists that can swiftly move from Hamburg, Germany to New York and kill thousands of Americans.

Mr. UDALL of Colorado. Mr. Chairman, I rise in support of this bill. I do have some concerns about it, but I think it deserves to be passed.

I am united with my colleagues and with the President in a shared determination to win the war against terrorism. We must do everything we can to reduce the risks of further attacks. I believe we must reorganize our government to meet that goal.

What we have chosen to take on in the aftermath of September 11th is an enormous task, the largest reorganization of the government in half a century, a total rethinking of how we approach security. We need to plan for the protection of all domestic people, places, and things. We need to fundamentally restructure our government to be more responsive to terrorism.

This is a tall order. Homeland security has always been an important responsibility of federal, state and local governments. But in the aftermath of the terrorist attacks, the scope of this responsibility has broadened.

The bill before us has much in common with a report that we received just last year from a commission headed by former Senators Gary Hart of Colorado and Warren Rudman of New Hampshire. The report recommended sweeping changes, including the establishment of a Department of Homeland Security.

I have reviewed the commission's report carefully and discussed it with Senator Hart, and I have been impressed with the soundness of the report's recommendations. I have also cosponsored two bills dealing with this subject.

So I am glad that the President has come to agree that a new Department of Homeland Security is necessary.

The question we face today is whether the bill before us is up to the challenge. Will this bill actually make the American people safer? I'm not entirely certain. I believe this bill generally heads in the right direction, but it still contains a number of troubling provisions.

One concern I have is that in our rush to create this new department, we may be assembling an unwieldy bureaucracy instead of a nimble department that can be quick to respond to the challenges at hand. The proposed department's size, cost and speed may well hamper its ability to fight terrorism. We need to recognize that no department can do everything. Homeland security will be the primary responsibility of the new department, but it will also continue to be the responsibility of other departments, of states and local governments, and of all Americans.

It's also true that many of the agencies that will be subsumed by this new department have multiple functions, some of them having nothing to do with security. That's why I think it's right that the bill abolishes the INS and includes its enforcement bureau in the new DHS, while leaving a bureau of immigration services in the Department of Justice. I also think it's right that the bill moves only the agricultural import and entry inspection functions of the Animal and Plant Health Inspection Service into the new department, while leaving the rest of the service—including the unit that investigates chronic wasting disease and other possibly contagious diseases—intact. I believe this same model should apply to the Federal Emergency Management Administration, or FEMA, which this bill would move as a whole into the new department. While it may seem that FEMA—as the central agency in charge of disaster response and emergency management—should constitute the heart of the new DHS, FEMA is primarily engaged in and especially effective at responding to natural hazards. This bill should leave FEMA outside the new department, or at a minimum transfer its Office of National Preparedness to the new department, while leaving FEMA's Disaster Response and Recovery and Mitigation Directorates intact. I voted today to leave FEMA outside the new department because I fear FEMA's current mission and focus will be lost in the new bureaucracy we are creating.

I am hopeful that the President will continue to work with the Congress to make sure the agencies moved to the new Department will be supported in their many other important duties even as they focus anew on their security roles.

I have other concerns aside from the organization of the agency.

The bill includes language that denies basic civil service protections for the federal workers who would be transferred to the new department. While I am encouraged by the passage of two amendments that slightly improve the bill's language in these areas, I remain fearful for the 170,000-plus employees of the new DHS whose jobs this bill would put at risk in an attempt to give the President ''flexibility'' to manage in a ''war-time'' situation. That's why I voted for amendments to preserve collective bargaining rights, whistleblower protections, and civil service rules that have protected career employees for over 75 years. I don't believe we should use the creation of a new department as an excuse to take away these protections—protections that Congress enacted so that we could attract the very best to government service. Taking away these protections now signals that we don't value our federal workers, their hard-won rights, or the integral role these workers will continue to play as part of the new department in the fight against terrorism.

I also supported an amendment striking the overly broad exemptions in the bill to the Freedom of Information Act, or FOIA, which was designed to preserve openness and accountability in government. The bill includes a provision excluding information voluntarily submitted to the new department from the requests for disclosure, it would also preempt state disclosure laws. FOIA does not require the disclosures of national security information, sensitive law enforcement information, or confidential business information, which makes the exemptions to FOIA in this bill unnecessary in my view.

I think that these parts of the bill will need to be revised, and I will do all I can to improve them.

There is one provision we debated today that I do think should remain in the bill. Last year, I strongly supported the airport security bill because I believed then—as I do now—that we must protect the public from a repetition of terrorist hijackings. One key part of that is to have baggage screened to safeguard against explosives being smuggled aboard airplanes in checked luggage.

But today I voted to extend the baggage screening deadline established in the airport security bill because it doesn't make sense to me to mandate a deadline that clearly is impossible for a quarter of airports in this country to meet. It has been clear for some time that although 75% of airports would be able to meet the December 31st deadline, 25% of this country's largest airports would not. Denver International Airport (DIA) is among those airports still waiting for the Transportation Security Administration (TSA) to approve its security plan.

DIA has developed its own plan that would employ a baggage-screening system that costs approximately $85 million to implement, versus $130 million for the system currently approved for use in the U.S. The bill before us today allows TSA to incrementally address individual airport requirements like DIA and accommodate new technology improvements.

I am a cosponsor of legislation that would extend the deadline because I believe DIA will be able to provide a better, more cost-effective baggage screening system than the current TSA-approved model given a bit more time. So I am pleased that this bill includes an extension on the baggage screening system.

In summary, I am pleased that this bill echoes the overall approach of the Hart-Rudman report recommendations. I am also pleased that the bill includes important Science Committee contributions, such as the one establishing an Under Secretary for Science and Technology in the new department, as well as provisions I offered in the Science Committee markup requiring the new department and NIST to engage in a systematic review and upgrading of voluntary consensus standards. I believe it is important that the bill includes a provision reaffirming the Posse Comitatus Act, which prohibits the use of the armed forces for civil law enforcement. And it is important that the bill prohibits the government from implementing the proposed ''Operation TIPS,'' an Orwellian program under which designated citizens would be trained to look for and report suspicious behavior on the part of their fellow citizens.

Despite the problems in the bill, I am voting for it today because I remain committed to a strong, effective Department of Homeland Security. I am hopeful that the problematic issues I highlighted and other concerns will be successfully addressed in the conference committee.

Mr. BEREUTER. Mr. Chairman, this Member rises to express his reluctant support for H.R. 5005, legislation to establish a Department of Homeland Security (DHS). There are several improvements to the bill included as a result of the work of the House Permanent Select Committee on Intelligence (HPSCI).

When the Intelligence Committee, of which this Member is Vice-Chairman, reviewed President Bush's initial proposal, it considered a number of issues:

What will be the relationship between the Department of Homeland Security and the intelligence community?

Will the Department have the access it needs to intelligence information?

Will the Department have the trained personnel to analyze threat information and other critical intelligence data?

Will the new Department be tasked to defense the homeland against threats in addition to terrorism—for example, threats from the proliferation of weapons of mass destruction?

As offered by the Administration, the Homeland Security Department proposal would not provide for the capability to analyze the range of threat information that is gathered by the U.S. intelligence community. Without such an analytical capability, the Homeland Security Department will have to rely on whatever finished intelligence the Director of the Central Intelligence Agency (CIA) and the Director of the Federal Bureau of Investigation (FBI) chooses to supply. The Intelligence Committee overwhelmingly agreed that the new Homeland Security Department could not simply rely on final reports and analysis generated by the myriad of intelligence agencies—its mission is just too important. We agreed that the Department must have timely access to raw data from all intelligence sources, information systems to integrate these diverse data, and the trained people to analyze the information.

Mr. Chairman, this Member generally appreciates the improvements the Select Homeland Security Committee made to the bill regarding the tasking for the collection of intelligence gathering by the Intelligence Community under existing law and this Member is particularly appreciative of the Select Committee on Homeland Security's willingness to accept these recommendations and incorporate them into H.R. 5005 by establishing the meaningful analytical organization we recommended. However, during the Select Homeland Security Committee's markup, an unfortunate decision was made to delete the new Department's seat at the table when it comes to intelligence-gathering instructions. The members of the Select Committee expressed the concern that the new Homeland Security Department should not ask intelligence services to gather information on American citizens.

Mr. Chairman, the protection in individual liberties of American citizens is an understandable and appropriate priority. This Member fully concurs that the Homeland Security Department should not be allowed to issue instructions that the CIA gather information on Americans.

However, to ensure that the Department's analytic capability is robust, it must have a role in tasking our intelligence services to gather information on foreign individuals, entities, and threats. Without a seat at the mission formulation table, the policy decisions of the Homeland Security Department will rely on whatever foreign threat information our Intelligence Community happens to collect under the tasking decisions they have made according to their respective agency and collective priorities.

This Member must express deep regret that the amendment to H.R. 5005 he had hoped to offer was not made in order by the Rules Committee. This is an unfortunate error in judgment, apparently reflecting the advice of various persons in the Executive Branch. The amendment was a simple and straightforward

one that would have offered a slightly modified version of language that received bipartisan support in the Intelligence Committee. It should be emphasized that this Member's amendment was narrowly constructed and would have specifically authorized such tasking only on foreign adversaries, not U.S. citizens or other persons legally resident within the United States.

The tasking for information on foreign adversaries is not a trivial concern, Mr. Chairman. Without the proper information, the Homeland Security analysts will not be able to devise appropriate defenses. The other departments of government have different missions (for example, the State Department is to advance diplomacy, the Department of Defense is to win wars, and the FBI is to prosecute criminals) and their analytic needs are quite different.

It is unfortunate that this Member's amendment was not made in order as it would have made a critical improvement to the final bill. Without this authority for the Department of participate in the tasking for the collection of foreign intelligence, we will have a major and continuing gap in information which the DHS will need to do its job well in protecting our citizens and homeland. It is this Member's hope that the other body may include this authority.

Mr. Chairman, this Member has grave concerns about the overall approach to the creation of the Department of Homeland Security as proposed by the Administration. Its drafting may well have been a defensive reaction to a proposal by the junior Senator from Connecticut (Mr. LIEBERMAN) and by other Members of Congress from both houses. The proposal presented to the Congress has all the indicators of a proposal too hastily prepared and of one that was drafted in too much isolation. It was understandable in that its preparation was a process so heavily guarded—restricted to relatively very few people—in order to avoid the otherwise inevitable massive internal campaign of bureaucratic turf-protection, pre-emptive opposition campaigns from a wide variety of interests, and the immediate opposition of competing congressional authorizing and appropriations committees while the consideration and drafting was underway.

The proposal had whole agencies, bureaus, or divisions shifted to the DHS when very major parts of such units clearly don't belong in the DHS. Fortunately, the House has corrected a few of the most egregious misplacements.

A lean, well-organized DHS would have been the way to proceed. This is an absolutely huge bureaucracy being created with very disparate parts. Merging the employees and their agencies' cultures into an efficient and effective DHS will be an incredibly difficult feat. It will result in an unnecessarily long number of years to put in place when the security of our country demands an expeditious reorganization of our government. Undoubtedly too, the prospects for increased costs to attain these undesirable results are certain and highly under-estimated.

This Member's only hope is that the Senate version and results of a House-Senate conference will give us a much smaller, refined and properly focuses DHS, but from all accounts of expected action in the other body, that appears to be unlikely. Practically no Member of Congress wants to oppose the creation of a DHS, especially during the war on terror when our President is requesting congressional action. Ultimately this Member will have to make the judgment whether the legislative product from the House-Senate conference is better than the status quo and if the costs of further delay in starting over to create a much different and much smaller DHS is achievable and worth the delay at a time when the United States and its facilities and personnel abroad remain very vulnerable. Will the enactment of the legislation creating a DHS that now seems in prospect be worth the delay and dissension caused by starting over and doing it right? That is the question and the answer is not clear, Mr. Chairman, count this Member's vote as a vote to move the legislative process forward.

Mr. LEVIN. Mr. Chairman, twenty-six hours ago, when the House began this historic debate to create a new Homeland Security Department, it was my hope and expectation that I would be able to support this legislation on final passage. In light of the terrorist strikes of September 11, and the continued threat, I strongly believe we need to reorganize the federal government to better address the dangers facing our nation.

The bill as reported to the House by the Select Committee on Homeland Security fell short in a number of key areas. During the long amendment process of the last two days, I regret that the House voted down amendments that would have improved this bill. As a result, I cannot support this legislation at this time.

I am particularly disappointed that the amendment offered by Representative Oberstar was rejected. This is not the time to extend the deadline for airports to install the explosive detection equipment that is critically needed to check airline passenger luggage for bombs. Last fall, this House voted overwhelmingly to have this equipment in place by the end of this year. There is no good reason to extend that deadline for another twelve months as this bill does.

I hope that this and other flaws in the House bill be addressed in conference with the Senate. This is the largest reorganization of the Federal Government ever attempted. It concerns the security of our nation and the safety of every American. With so much at stake, we should get it right. I believe we can and must do better. I will continue my efforts to strengthen and improve this bill as we go to conference with the Senate.

Mr. PASTOR. Mr. Chairman, it is with great reluctance that I must oppose H.R. 5005, the Homeland Security Act.

The tragic events of September 11 thrust this nation across the threshold into an entirely new world where terrorism is a real and viable threat to the well-being of all Americans. For that reason, I supported the President when he recommended that we create a new department to address the prevention and impacts of terrorists. However, our experience with forming new cabinet posts in the past has taught us that this is an undertaking that should be done in a careful and deliberate manner, not one that is rushed to meet an arbitrary deadline.

The reorganization as proposed by the President would create the third-largest Cabinet department, in terms of personnel, by combining 22 federal agencies with 170,000 to 225,000 employees and a total budget of $37.5 billion. However, that budget estimate was simply the compilation of those agencies' current budgets with no regard to the costs associated with creating an entirely new infrastructure and giving those agencies expanded areas of responsibility. Clearly, this rearranging of agencies is going to cost many billions of dollars above that budget estimate.

It has been exactly 48 days since the President made his proposal, but in that time, Congress has had less than 29 working days to hold hearings, consult with experts, receive input from interested parties, and evaluate all this information. That is simply not enough time to form a sound structure that addresses Congressional oversight, elimination of redundancy, budget and labor issues, in addition to the critical delineation of areas of responsibility. Furthermore, consideration must be given to the impact that such a change will have on agency core activities which do not have a direct interface with the war on terrorism, such as Customs collecting duties and the Coast Guard rescuing people at sea. Many are concerned that these non-security missions may be diluted under the new department's mission to fight terrorism.

In the few days available, an attempt was made by ten authorizing committees to hold hearings and formulate recommendations on how they thought the plan should be implemented. But after all was said and done, the 9-member Select Committee on Homeland Security dismissed many of those recommendations and gave the Administration most of its wants, irrespective of the wishes of many lawmakers.

In particular, I am concerned over the White House's desire to deviate from established federal labor practices and protections such as collective bargaining rights, the potential for the Administration to assume too much fiscal power by shifting funds among agencies without Congressional oversight or approval, and the diminishment of non-security roles. With such a short time to stimulate national debate and to review the above issues, I can not support this measure.

Mr. LEWIS of Georgia. Mr. Chairman, it is impossible for me to support this legislation. It is not constitutional, it is not just, and it is not fair.

This bill would strip hundreds and thousands of Federal employees of their labor protections. It would deprive hundreds of millions of American citizens of their civil liberties and fundamental rights.

This bill is nothing less than a power grab by our President and this administration. It would be the largest consolidation of power in recent American history.

By denying our citizens their basic rights, but giving this administration overwhelming power, this bill would effectively declare Marshall law. It would violate the Constitution and the Bill of Rights.

Even the name—''Homeland Security'' conjures images of Banana Republics where individuals rights are a mere afterthought. This is America. Our government does not deny our citizens fundamental rights in the name of homeland security. We are greater than that. We are better than that.

As Thomas Jefferson said, ''the price of freedom is eternal vigilance.'' My Colleagues, let us heed the warning of the author of our Bill of Rights. It is time to be vigilant. Now is the time to stand up for all of our citizens. Now is the time to do what is right.

Do not deny our people their fundamental rights. Vote ''no'' on this ill-conceived bill.

Mr. BENTSEN. Mr. Chairman, I regrettably rise in opposition to H.R. 5005, the Homeland Security Act of 2002, which establishes a Department of Homeland Security, as an executive department of the United States, headed by a Secretary of Homeland Security.

Mr. Speaker, while I support the core concept of H.R. 5005, as I believe that our government is sorely in need of reorganization to anticipate, prevent and react to potential future terrorist attacks on our soil, I have strong concerns with several aspects of this measure, especially those that should never have become political issues. Certainly, when it comes to defending our nation and prosecuting our war on terrorism, we must spare no expense. Those entities who attacked us on that unfortunate day on September 11, 2001 cruelly exploited our weaknesses, and it is our responsibility to make sure that we close all the gaps in our national safety infrastructure.

Neither should we spare the principles of democracy we seek to defend in this very bill. And our desire to move quickly to arrest the threat should not be done with such haste as to not fully comprehend the model, structure and mission we wish of this new mega-Department. But in fact, Mr. Speaker, after two days of debate, I am afraid that is exactly what we are doing, and thus I am voting tonight not against the concept of a Department which better coordinates our efforts, but against the plan as it has been laid before us in the hope that deliberation in the other body and in conference will yield a better, more efficient product.

H.R. 5005, as it stands, is not the ideal solution to this problem. The defeat of Representative MORELLA's amendment will subject employees to less protection from political interference than is now the standard. The bill goes too far in exempting this new, powerful department from contractor liability and the Freedom of Information Act, exceeding that which is already afforded to other national security entities such as the Department of Defense. The bill would gut ''whistle blower'' protections, further subjecting employees to the potential of political interference and intimidation. Surely we have learned from our recent experiences with the Federal Bureau of Investigation that rank-and-file employees need to be allowed to speak up. And, Mr. Speaker, the adoption of Representative ROGER's amendment seeks to undermine the longstanding concept of ''posse comitatus'' by opening the door for domestic police action by our armed forces, something which goes against the very essence of our system of government.

Indeed, should H.R. 5005 become law, we will see the largest reorganization and outward growth of the federal government in decades, all done without sufficient, thoughtful consideration on how this will affect the responsibilities and organization of numerous Cabinet Departments and agencies. All of us want to do what we can to protect the nation, but we should do it right.

As this measure takes further steps in the Congress toward final passage, I am hopeful that these key issues are resolved in a manner that is in the best interests of all parties affected, and that we will one day have a Department of Homeland Security that offers unrivaled protection. Therefore, Mr. Speaker, as the measure stands, I oppose H.R. 5005. I implore my colleagues to consider that this measure is in need of refinement, and that if we do not resolve these outstanding issues, all this debate and consideration will be counterproductive and harmful to our nation.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to express my deep skepticism the Homeland Security Act of 2002. We are rushing to undertake the most dramatic reorganization of the federal government in decades, and I am uncertain whether the particulars of this plan are well thought out.

As a member of the Transportation and Infrastructure Committee I have heard my friend Mr. OBERSTAR speak about the deliberative process that went into the creation of the Department of Transportation in 1966. That effort took over 9 months, and the final product has produced lasting benefits for Americans.

In comparison, we are rushing this bill in less than 9 weeks. We are pulling together disparate elements from all over the federal government. I am uncertain whether these pieces really do fit together, and even if they do, it will take years for them to come together as a coherent department that protects the homeland.

I strongly object to partisan manner in which the bill's authors are, under the guise of homeland security, assaulting the civil service protections of our nation's federal workers.

There is no justification for this proposal. If we are to maintain the morale and professionalism of employees of the new department, they will need the basic protections that we afford all other federal workers.

Finally, I wish to reiterate that the provisions to push back by one year the deadline for deployment of EDS equipment at the nation's airports do not belong in this bill. As I indicated earlier, the prudent course of action is to wait for the DOT IG's recommendation forthcoming in late August. We will have plenty of time to address this issue when we come back from the recess.

Because of the aforementioned reasons, I intend to vote against final passage today. I do so with great misgiving because it would be ideal for members to stand together in a united front in our war against terrorism.

It is my sincere hope that the Senate will fix the defects in the bill we pass today and that conferees will produce a final product I can support.

Mr. MOORE. Mr. Chairman, in October, I co-sponsored H.R. 3026, the Office of Homeland Security Act of 2001, to establish an Office of Homeland Security within the Executive Office of the President. Eight months later, President George W. Bush gave impetus to the creation of a Department of Homeland Security, and Congress has been given a week to give it our stamp of approval. The primary issue for Congress and the President is what the program composition and administrative organization of the new department should be, unfortunately with only a few weeks, we had to craft the best legislation possible.

As proposed, the administration bill would permit the Secretary of Homeland Security to choose how or whether their employees would be covered by current legal protections against reprisal when they call attention to instances of agency misfeasance. The bill also would exempt from the Freedom Of Information Act (FOIA) any information about infrastructure vulnerabilities given to the Homeland Security Department by any private or nonfederal entity.

In congressional hearings, members of both parties have made it clear that the administration is overreaching, especially with regard to whistle-blowers and exemptions to the Freedom of Information Act. The need for whistle-blowers and for their protection was evidenced by the recent cases of Special Agent Coleen Rowley and of two Immigration and Naturalization Service agents disciplined for revealing how thin security is along the U.S.-Canadian border. These examples argue for extending whistle-blower protection to the FBI, not withdrawing it from the INS, which could be part of the Homeland Security Department.

In June, I sponsored H. Res. 436, commending Special Agent Coleen Rowley for outstanding performance of her duties. As a former district attorney, I know any law enforcement organization is only as good as its people and their ability to gather and analyze information. FBI agent Rowley courageously came forward to reveal critical breakdowns in the FBI's information gathering processes before September 11. She did this without any regard for her own career or prospects for advancement. Agent Rowley personifies the American tradition of demonstrating integrity and selflessness in the service of our nation.

Experts have been saying for years that the U.S. needed a Department of Homeland Security. A Department of Homeland Security is essential to coordinating the U.S. war on terrorism. Arguably our tactical and strategic missions and goals have been forever changed since the events of September 11th. H.R. 5005 is a bipartisan piece of legislation with input from all House standing committees with jurisdiction. H.R. 5005 also shows what Congress can actually achieve when given a deadline and an issue above the fray of partisan politics.

Mr. COSTELLO, Mr. Chairman, I rise today to oppose H.R. 5005, legislation to create a cabinet-level Department of Homeland Security, and I urge my colleagues to do the same. This experience reminds me of the efforts of President Clinton to overhaul our nation's healthcare system. As with that plan, President Bush's homeland security proposal, while well intended, goes too far, too fast in creating a massive new Federal agency that may well add to the current problems in the system—not solve them.

Creating a new federal agency and 170,000 employees with a budget of $38 billion is not something that the Congress should rush into without proper planning or without understanding the ramifications of this action. In announcing his plans to create a Department of Homeland Security just a few weeks ago, the President said that the new agency could be created at no cost to the taxpayers. The Congressional Budget Office now estimates that it will cost about $3 billion to create and implement this new department.

Mr. Chairman, I urge the President to withdraw his plan and attempt to address the issue of homeland security in a thoughtful and deliberative manner, and I urge my colleagues to vote against it.

Ms. SCHAKOWSKY. Mr. Chairman, I rise in opposition to the measure we are considering today, the Homeland Security Act of 2002. Since September 11, it has become abundantly clear that we must change the way we conduct national security in this country and we must address our security shortfalls with aggressive, decisive actions. We all agree we

must do more to protect our country from threats posed by those who wish us harm and those who wish to alter the way we live our lives. There is no question that all members want to protect the American public. Unfortunately, the bill we are considering today does not take the right approach to accomplishing that goal.

At the outset of this process, I said that any new proposal to address our national security shortfalls must pass three basic tests. First, the plan must actually make us safer. Second, the plan must not compromise our precious civil liberties or rights. Finally, the critical non-security functions of government entities must not be compromised. This legislation fails to adequately address those critical tests.

The bill before us today creates a new Department of Homeland Security. As we debated the bill originally proposed by the Administration, we were able to make several significant improvements to it. I am pleased that the legislation includes a provision establishing an Office of Civil Rights and Civil Liberties within the new department. I offered an amendment to accomplish that goal during the Government Reform Committee's consideration of this bill and was glad to see that provision maintained.

I would also like to draw my colleagues' attention to the issue of immigration and the organization of immigration services. I come from an immigrant-rich district. Their contributions to our community demonstrate how important it is to ensure that newcomers to this country are received in a fair and considerate manner. It is critical that, however immigration and naturalization services are structured, the quality and efficiency of the services offered to immigrants are not compromised, and are in fact improved.

For that reason, I have worked hard to help secure various provisions in this bill that will provide immigrants with a place to turn if they have complaints and will hold immigration officials accountable for doing their job with diligence and fairness. First, this bill establishes an Ombudsman's office to assist individuals and employers in resolving problems with citizenship and immigration services.

Second, this bill would require the new Bureau of Citizenship and Immigration Services to report on how it is handling its immigration caseload. This provision includes reporting requirements on how many applications the Bureau receives and how many it is able to process; how it is addressing the enormous backlog that exists; and whether people requiring immigration and naturalization services have adequate access to the Bureau and the services it offers. These are critical data that will allow us to hold this new Bureau accountable for addressing the concerns that have been raised over the years about how the INS has performed its duties.

While the improvements made to the bill are important, there are a number of serious problems with this legislation that force me to vote against it.

This bill gives broad new authority to the President to reorganize the massive federal workforce created by this legislation. The bill gives the President an excuse to disregard and to take away hard-won civil service protections and collective bargaining rights for employees of the new Department.

At a time when agencies throughout the federal government—in Washington, D.C. and in cities across the country—are having difficulty attracting and retaining qualified employees, this bill could turn employees of the new department into second class workers. What kind of a signal will we send to those federal workers if we ask them to move and tell them that they will lose many of the guaranteed rights that they now enjoy? How many of those workers will decide to leave federal service and move to the private sector? For those workers who do stay, how can we expect them to demonstrate high morale and commitment when they know that they lack the same rights as their federal colleagues in other agencies?

Congress enacted civil service protections and collective bargaining rights so that we could attract the very best to government service. We should not give this or any other Administration the right to take them away. As we stand together to fight terrorism, we should also stand together for the rights and well being of federal workers.

The House also missed an opportunity today to provide real protections for whistle-blowers. I offered an amendment that would guarantee American patriots who come forward to expose improprieties and threats to our security a guarantee that, if they are retaliated against for their actions, they will have a right to legal recourse. Sadly, under the current inadequate whistle-blower provisions in the bill, those who risk their future to shed light on issues of concern to the public will have no guarantees and no real protection. By withholding very basic rights and protections for whistle-blowers, we are actually subjecting the American public to greater risk because those with information that should be shared with Congress or the public will be reluctant to do so—leaving us in the dark about threats we might otherwise be able to eliminate.

This bill creates an exclusion from the Freedom of Information Act to all information dealing with infrastructure vulnerabilities and is voluntarily submitted to the new department. This is an unnecessary provision because, under current law, the government already has the authority to exempt from FOIA information that meets one of several standards, including that which is related to national security and trade secrets. While the current law simply requires the Administration to review information voluntarily submitted for possible exemptions from FOIA, this bill provides a blanket exclusion, thereby removing the discretion of the Administration completely. Even worse, the same section of the bill preempts state and local good government and openness laws.

This bill also exempts committees created by the Secretary of Homeland security from the Federal Advisory Committee Act. This would allow the Secretary to create secret forums where lobbyists for all sorts of special interests could push their agendas with the Administration without concern that the public would find out and regardless of whether their discussions are about security or business goals.

The legislation before us today negates the Congressionally-mandated requirement that all airports have the ability to screen checked baggage for explosives. One of our most frightful and realistic vulnerabilities is the status of our air travel system in this country. It is a sad message to send to our constituents and the flying public that we are not willing to do what it takes to ensure the skies are truly safe. Many on the Republican side have argued that the task of providing equipment to secure our planes and prevent terrorist devices from making their way on board is too costly. I would submit that we cannot afford to do otherwise.

Finally, this bill is flawed because it provides an exemption from liability for manufacturers of equipment used for national security purposes. This broad protection for industry would apply even if company officials willfully neglect the welfare of the public in order to make profits. If a new bomb-detection machine company knows that its product is not reliable but does not inform the government, we will not be able to seek legal recourse if that company's product, as anticipated by company officials, fails to work and leads to loss of life.

September 11 made us all painfully aware of the limitations of our current national security and anti-terrorism apparatus. We have become painfully aware of the shortcomings of the FBI and CIA. And we have become painfully aware of the need to act decisively to correct our flawed system.

If we want to be able to prepare our nation and to guarantee America's security, we must improve communications, invest in language translation capabilities, invest in our public health infrastructure, provide necessary training and resources to emergency first responders and focus on improving the capabilities and the capacity of state and local authorities, and more. Moving the boxes from one agency to another will not accomplish these important tasks.

Unfortunately, this bill fails to address even the most obvious and immediate concerns. Instead, what the President and the Republicans in the House put forth is a massive reorganization of the federal government, nothing more than a reshuffling of the deck, with a few added tools for the Administration. Simply shifting people and agencies will not make America safer and that is all we will accomplish if we pass this bill. I urge all members to reject this flawed legislation and to focus on efforts that will actually enhance our security and maintain our American way of life.

Mr. BUYER. Mr. Chairman, I rise in strong support of H.R. 5005, the Homeland Security Act, and am pleased to be an original cosponsor of the legislation.

With this legislation, we will organize and focus on the resources of the executive branch of the federal government on the task of ensuring the security and safety of our citizens inside our borders. While many of the functions of the new Department have been performed by dedicated federal employees for many years, such as insuring the quality of imported food and public health needs, a new dimension will be added to the tasks of the new Department: that of preventing terrorist attacks within the United States and reducing the vulnerability of the United States to further terrorist attacks. This is a high calling.

I am pleased that the Select Committee maintained the transfer of the Coast Guard and the Federal Emergency Management Agency to the new Department of Homeland Security. The Coast Guard will play a significant role in maintaining the security of our borders, the longest of which is our coastlines. It is also crucial that FEMA's expertise be tapped by the Department when plans are developed to respond quickly to the damage and recover of local communities.

Let me also express my support for provisions in the legislation that give the new Department the authority to assist with the cybersecurity of information systems of federal agencies. The Secretary will have the duty to evaluate the security of federal systems; assist federal agencies with the identification of risks; and conduct research and development on security techniques.

I commend the Majority Leader for working through the difficult issues in the creation of the new Department and I believe he has brought to the floor a product worthy of our consideration and passage.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTINGS of Washington) having assumed the chair, Mr. SWEENEY, Chairman pro tempore 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. 5005) to establish the Department of Homeland Security, and for other purposes, pursuant to House Resolution 502, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

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

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

MOTION TO RECOMMIT OFFERED BY MS. DELAURO

Ms. DELAURO. Mr. Speaker, I offer a motion to recommit.

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

Ms. DELAURO. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. DeLauro moves to recommit the bill, H.R. 5005, to the Select Committee on Homeland Security with instructions to report the same back forthwith with the following amendment:

Page 173, after line 12, insert the following:

SEC. 735. PROHIBITION ON CONTRACTING WITH CORPORATE EXPATRIATES.

(a) IN GENERAL.—The Secretary may not enter into any contract with a subsidiary of a publicly traded corporation if the corporation is incorporated in a tax haven country but the United States is the principal market for the public trading of the corporation's stock.

(b) TAX HAVEN COUNTRY DEFINED.—For purposes of subsection (a), the term ''tax haven country'' means each of the following: Barbados, Bermuda, British Virgin Islands, Cayman Islands, Commonwealth of the Bahamas, Cyprus, Gibraltar, Isle of Man, the Principality of Monaco, and the Republic of the Seychelles.

(c) WAIVER.—The President may waive subsection (a) with respect to any specific contract if the President certifies to the Congress that the waiver is required in the interest of national security.

Ms. DELAURO (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Connecticut (Ms. DELAURO) is recognized for 5 minutes in support of her motion to recommit.

Ms. DELAURO. Mr. Speaker, I yield myself 1 minute.

Every Member of the House should support this motion to recommit which bans the Department of Homeland Security from contracting with corporations which operate in America but incorporate overseas to avoid paying U.S. taxes. Corporate expatriates should not continue to benefit from government largess, but they do, billing $2 billion a year in government contracts.

Not only have these companies abandoned their responsibilities to our country, they put responsible corporate citizens at a disadvantage. We benefit from private sector expertise, and we want to reward their creativity and their entrepreneurial spirit, but we should not reward them for refusing to pay their taxes and their responsibility as U.S. citizens.

The truth is the war on terrorism costs money. $500 million of the revenue lost by those corporations could buy 500 explosive detection systems, which are badly needed at airports across this country. These companies have abandoned our country at a critical time in our history. They leave seniors, our soldiers fighting overseas, and our good corporate citizens with the cost of war on terrorism. They should not be rewarded with contracts from the very department charged with securing our safety. They should pay American taxes on American profits.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Speaker, the overwhelming majority of the American people play by the rules every day, and they pay their taxes. I cannot explain to those folks why in the world an American corporation can relocate in a tax haven overseas with just a Post Office box and a corporate certificate, and avoid paying any taxes. I cannot explain to hard-working Americans how their tax dollars can go to buy goods and services from those companies that do not even contribute to the cost of our government. I cannot explain to the American people how we allow companies to do business with our government and bid on our government contracts when they have an advantage over their competitors because these companies are not paying any taxes.

We have got to change the tax law. We have got to make sure that companies do not profit by doing business with the government and are not willing to support this government. We are in time of war, and I think it is essential that tonight we send a strong message of corporate responsibility to America's corporations and say it is time to stop this practice. Vote for this motion to recommit.

Ms. DELAURO. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. MALONEY).

Mr. MALONEY of Connecticut. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, corporate expatriates benefit from over $2 billion in lucrative government contracts from large consulting deals with the United States Government agencies, to equipping airport screeners, to providing tools and equipment to the Department of Defense.

Stanley Works of Connecticut, which is attempting to expatriate, received $5.6 million in government contracts in fiscal year 2001, and 92 percent of those government contracts were for defense and homeland security-related items. Our national security should not depend on companies that are overseas or that are American companies that have moved overseas.

Stanley Works and other expatriate corporations do not want to pay for our defense and national security, but they want to reap the fruits of it. They turn their backs on America at the same time they reach out their hands for the money of American taxpayers. This is wrong and this must stop, and this motion will help to stop this abusive practice of some of the leading corporations that have expatriated or plan to do so.

Mr. Speaker, I urge Members to support this very important motion.

Ms. DELAURO. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. DOGGETT), a member of the Committee on Ways and Means where a similar amendment was passed.

Mr. DOGGETT. Mr. Speaker, motions like this are routinely condemned with the throw-away claim that they are ''partisan.'' Well, tonight, let us be American partisans. Let us be partisan to the loyal businesses that stay and pay their fair share to keep America strong at her time of need.

Corporations that have renounced America have been lobbying overtime all over this Capitol complex this week to stop this motion. They will not pay their fair share, but they are sure ready to take their fair take of government business. American companies that stay and contribute to building this country, to keeping her secure at

home and abroad, they deserve a level playing field on which to compete.

If a Bermuda-bound company does not have to pay taxes on some of its income, of course it can underbid those who stay loyal to America, pay their taxes, and work here at home. We should send those who come here packing when they seek Federal contract dollars, and yet will not contribute to the security of our country.

I recall a communication from a company in Houston that had this very type of situation where a competitor exited, while it remained based in Texas loyal to all of us here at home.

Tonight, let us together send a bipartisan message that if companies want a slice of the American pie, they had better help bake it.

Mr. ARMEY. Mr. Speaker, I claim the time in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ARMEY) is recognized for 5 minutes.

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

Mr. Speaker, let me appreciate the concern that the gentlewoman expresses over the burden of our taxes that make American corporations undertake regrettable action.

Mr. Speaker, that is just one of the burdens of our current Tax Code that would be corrected by the flat tax. But, Mr. Speaker, I think everybody in the body would agree that tonight on this subject on this bill, is not the time to be talking about tax reform.

□ 2045

We ought to be talking, ladies and gentlemen, about the security of our Nation, homeland security. And that, Mr. Speaker, is my point.

This issue has nothing to do with homeland security. Mr. Speaker, I am disappointed that after 2 days of constructive discussion on how best to protect our homeland, we are dealing with a motion to recommit that relates to politics.

Mr. Speaker, the gentlewoman has a right to offer this motion, and I would like to address its shortcomings:

First, the issue is being dealt with, and being dealt with in a much more serious and substantive way, in the Committee on Ways and Means, the committee of jurisdiction. Hearings have been held and legislation has been introduced that actually addresses the underlying problems that lead to the most regrettable and deplorable process of corporate inversions.

Second, Mr. Speaker, even if this were the right place to deal with this issue, this motion to recommit creates more questions than answers. Clearly, this was not written by one of our standing committees. For example, Mr. Speaker, what does it mean when it says that a corporation has the United States as, and I quote, ''the principal market for public trading of the corporation's stock''? Does that mean 10 percent of trading, if trading in all other foreign countries is less than 10 percent? Do we want to, in fact, encourage further with this kind of legislation American firms to trade in European or Japanese exchanges? Why stock? How about debt? Or employees? Or other corporate connections? Why are some tax havens defined and not others? Does the gentlewoman like some countries with lower tax rates better than she likes other countries with lower tax rates?

Mr. Speaker, one of the concerns that is often times expressed about corporate inversions is the suggestion that jobs are lost by American employees. If indeed you deny to American firms producing product in this country the ability to sell to the Federal Government, will that not result in real job losses before their employees? Under this motion to recommit, you could have a longstanding United States or Swiss company that incorporated long ago in Monaco and that happens to have the best new technology for fighting terrorists, but this entity would be prohibited from helping us fight the scourge of terrorism. Is this what we want?

Unbelievably, the result of this motion to recommit could be that we would be hampered in our mission to secure the homeland for reasons that have nothing to do with so-called corporate inversions. Perhaps an inadvertent result, but a result nonetheless.

Mr. Speaker, in summary, this poorly drafted motion to recommit is not about homeland security but about homeland politics. After a serious, thoughtful and bipartisan 7-week process by this Congress to respond to the President's challenge, I am disappointed that this would be the final issue before we vote on this historic legislation to protect our families from the very real threat of terrorism.

I would urge the Members of this body to vote ''no'' on this motion to recommit, and I strongly urge a resounding ''yes'' vote on final passage of this historic bill.

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Chair would advise Members that it is in violation of the House rules to have cellular phones on the floor and the Chair would ask Members to turn off their phones.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

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

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

RECORDED VOTE

Ms. DELAURO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 318, noes 110, not voting 5, as follows:

[Roll No. 366]

AYES—318

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baca
Bachus
Baird
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bartlett
Bass
Becerra
Bentsen
Berkley
Berman
Berry
Bilirakis
Bishop
Blagojevich
Boehlert
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burton
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cooksey
Costello
Coyne
Cramer
Crowley
Cubin
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Duncan
Edwards
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Forbes
Ford
Fossella
Frank
Frost
Gallegly
Ganske
Gekas
Gephardt
Gilchrest
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hayes
Hefley
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McInnis
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Petri
Phelps
Pickering
Platts
Pomeroy
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Scott
Serrano

Shays
Sherman
Shimkus
Shows
Shuster
Simmons
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Walsh
Wamp
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson (NM)
Woolsey
Wu
Wynn
Young (FL)

NOES—110

Akin
Armey
Baker
Barr
Barton
Bereuter
Biggert
Blumenauer
Boehner
Brady (TX)
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Coble
Collins
Cox
Crane
Crenshaw
Culberson
Davis, Tom
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Dunn
Ehlers
English
Flake
Foley
Frelinghuysen
Gibbons
Gillmor
Goss
Hansen
Hart
Hastings (WA)
Hayworth
Herger
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Istook
Johnson, Sam
Knollenberg
Kolbe
LaHood
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
McCrery
McKeon
Miller, Dan
Miller, Gary
Nethercutt
Ney
Osborne
Otter
Oxley
Paul
Peterson (PA)
Pitts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reynolds
Rohrabacher
Ros-Lehtinen
Ryun (KS)
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Simpson
Smith (MI)
Smith (TX)
Souder
Stump
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Vitter
Walden
Watkins (OK)
Watts (OK)
Weller
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—5

Blunt
Combest
Lipinski
Meehan
Roukema

□ 2124

Mr. BLUMENAUER changed his vote from ''aye'' to ''no.''

Messrs. THUNE, SWEENEY, CASTLE, KERNS, PENCE, SIMMONS, KELLER, RYAN of Wisconsin, GREEN of Wisconsin, UPTON, ROGERS of Michigan, LoBIONDO, QUINN, McHUGH, FERGUSON, BILIRAKIS, GRAHAM, GEKAS, EHRLICH, SHAYS, BRYANT, OSE, HAYES, GREENWOOD, BARTLETT of Maryland, MANZULLO, BOEHLERT, FOSSELLA, KINGSTON, CHAMBLISS, GOODE, WALSH, RILEY, BACHUS, FORBES, GRAVES, MORAN of Kansas, GOODLATTE, JEFF MILLER of Florida, HALL of Texas, COOKSEY, PLATTS, SHIMKUS, YOUNG of Florida, ADERHOLT, TOOMEY, JOHNSON of Illinois, WELDON of Pennsylvania, SHUSTER, KING, BASS, BALLENGER, GRUCCI, SAXTON, SULLIVAN, GILMAN, DEAL, ISAKSON, JENKINS, RAMSTAD, KENNEDY of Minnesota, WICKER, SMITH of New Jersey, FLETCHER, BOOZMAN, KIRK, MICA, GILCHREST, McINNIS, GALLEGLY, PETRI, ISSA, EVERETT, ROYCE, CUNNINGHAM, SKEEN, WELDON of Florida, CANTOR, ROGERS of Kentucky, BONILLA, BROWN of South Carolina, CHABOT and NORWOOD and Mrs. EMERSON, Mrs. CUBIN, Mrs. CAPITO, Mrs. WILSON of New Mexico, Mrs. JoANN DAVIS of Virginia, Mrs. KELLY, Mrs. BONO, Mrs. MYRICK, Ms. GRANGER and Messrs. BURTON of Indiana, DUNCAN, HEFLEY, HILLEARY, LEACH, McHUGH, PICKERING, STEARNS, STENHOLM, WAMP and WHITFIELD changed their vote from ''no'' to ''aye.''

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

□ 2126

Mr. ARMEY. Mr. Speaker, with compliments to the gentlewoman from Connecticut (Ms. DeLAURO), pursuant to the instructions of the House on the motion to recommit, I report the bill, H.R. 5005, back to the House with an amendment.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Clerk will report the amendment.

The Clerk read as follows:

Amendment:

Page 173, after line 12, insert the following:

SEC. 735. PROHIBITION ON CONTRACTING WITH CORPORATE EXPATRIATES.

(a) IN GENERAL.—The Secretary may not enter into any contract with a subsidiary of a publicly traded corporation if the corporation is incorporated in a tax haven country but the United States is the principal market for the public trading of the corporation's stock.

(b) TAX HAVEN COUNTRY DEFINED.—For purposes of subsection (a), the term ''tax haven country'' means each of the following: Barbados, Bermuda, British Virgin Islands, Cayman Islands, Commonwealth of the Bahamas, Cyprus, Gibraltar, Isle of Man, the Principality of Monaco, and the Republic of the Seychelles.

(c) WAIVER.—The President may waive subsection (a) with respect to any specific contract if the President certifies to the Congress that the waiver is required in the interest of national security.

Mr. ARMEY (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

Mr. DOGGETT. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard. The Clerk will continue to read.

The Clerk concluded the reading of the amendment.

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

The amendment was agreed to.

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

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

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

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

RECORDED VOTE

Mr. PORTMAN. 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 295, noes 132, not voting 6, as follows:

[Roll No. 367]

AYES—295

Aderholt
Akin
Allen
Andrews
Armey
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clement
Coble
Collins
Condit
Cooksey
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
Delahunt
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dooley
Doolittle
Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
English
Etheridge
Everett
Ferguson
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley
Horn
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Langevin
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matheson
McCarthy (MO)
McCarthy (NY)
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Moore
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Pence
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Saxton
Schaffer
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)

Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Turner
Udall (CO)
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOES—132

Abercrombie
Ackerman
Baca
Baldwin
Becerra
Bentsen
Berman
Blumenauer
Bonior
Borski
Brady (PA)
Brown (FL)
Brown (OH)
Cannon
Capuano
Carson (IN)
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
DeLauro
Dingell
Doggett
Doyle
Duncan
Eshoo
Evans
Farr
Fattah
Filner
Flake
Frank
Gephardt
Gonzalez
Goode
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Holt
Honda
Hostettler
Hoyer
Inslee
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kilpatrick
Kleczka
Kucinich
LaFalce
Lampson
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Markey
Matsui
McCollum
McDermott
McGovern
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Miller, George
Mink
Mollohan
Moran (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Paul
Payne
Pelosi
Petri
Rahall
Rangel
Rivers
Rodriguez
Roemer
Roybal-Allard
Sabo
Sanders
Sawyer
Schakowsky
Scott
Serrano
Sherman
Slaughter
Snyder
Solis
Stark
Stupak
Tancredo
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wynn

NOT VOTING—6

Blunt
Combest
Ehrlich
Lipinski
Meehan
Roukema

□ 2141

Messrs. MOLLOHAN, CUMMINGS, LAMPSON, LEVIN, and LARSEN of Washington changed their vote from ''aye'' to ''no.''

Mr. SAXTON changed his vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. THOMAS. Mr. Speaker, on rollcall 367, although I would love to blame a machine error, apparently it was a human error. The gentleman from California recorded a ''no'' when he intended to record an ''aye''.

Mr. EHRLICH. Mr. Speaker, on rollcall No. 367, I was inadvertently detained. I would have voted ''aye'' on this important legislation.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5005, HOMELAND SECURITY ACT OF 2002

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 5005, the Clerk be authorized to correct section numbers, punctuation, spelling, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there any objection to the request by the gentleman?

There was no objection.

PERSONAL EXPLANATION

Mr. WATKINS of Oklahoma. Mr. Speaker, I ask that the RECORD show that I was present and thought I voted ''aye'' on rollcall votes 293 and 348. I was having trouble with my voting card, and it was inaccurately recorded.

REPORT ON H.R. 5263, AGRICULTURE APPROPRIATIONS FOR FISCAL YEAR 2003

Mr. BONILLA, from the Committee on Appropriations, submitted a privileged report (Rept. No. 107–623) on the bill (H.R. 5263) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

□ 2145

RECESS

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

Accordingly (at 9 o'clock and 56 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2315

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at 11 o'clock and 15 minutes p.m.

WAIVING REQUIREMENT OF CLAUSE 6(A) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 507 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

CONFERENCE REPORT ON H.R. 3009, TRADE ACT OF 2002

Mr. THOMAS (during consideration of H.Res 507) submitted the following conference report and statement on the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes:

CONFERENCE REPORT (H. REPT. 107–624)

The Committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3009), to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Trade Act of 2002''.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into 5 divisions as follows:

(1) DIVISION A.—Trade Adjustment Assistance.

(2) DIVISION B.—Bipartisan Trade Promotion Authority.

(3) DIVISION C.—Andean Trade Preference Act.

(4) DIVISION D.—Extension of Certain Preferential Trade Treatment and Other Provisions.

(5) DIVISION E.—Miscellaneous Provisions.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—TRADE ADJUSTMENT ASSISTANCE

Sec. 101. Short title.

TITLE I—TRADE ADJUSTMENT ASSISTANCE PROGRAM

Subtitle A—Trade Adjustment Assistance For Workers

Sec. 111. Reauthorization of trade adjustment assistance program.
Sec. 112. Filing of petitions and provision of rapid response assistance; expedited review of petitions by secretary of labor.
Sec. 113. Group eligibility requirements.
Sec. 114. Qualifying requirements for trade readjustment allowances.
Sec. 115. Waivers of training requirements.
Sec. 116. Amendments to limitations on trade readjustment allowances.
Sec. 117. Annual total amount of payments for training.
Sec. 118. Provision of employer-based training.
Sec. 119. Coordination with title I of the Workforce Investment Act of 1998.
Sec. 120. Expenditure period.
Sec. 121. Job search allowances.
Sec. 122. Relocation allowances.
Sec. 123. Repeal of NAFTA transitional adjustment assistance program.

Sec. 124. Demonstration project for alternative trade adjustment assistance for older workers.
Sec. 125. Declaration of policy; sense of Congress.
Subtitle B—Trade Adjustment Assistance For Firms
Sec. 131. Reauthorization of program.
Subtitle C—Trade Adjustment Assistance For Farmers
Sec. 141. Trade adjustment assistance for farmers.
Sec. 142. Conforming amendments.
Sec. 143. Study on TAA for fishermen.
Subtitle D—Effective Date
Sec. 151. Effective date.
TITLE II—CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS
Sec. 201. Credit for health insurance costs of individuals receiving a trade readjustment allowance or a benefit from the Pension Benefit Guaranty Corporation.
Sec. 202. Advance payment of credit for health insurance costs of eligible individuals.
Sec. 203. Health insurance assistance for eligible individuals.
TITLE III—CUSTOMS REAUTHORIZATION
Sec. 301. Short title.
Subtitle A—United States Customs Service
CHAPTER 1—DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL AND COMMERCIAL OPERATIONS
Sec. 311. Authorization of appropriations for noncommercial operations, commercial operations, and air and marine interdiction.
Sec. 312. Antiterrorist and illicit narcotics detection equipment for the United States-Mexico border, United States-Canada border, and Florida and the Gulf Coast seaports.
Sec. 313. Compliance with performance plan requirements.
CHAPTER 2—CHILD CYBER-SMUGGLING CENTER OF THE CUSTOMS SERVICE
Sec. 321. Authorization of appropriations for program to prevent child pornography/child sexual exploitation.
CHAPTER 3—MISCELLANEOUS PROVISIONS
Sec. 331. Additional Customs Service officers for United States-Canada Border.
Sec. 332. Study and report relating to personnel practices of the Customs Service.
Sec. 333. Study and report relating to accounting and auditing procedures of the Customs Service.
Sec. 334. Establishment and implementation of cost accounting system; reports.
Sec. 335. Study and report relating to timeliness of prospective rulings.
Sec. 336. Study and report relating to customs user fees.
Sec. 337. Fees for customs inspections at express courier facilities.
Sec. 338. National Customs Automation Program.
Sec. 339. Authorization of appropriations for customs staffing.
CHAPTER 4—ANTITERRORISM PROVISIONS
Sec. 341. Immunity for United States officials that act in good faith.
Sec. 342. Emergency adjustments to offices, ports of entry, or staffing of the customs service.
Sec. 343. Mandatory advanced electronic information for cargo and other improved Customs reporting procedures.
Sec. 343A. Secure systems of transportation.
Sec. 344. Border search authority for certain contraband in outbound mail.
Sec. 345. Authorization of appropriations for reestablishment of customs operations in New York City.
CHAPTER 5—TEXTILE TRANSSHIPMENT PROVISIONS
Sec. 351. GAO audit of textile transshipment monitoring by Customs Service.
Sec. 352. Authorization of appropriations for textile transshipment enforcement operations.
Sec. 353. Implementation of the African Growth and Opportunity Act.
Subtitle B—Office of the United States Trade Representative
Sec. 361. Authorization of appropriations.
Subtitle C—United States International Trade Commission
Sec. 371. Authorization of appropriations.
Subtitle D—Other trade provisions
Sec. 381. Increase in aggregate value of articles exempt from duty acquired abroad by United States residents.
Sec. 382. Regulatory audit procedures.
Sec. 383. Payment of duties and fees.
DIVISION B—BIPARTISAN TRADE PROMOTION AUTHORITY
TITLE XXI—TRADE PROMOTION AUTHORITY
Sec. 2101. Short title and findings.
Sec. 2102. Trade negotiating objectives.
Sec. 2103. Trade agreements authority.
Sec. 2104. Consultations and assessment.
Sec. 2105. Implementation of trade agreements.
Sec. 2106. Treatment of certain trade agreements for which negotiations have already begun.
Sec. 2107. Congressional Oversight Group.
Sec. 2108. Additional implementation and enforcement requirements.
Sec. 2109. Committee staff.
Sec. 2110. Conforming amendments.
Sec. 2111. Report on impact of trade promotion authority.
Sec. 2112. Interests of small business.
Sec. 2113. Definitions.
DIVISION C—ANDEAN TRADE PREFERENCE ACT
TITLE XXXI—ANDEAN TRADE PREFERENCE
Sec. 3101. Short title.
Sec. 3102. Findings.
Sec. 3103. Articles eligible for preferential treatment.
Sec. 3104. Termination.
Sec. 3105. Report on Free Trade Agreement with Israel.
Sec. 3106. Modification of duty treatment for tuna.
Sec. 3107. Trade benefits under the caribbean basin economic recovery act.
Sec. 3108. Trade benefits under the African Growth and Opportunity Act.
DIVISION D—EXTENSION OF CERTAIN PREFERENTIAL TRADE TREATMENT
TITLE XLI—EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES
Sec. 4101. Extension of generalized system of preferences.
Sec. 4102. Amendments to generalized system of preferences.
DIVISION E—MISCELLANEOUS PROVISIONS
TITLE L—MISCELLANEOUS TRADE BENEFITS
Subtitle A—Wool Provisions
Sec. 5101. Wool provisions.
Sec. 5102. Duty suspension on wool.
Subtitle B—Other Provisions
Sec. 5201. Fund for WTO dispute settlements.
Sec. 5202. Certain steam or other vapor generating boilers used in nuclear facilities.
Sec. 5203. Sugar tariff-rate quota circumvention.

DIVISION A—TRADE ADJUSTMENT ASSISTANCE

SEC. 101. SHORT TITLE.

This division may be cited as the ''Trade Adjustment Assistance Reform Act of 2002''.

TITLE I—TRADE ADJUSTMENT ASSISTANCE PROGRAM

Subtitle A—Trade Adjustment Assistance For Workers

SEC. 111. REAUTHORIZATION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

(a) ASSISTANCE FOR WORKERS.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking ''October 1, 1998, and ending September 30, 2001,'' each place it appears and inserting ''October 1, 2001, and ending September 30, 2007,''.

(b) ASSISTANCE FOR FIRMS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking ''October 1, 1998, and ending September 30, 2001'' and inserting ''October 1, 2001, and ending September 30, 2007,''.

(c) TERMINATION.—Section 285 of the Trade Act of 1974 is amended to read as follows:

''SEC. 285. TERMINATION.

''(a) ASSISTANCE FOR WORKERS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), trade adjustment assistance, vouchers, allowances, and other payments or benefits may not be provided under chapter 2 after September 30, 2007.

''(2) EXCEPTION.—Notwithstanding paragraph (1), a worker shall continue to receive trade adjustment assistance benefits and other benefits under chapter 2 for any week for which the worker meets the eligibility requirements of that chapter, if on or before September 30, 2007, the worker is—

''(A) certified as eligible for trade adjustment assistance benefits under chapter 2 of this title; and

''(B) otherwise eligible to receive trade adjustment assistance benefits under chapter 2.

''(b) OTHER ASSISTANCE.—

''(1) ASSISTANCE FOR FIRMS.—Technical assistance may not be provided under chapter 3 after September 30, 2007.

''(2) ASSISTANCE FOR FARMERS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), adjustment assistance, vouchers, allowances, and other payments or benefits may not be provided under chapter 6 after September 30, 2007.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), an agricultural commodity producer (as defined in section 291(2)) shall continue to receive adjustment assistance benefits and other benefits under chapter 6, for any week for which the agricultural commodity producer meets the eligibility requirements of chapter 6, if on or before September 30, 2007, the agricultural commodity producer is—

''(i) certified as eligible for adjustment assistance benefits under chapter 6; and

''(ii) is otherwise eligible to receive adjustment assistance benefits under such chapter 6.''.

SEC. 112. FILING OF PETITIONS AND PROVISION OF RAPID RESPONSE ASSISTANCE; EXPEDITED REVIEW OF PETITIONS BY SECRETARY OF LABOR.

(a) FILING OF PETITIONS AND PROVISION OF RAPID RESPONSE ASSISTANCE.—Section 221(a) of the Trade Act of 1974 (19 U.S.C. 2271(a)) is amended to read as follows:

''(a)(1) A petition for certification of eligibility to apply for adjustment assistance for a group of workers under this chapter may be filed simultaneously with the Secretary and with the Governor of the State in which such workers' firm or subdivision is located by any of the following:

''(A) The group of workers (including workers in an agricultural firm or subdivision of any agricultural firm).

''(B) The certified or recognized union or other duly authorized representative of such workers.

''(C) Employers of such workers, one-stop operators or one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)), including State employment security agencies, or the State dislocated worker

unit established under title I of such Act, on behalf of such workers.

''(2) Upon receipt of a petition filed under paragraph (1), the Governor shall—

''(A) ensure that rapid response assistance, and appropriate core and intensive services (as described in section 134 of the Workforce Investment Act of 1998 (29 U.S.C. 2864)) authorized under other Federal laws are made available to the workers covered by the petition to the extent authorized under such laws; and

''(B) assist the Secretary in the review of the petition by verifying such information and providing such other assistance as the Secretary may request.

''(3) Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.''.

(b) EXPEDITED REVIEW OF PETITIONS BY SECRETARY OF LABOR.—Section 223(a) of such Act (19 U.S.C. 2273(a)) is amended in the first sentence by striking ''60 days'' and inserting ''40 days''.

SEC. 113. GROUP ELIGIBILITY REQUIREMENTS.

(a) TRADE ADJUSTMENT ASSISTANCE PROGRAM.—

(1) IN GENERAL.—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(A) by amending subsection (a) to read as follows:

''(a) IN GENERAL.—A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as eligible to apply for adjustment assistance under this chapter pursuant to a petition filed under section 221 if the Secretary determines that—

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

''(2)(A)(i) the sales or production, or both, of such firm or subdivision have decreased absolutely;

''(ii) imports of articles like or directly competitive with articles produced by such firm or subdivision have increased; and

''(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm or subdivision; or

''(B)(i) there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

''(ii)(I) the country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

''(II) the country to which the workers' firm has shifted production of the articles is a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

''(III) there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.'';

(B) by redesignating subsection (b) as subsection (c); and

(C) by inserting after subsection (a) the following:

''(b) ADVERSELY AFFECTED SECONDARY WORKERS.—A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as eligible to apply for trade adjustment assistance benefits under this chapter if the Secretary determines that—

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

''(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility under subsection (a), and such supply or production is related to the article that was the basis for such certification (as defined in subsection (c) (3) and (4)); and

''(3) either—

''(A) the workers' firm is a supplier and the component parts it supplied to the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

''(B) a loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).''.

(b) DEFINITIONS.—Section 222(c) of such Act, as redesignated by paragraph (1)(A), is amended—

(1) in the matter preceding paragraph (1), by striking ''subsection (a)(3)'' and inserting ''this section''; and

(2) by adding at the end the following:

''(3) DOWNSTREAM PRODUCER.—The term 'downstream producer' means a firm that performs additional, value-added production processes for a firm or subdivision, including a firm that performs final assembly or finishing, directly for another firm (or subdivision), for articles that were the basis for a certification of eligibility under subsection (a) of a group of workers employed by such other firm, if the certification of eligibility under subsection (a) is based on an increase in imports from, or a shift in production to, Canada or Mexico.

''(4) SUPPLIER.—The term 'supplier' means a firm that produces and supplies directly to another firm (or subdivision) component parts for articles that were the basis for a certification of eligibility under subsection (a) of a group of workers employed by such other firm.''.

SEC. 114. QUALIFYING REQUIREMENTS FOR TRADE READJUSTMENT ALLOWANCES.

(a) CLARIFICATION OF CERTAIN REDUCTIONS.—Section 231(a)(3)(B) of the Trade Act of 1974 (19 U.S.C. 2291(a)(3)(B)) is amended by inserting after ''any unemployment insurance'' the following: '', except additional compensation that is funded by a State and is not reimbursed from any Federal funds,''.

(b) ENROLLMENT IN TRAINING REQUIREMENT.—Section 231(a)(5)(A) of such Act (19 U.S.C. 2291(a)(5)(A)) is amended—

(1) by inserting ''(i)'' after ''(A)'';

(2) by adding ''and'' after the comma at the end; and

(3) by adding at the end the following:

''(ii) the enrollment required under clause (i) occurs no later than the latest of—

''(I) the last day of the 16th week after the worker's most recent total separation from adversely affected employment which meets the requirements of paragraphs (1) and (2),

''(II) the last day of the 8th week after the week in which the Secretary issues a certification covering the worker,

''(III) 45 days after the later of the dates specified in subclause (I) or (II), if the Secretary determines there are extenuating circumstances that justify an extension in the enrollment period, or

''(IV) the last day of a period determined by the Secretary to be approved for enrollment after the termination of a waiver issued pursuant to subsection (c),''.

SEC. 115. WAIVERS OF TRAINING REQUIREMENTS.

(a) IN GENERAL.—Section 231(c) of the Trade Act of 1974 (19 U.S.C. 2291(c)) is amended to read as follows:

''(c) WAIVERS OF TRAINING REQUIREMENTS.—

''(1) ISSUANCE OF WAIVERS.—The Secretary may issue a written statement to an adversely affected worker waiving the requirement to be enrolled in training described in subsection (a)(5)(A) if the Secretary determines that it is not feasible or appropriate for the worker, because of 1 or more of the following reasons:

''(A) RECALL.—The worker has been notified that the worker will be recalled by the firm from which the separation occurred.

''(B) MARKETABLE SKILLS.—The worker possesses marketable skills for suitable employment (as determined pursuant to an assessment of the worker, which may include the profiling system under section 303(j) of the Social Security Act (42 U.S.C. 503(j)), carried out in accordance with guidelines issued by the Secretary) and there is a reasonable expectation of employment at equivalent wages in the foreseeable future.

''(C) RETIREMENT.—The worker is within 2 years of meeting all requirements for entitlement to either—

''(i) old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) (except for application therefor); or

''(ii) a private pension sponsored by an employer or labor organization.

''(D) HEALTH.—The worker is unable to participate in training due to the health of the worker, except that a waiver under this subparagraph shall not be construed to exempt a worker from requirements relating to the availability for work, active search for work, or refusal to accept work under Federal or State unemployment compensation laws.

''(E) ENROLLMENT UNAVAILABLE.—The first available enrollment date for the approved training of the worker is within 60 days after the date of the determination made under this paragraph, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.

''(F) TRAINING NOT AVAILABLE.—Training approved by the Secretary is not reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2302), and employers), no training that is suitable for the worker is available at a reasonable cost, or no training funds are available.

''(2) DURATION OF WAIVERS.—

''(A) IN GENERAL.—A waiver issued under paragraph (1) shall be effective for not more than 6 months after the date on which the waiver is issued, unless the Secretary determines otherwise.

''(B) REVOCATION.—The Secretary shall revoke a waiver issued under paragraph (1) if the Secretary determines that the basis of a waiver is no longer applicable to the worker and shall notify the worker in writing of the revocation.

''(3) AGREEMENTS UNDER SECTION 239.—

''(A) ISSUANCE BY COOPERATING STATES.—Pursuant to an agreement under section 239, the Secretary may authorize a cooperating State to issue waivers as described in paragraph (1).

''(B) SUBMISSION OF STATEMENTS.—An agreement under section 239 shall include a requirement that the cooperating State submit to the Secretary the written statements provided under paragraph (1) and a statement of the reasons for the waiver.''.

(b) CONFORMING AMENDMENT.—Section 231(a)(5)(C) of such Act (19 U.S.C. 2291(a)(5)(C)) is amended by striking ''certified''.

SEC. 116. AMENDMENTS TO LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES.

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

(1) in paragraph (2), by inserting after ''104-week period'' the following: ''(or, in the case of an adversely affected worker who requires a program of remedial education (as described in section 236(a)(5)(D)) in order to complete training approved for the worker under section 236, the 130-week period)''; and

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

(b) SPECIAL RULE RELATING TO BREAK IN TRAINING.—Section 233(f) of the Trade Act of 1974 (19 U.S.C. 2293(f)) is amended in the matter preceding paragraph (1) by striking ''14 days'' and inserting ''30 days''.

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

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

SEC. 117. ANNUAL TOTAL AMOUNT OF PAYMENTS FOR TRAINING.

Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking ''$80,000,000'' and all that follows through ''$70,000,000'' and inserting ''$220,000,000''.

SEC. 118. PROVISION OF EMPLOYER-BASED TRAINING.

(a) IN GENERAL.—Section 236(a)(5)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(5)(A)) is amended to read as follows:

''(A) employer-based training, including—

''(i) on-the-job training, and

''(ii) customized training,''.

(b) REIMBURSEMENT.—Section 236(c)(8) of such Act (19 U.S.C. 2296(c)(8)) is amended to read as follows:

''(8) the employer is provided reimbursement of not more than 50 percent of the wage rate of the participant, for the cost of providing the training and additional supervision related to the training,''.

(c) DEFINITION.—Section 236 of such Act (19 U.S.C. 2296) is amended by adding at the end the following new subsection:

''(f) For purposes of this section, the term 'customized training' means training that is—

''(1) designed to meet the special requirements of an employer or group of employers;

''(2) conducted with a commitment by the employer or group of employers to employ an individual upon successful completion of the training; and

''(3) for which the employer pays for a significant portion (but in no case less than 50 percent) of the cost of such training, as determined by the Secretary.''.

SEC. 119. COORDINATION WITH TITLE I OF THE WORKFORCE INVESTMENT ACT OF 1998.

Section 235 of the Trade Act of 1974 (19 U.S.C. 2295) is amended by inserting before the period at the end of the first sentence the following: '', including the services provided through one-stop delivery systems described in section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c))''.

SEC. 120. EXPENDITURE PERIOD.

Section 245 of the Trade Act of 1974 (19 U.S.C. 2317), as amended by section 111(a) of this Act, is further amended by amending subsection (b) to read as follows:

''(b) PERIOD OF EXPENDITURE.—Funds obligated for any fiscal year to carry out activities under sections 235 through 238 may be expended by each State receiving such funds during that fiscal year and the succeeding two fiscal years.''.

SEC. 121. JOB SEARCH ALLOWANCES.

Section 237 of the Trade Act of 1974 (19 U.S.C. 2297) is amended to read as follows:

''SEC. 237. JOB SEARCH ALLOWANCES.

''(a) JOB SEARCH ALLOWANCE AUTHORIZED.—

''(1) IN GENERAL.—An adversely affected worker covered by a certification issued under subchapter A of this chapter may file an application with the Secretary for payment of a job search allowance.

''(2) APPROVAL OF APPLICATIONS.—The Secretary may grant an allowance pursuant to an application filed under paragraph (1) when all of the following apply:

''(A) ASSIST ADVERSELY AFFECTED WORKER.—The allowance is paid to assist an adversely affected worker who has been totally separated in securing a job within the United States.

''(B) LOCAL EMPLOYMENT NOT AVAILABLE.—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

''(C) APPLICATION.—The worker has filed an application for the allowance with the Secretary before—

''(i) the later of—

''(I) the 365th day after the date of the certification under which the worker is certified as eligible; or

''(II) the 365th day after the date of the worker's last total separation; or

''(ii) the date that is the 182d day after the date on which the worker concluded training, unless the worker received a waiver under section 231(c).

''(b) AMOUNT OF ALLOWANCE.—

''(1) IN GENERAL.—An allowance granted under subsection (a) shall provide reimbursement to the worker of 90 percent of the cost of necessary job search expenses as prescribed by the Secretary in regulations.

''(2) MAXIMUM ALLOWANCE.—Reimbursement under this subsection may not exceed $1,250 for any worker.

''(3) ALLOWANCE FOR SUBSISTENCE AND TRANSPORTATION.—Reimbursement under this subsection may not be made for subsistence and transportation expenses at levels exceeding those allowable under section 236(b) (1) and (2).

''(c) EXCEPTION.—Notwithstanding subsection (b), the Secretary shall reimburse any adversely affected worker for necessary expenses incurred by the worker in participating in a job search program approved by the Secretary.''.

SEC. 122. RELOCATION ALLOWANCES.

Section 238 of the Trade Act of 1974 (19 U.S.C. 2298) is amended to read as follows:

''SEC. 238. RELOCATION ALLOWANCES.

''(a) RELOCATION ALLOWANCE AUTHORIZED.—

''(1) IN GENERAL.—Any adversely affected worker covered by a certification issued under subchapter A of this chapter may file an application for a relocation allowance with the Secretary, and the Secretary may grant the relocation allowance, subject to the terms and conditions of this section.

''(2) CONDITIONS FOR GRANTING ALLOWANCE.—A relocation allowance may be granted if all of the following terms and conditions are met:

''(A) ASSIST AN ADVERSELY AFFECTED WORKER.—The relocation allowance will assist an adversely affected worker in relocating within the United States.

''(B) LOCAL EMPLOYMENT NOT AVAILABLE.—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

''(C) TOTAL SEPARATION.—The worker is totally separated from employment at the time relocation commences.

''(D) SUITABLE EMPLOYMENT OBTAINED.—The worker—

''(i) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which the worker wishes to relocate; or

''(ii) has obtained a bona fide offer of such employment.

''(E) APPLICATION.—The worker filed an application with the Secretary before—

''(i) the later of—

''(I) the 425th day after the date of the certification under subchapter A of this chapter; or

''(II) the 425th day after the date of the worker's last total separation; or

''(ii) the date that is the 182d day after the date on which the worker concluded training, unless the worker received a waiver under section 231(c).

''(b) AMOUNT OF ALLOWANCE.—The relocation allowance granted to a worker under subsection (a) includes—

''(1) 90 percent of the reasonable and necessary expenses (including, but not limited to, subsistence and transportation expenses at levels not exceeding those allowable under section 236(b) (1) and (2) specified in regulations prescribed by the Secretary, incurred in transporting the worker, the worker's family, and household effects; and

''(2) a lump sum equivalent to 3 times the worker's average weekly wage, up to a maximum payment of $1,250.

''(c) LIMITATIONS.—A relocation allowance may not be granted to a worker unless—

''(1) the relocation occurs within 182 days after the filing of the application for relocation assistance; or

''(2) the relocation occurs within 182 days after the conclusion of training, if the worker entered a training program approved by the Secretary under section 236(b) (1) and (2).''.

SEC. 123. REPEAL OF NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE PROGRAM.

(a) IN GENERAL.—Subchapter D of chapter 2 of title II of such Act (19 U.S.C. 2331) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 225(b) (1) and (2) of the Trade Act of 1974 (19 U.S.C. 2275(b) (1) and (2)) is amended by striking ''or subchapter D'' each place it appears.

(2) Section 249A of such Act (19 U.S.C. 2322) is repealed.

(3) The table of contents of such Act is amended—

(A) by striking the item relating to section 249A; and

(B) by striking the items relating to subchapter D of chapter 2 of title II.

(4) Section 284(a) of such Act is amended by striking ''or section 250(c)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to petitions filed under chapter 2 of title II of the Trade Act of 1974, on or after the date that is 90 days after the date of enactment of this Act.

(2) WORKERS CERTIFIED AS ELIGIBLE BEFORE EFFECTIVE DATE.—Notwithstanding subsection (a), a worker receiving benefits under chapter 2 of title II of the Trade Act of 1974 shall continue to receive (or be eligible to receive) benefits and services under chapter 2 of title II of the Trade Act of 1974, as in effect on the day before the amendments made by this section take effect under subsection (a), for any week for which the worker meets the eligibility requirements of such chapter 2 as in effect on such date.

SEC. 124. DEMONSTRATION PROJECT FOR ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE FOR OLDER WORKERS.

(a) DEMONSTRATION PROGRAM.—Chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) is amended by striking section 246 and inserting the following new section:

''SEC. 246. DEMONSTRATION PROJECT FOR ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE FOR OLDER WORKERS.

''(a) IN GENERAL.—

''(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, the Secretary shall establish an alternative trade adjustment assistance program for older workers that provides the benefits described in paragraph (2).

''(2) BENEFITS.

''(A) PAYMENTS.—A State shall use the funds provided to the State under section 241 to pay, for a period not to exceed 2 years, to a worker

described in paragraph (3)(B), 50 percent of the difference between—

''(i) the wages received by the worker from reemployment; and

''(ii) the wages received by the worker at the time of separation.

''(B) HEALTH INSURANCE.—A worker described in paragraph (3)(B) participating in the program established under paragraph (1) is eligible to receive, for a period not to exceed 2 years, a credit for health insurance costs under section 35 of the Internal Revenue Code of 1986, as added by section 201 of the Trade Act of 2002.

''(3) ELIGIBILITY.—

''(A) FIRM ELIGIBILITY.—

''(i) IN GENERAL.—The Secretary shall provide the opportunity for a group of workers on whose behalf a petition is filed under section 221 to request that the group of workers be certified for the alternative trade adjustment assistance program under this section at the time the petition is filed.

''(ii) CRITERIA.—In determining whether to certify a group of workers as eligible for the alternative trade adjustment assistance program, the Secretary shall consider the following criteria:

''(I) Whether a significant number of workers in the workers' firm are 50 years of age or older.

''(II) Whether the workers in the workers' firm possess skills that are not easily transferable.

''(III) The competitive conditions within the workers' industry.

''(iii) DEADLINE.—The Secretary shall determine whether the workers in the group are eligible for the alternative trade adjustment assistance program by the date specified in section 223(a).

''(B) INDIVIDUAL ELIGIBILITY.—A worker in the group that the Secretary has certified as eligible for the alternative trade adjustment assistance program may elect to receive benefits under the alternative trade adjustment assistance program if the worker—

''(i) is covered by a certification under subchapter A of this chapter;

''(ii) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment;

''(iii) is at least 50 years of age; and

''(iv) earns not more than $50,000 a year in wages from reemployment;

''(v) is employed on a full-time basis as defined by State law in the State in which the worker is employed; and

''(vi) does not return to the employment from which the worker was separated.

''(4) TOTAL AMOUNT OF PAYMENTS.—The payments described in paragraph (2)(A) made to a worker may not exceed $10,000 per worker during the 2-year eligibility period.

''(5) LIMITATION ON OTHER BENEFITS.—Except as provided in section 238(a)(2)(B), if a worker is receiving payments pursuant to the program established under paragraph (1), the worker shall not be eligible to receive any other benefits under this title.

''(b) TERMINATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no payments may be made by a State under the program established under subsection (a)(1) after the date that is 5 years after the date on which such program is implemented by the State.

''(2) EXCEPTION.—Notwithstanding paragraph (1), a worker receiving payments under the program established under subsection (a)(1) on the termination date described in paragraph (1) shall continue to receive such payments provided that the worker meets the criteria described in subsection (a)(3)(B).''.

(b) TABLE OF CONTENTS.—The Trade Act of 1974 (U.S.C. et seq.) is amended in the table of contents by inserting after the item relating to section 245 the following new item:

''Sec. 246. Demonstration project for alternative trade adjustment assistance for older workers.''.

SEC. 125. DECLARATION OF POLICY; SENSE OF CONGRESS.

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

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

Subtitle B—Trade Adjustment Assistance For Firms

SEC. 131. REAUTHORIZATION OF PROGRAM.

Section 256(b) of chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended to read as follows:

''(b) There are authorized to be appropriated to the Secretary $16,000,000 for each of fiscal years 2003 through 2007, to carry out the Secretary's functions under this chapter in connection with furnishing adjustment assistance to firms. Amounts appropriated under this subsection shall remain available until expended.''.

Subtitle C—Trade Adjustment Assistance For Farmers

SEC. 141. TRADE ADJUSTMENT ASSISTANCE FOR FARMERS.

(a) IN GENERAL.—Title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.) is amended by adding at the end the following new chapter:

''CHAPTER 6—ADJUSTMENT ASSISTANCE FOR FARMERS

''SEC. 291. DEFINITIONS.

''In this chapter:

''(1) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means any agricultural commodity (including livestock) in its raw or natural state.

''(2) AGRICULTURAL COMMODITY PRODUCER.—The term 'agricultural commodity producer' has the same meaning as the term 'person' as prescribed by regulations promulgated under section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)).

''(3) CONTRIBUTED IMPORTANTLY.—

''(A) IN GENERAL.—The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

''(B) DETERMINATION OF CONTRIBUTED IMPORTANTLY.—The determination of whether imports of articles like or directly competitive with an agricultural commodity with respect to which a petition under this chapter was filed contributed importantly to a decline in the price of the agricultural commodity shall be made by the Secretary.

''(4) DULY AUTHORIZED REPRESENTATIVE.—The term 'duly authorized representative' means an association of agricultural commodity producers.

''(5) NATIONAL AVERAGE PRICE.—The term 'national average price' means the national average price paid to an agricultural commodity producer for an agricultural commodity in a marketing year as determined by the Secretary.

''(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''SEC. 292. PETITIONS; GROUP ELIGIBILITY.

''(a) IN GENERAL.—A petition for a certification of eligibility to apply for adjustment assistance under this chapter may be filed with the Secretary by a group of agricultural commodity producers or by their duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.

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

''(c) GROUP ELIGIBILITY REQUIREMENTS.—The Secretary shall certify a group of agricultural commodity producers as eligible to apply for adjustment assistance under this chapter if the Secretary determines—

''(1) that the national average price for the agricultural commodity, or a class of goods within the agricultural commodity, produced by the group for the most recent marketing year for which the national average price is available is less than 80 percent of the average of the national average price for such agricultural commodity, or such class of goods, for the 5 marketing years preceding the most recent marketing year; and

''(2) that increases in imports of articles like or directly competitive with the agricultural commodity, or class of goods within the agricultural commodity, produced by the group contributed importantly to the decline in price described in paragraph (1).

''(d) SPECIAL RULE FOR QUALIFIED SUBSEQUENT YEARS.—A group of agricultural commodity producers certified as eligible under section 293 shall be eligible to apply for assistance under this chapter in any qualified year after the year the group is first certified, if the Secretary determines that—

''(1) the national average price for the agricultural commodity, or class of goods within the agricultural commodity, produced by the group for the most recent marketing year for which the national average price is available is equal to or less than the price determined under subsection (c)(1); and

''(2) the requirements of subsection (c)(2) are met.

''(e) DETERMINATION OF QUALIFIED YEAR AND COMMODITY.—In this chapter:

''(1) QUALIFIED YEAR.—The term 'qualified year', with respect to a group of agricultural commodity producers certified as eligible under section 293, means each consecutive year after the year in which the group is certified and in which the Secretary makes the determination under subsection (c) or (d), as the case may be.

''(2) CLASSES OF GOODS WITHIN A COMMODITY.—In any case in which there are separate classes of goods within an agricultural commodity, the Secretary shall treat each class as a separate commodity in determining group eligibility, the national average price, and level of imports under this section and section 296.

''SEC. 293. DETERMINATIONS BY SECRETARY OF AGRICULTURE.

''(a) IN GENERAL.—As soon as practicable after the date on which a petition is filed under section 292, but in any event not later than 40 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of section 292 (c) or (d), as the case may be, and shall, if the group meets the requirements, issue a certification of eligibility to apply for assistance under this chapter covering agricultural commodity producers in any group that meets the requirements. Each certification shall specify the date on which eligibility under this chapter begins.

''(b) NOTICE.—Upon making a determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register, together with the Secretary's reasons for making the determination.

''(c) TERMINATION OF CERTIFICATION.—Whenever the Secretary determines, with respect to any certification of eligibility under this chapter, that the decline in price for the agricultural commodity covered by the certification is no longer attributable to the conditions described in section 292, the Secretary shall terminate such certification and promptly cause notice of such termination to be published in the Federal Register, together with the Secretary's reasons for making such determination.

''SEC. 294. STUDY BY SECRETARY OF AGRICULTURE WHEN INTERNATIONAL TRADE COMMISSION BEGINS INVESTIGATION.

''(a) IN GENERAL.—Whenever the International Trade Commission (in this chapter referred to as the 'Commission') begins an investigation under section 202 with respect to an agricultural commodity, the Commission shall immediately notify the Secretary of the investigation. Upon receipt of the notification, the Secretary shall immediately conduct a study of—

''(1) the number of agricultural commodity producers producing a like or directly competitive agricultural commodity who have been or are likely to be certified as eligible for adjustment assistance under this chapter, and

''(2) the extent to which the adjustment of such producers to the import competition may be facilitated through the use of existing programs.

''(b) REPORT.—Not later than 15 days after the day on which the Commission makes its report under section 202(f), the Secretary shall submit a report to the President setting forth the findings of the study described in subsection (a). Upon making the report to the President, the Secretary shall also promptly make the report public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of the report published in the Federal Register.

''SEC. 295. BENEFIT INFORMATION TO AGRICULTURAL COMMODITY PRODUCERS.

''(a) IN GENERAL.—The Secretary shall provide full information to agricultural commodity producers about the benefit allowances, training, and other employment services available under this title and about the petition and application procedures, and the appropriate filing dates, for such allowances, training, and services. The Secretary shall provide whatever assistance is necessary to enable groups to prepare petitions or applications for program benefits under this title.

''(b) NOTICE OF BENEFITS.—

''(1) IN GENERAL.—The Secretary shall mail written notice of the benefits available under this chapter to each agricultural commodity producer that the Secretary has reason to believe is covered by a certification made under this chapter.

''(2) OTHER NOTICE.—The Secretary shall publish notice of the benefits available under this chapter to agricultural commodity producers that are covered by each certification made under this chapter in newspapers of general circulation in the areas in which such producers reside.

''(3) OTHER FEDERAL ASSISTANCE.—The Secretary shall also provide information concerning procedures for applying for and receiving all other Federal assistance and services available to workers facing economic distress.

''SEC. 296. QUALIFYING REQUIREMENTS FOR AGRICULTURAL COMMODITY PRODUCERS.

''(a) IN GENERAL.—

''(1) REQUIREMENTS.—Payment of a trade adjustment allowance shall be made to an adversely affected agricultural commodity producer covered by a certification under this chapter who files an application for such allowance within 90 days after the date on which the Secretary makes a determination and issues a certification of eligibility under section 293, if the following conditions are met:

''(A) The producer submits to the Secretary sufficient information to establish the amount of agricultural commodity covered by the application filed under subsection (a) that was produced by the producer in the most recent year.

''(B) The producer certifies that the producer has not received cash benefits under any provision of this title other than this chapter.

''(C) The producer's net farm income (as determined by the Secretary) for the most recent year is less than the producer's net farm income for the latest year in which no adjustment assistance was received by the producer under this chapter.

''(D) The producer certifies that the producer has met with an Extension Service employee or agent to obtain, at no cost to the producer, information and technical assistance that will assist the producer in adjusting to import competition with respect to the adversely affected agricultural commodity, including—

''(i) information regarding the feasibility and desirability of substituting 1 or more alternative commodities for the adversely affected agricultural commodity; and

''(ii) technical assistance that will improve the competitiveness of the production and marketing of the adversely affected agricultural commodity by the producer, including yield and marketing improvements.

''(2) LIMITATIONS.—

''(A) ADJUSTED GROSS INCOME.—

''(i) IN GENERAL.—Notwithstanding any other provision of this chapter, an agricultural commodity producer shall not be eligible for assistance under this chapter in any year in which the average adjusted gross income of the producer exceeds the level set forth in section 1001D of the Food Security Act of 1985.

''(ii) CERTIFICATION.—To comply with the limitation under subparagraph (A), an individual or entity shall provide to the Secretary—

''(I) a certification by a certified public accountant or another third party that is acceptable to the Secretary that the average adjusted gross income of the producer does not exceed the level set forth in section 1001D of the Food Security Act of 1985; or

''(II) information and documentation regarding the adjusted gross income of the producer through other procedures established by the Secretary.

''(B) COUNTER-CYCLICAL PAYMENTS.—The total amount of payments made to an agricultural producer under this chapter during any crop year may not exceed the limitation on counter-cyclical payments set forth in section 1001(c) of the Food Security Act of 1985.

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

''(i) ADJUSTED GROSS INCOME.—The term 'adjusted gross income' means adjusted gross income of an agricultural commodity producer—

''(I) as defined in section 62 of the Internal Revenue Code of 1986 and implemented in accordance with procedures established by the Secretary; and

''(II) that is earned directly or indirectly from all agricultural and nonagricultural sources of an individual or entity for a fiscal or corresponding crop year.

''(ii) AVERAGE ADJUSTED GROSS INCOME.—

''(I) IN GENERAL.—The term 'average adjusted gross income' means the average adjusted gross income of a producer for each of the 3 preceding taxable years.

''(II) EFFECTIVE ADJUSTED GROSS INCOME.—In the case of a producer that does not have an adjusted gross income for each of the 3 preceding taxable years, the Secretary shall establish rules that provide the producer with an effective adjusted gross income for the applicable year.

''(b) AMOUNT OF CASH BENEFITS.—

''(1) IN GENERAL.—Subject to the provisions of section 298, an adversely affected agricultural commodity producer described in subsection (a) shall be entitled to adjustment assistance under this chapter in an amount equal to the product of—

''(A) one-half of the difference between—

''(i) an amount equal to 80 percent of the average of the national average price of the agricultural commodity covered by the application described in subsection (a) for the 5 marketing years preceding the most recent marketing year, and

''(ii) the national average price of the agricultural commodity for the most recent marketing year, and

''(B) the amount of the agricultural commodity produced by the agricultural commodity producer in the most recent marketing year.

''(2) SPECIAL RULE FOR SUBSEQUENT QUALIFIED YEARS.—The amount of cash benefits for a qualified year shall be determined in the same manner as cash benefits are determined under paragraph (1) except that the average national price of the agricultural commodity shall be determined under paragraph (1)(A)(i) by using the 5-marketing-year period used to determine the amount of cash benefits for the first certification.

''(c) MAXIMUM AMOUNT OF CASH ASSISTANCE.—The maximum amount of cash benefits an agricultural commodity producer may receive in any 12-month period shall not exceed $10,000.

''(d) LIMITATIONS ON OTHER ASSISTANCE.—An agricultural commodity producer entitled to receive a cash benefit under this chapter—

''(1) shall not be eligible for any other cash benefit under this title, and

''(2) shall be entitled to employment services and training benefits under part II of subchapter B of chapter 2.

''SEC. 297. FRAUD AND RECOVERY OF OVERPAYMENTS.

''(a) IN GENERAL.—

''(1) REPAYMENT.—If the Secretary, or a court of competent jurisdiction, determines that any person has received any payment under this chapter to which the person was not entitled, such person shall be liable to repay such amount to the Secretary, except that the Secretary may waive such repayment if the Secretary determines, in accordance with guidelines prescribed by the Secretary, that—

''(A) the payment was made without fault on the part of such person; and

''(B) requiring such repayment would be contrary to equity and good conscience.

''(2) RECOVERY OF OVERPAYMENT.—Unless an overpayment is otherwise recovered, or waived under paragraph (1), the Secretary shall recover the overpayment by deductions from any sums payable to such person under this chapter.

''(b) FALSE STATEMENT.—A person shall, in addition to any other penalty provided by law, be ineligible for any further payments under this chapter—

''(1) if the Secretary, or a court of competent jurisdiction, determines that the person—

''(A) knowingly has made, or caused another to make, a false statement or representation of a material fact; or

''(B) knowingly has failed, or caused another to fail, to disclose a material fact; and

''(2) as a result of such false statement or representation, or of such nondisclosure, such person has received any payment under this chapter to which the person was not entitled.

''(c) NOTICE AND DETERMINATION.—Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under subsection (a)(1) by the Secretary has been made, notice of the determination and an opportunity for a fair hearing thereon has been given to the person concerned, and the determination has become final.

''(d) PAYMENT TO TREASURY.—Any amount recovered under this section shall be returned to the Treasury of the United States.

''(e) PENALTIES.—Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person any payment authorized to be furnished under this chapter shall be fined not more than $10,000 or imprisoned for not more than 1 year, or both.

"SEC. 298. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated and there are appropriated to the Department of Agriculture not to exceed $90,000,000 for each of the fiscal years 2003 through 2007 to carry out the purposes of this chapter.

''(b) PROPORTIONATE REDUCTION.—If in any year the amount appropriated under this chapter is insufficient to meet the requirements for adjustment assistance payable under this chapter, the amount of assistance payable under this chapter shall be reduced proportionately.''.

(b) EFFECTIVE DATE.—The amendments made by this title shall take effect on the date that is 180 days after the date of enactment of this Act.

SEC. 142. CONFORMING AMENDMENTS.

(a) JUDICIAL REVIEW.—

(1) Section 284(a) of the Trade Act of 1974 (19 U.S.C. 2395(a)) is amended—

(A) by inserting ''an agricultural commodity producer (as defined in section 291(2)) aggrieved by a determination of the Secretary of Agriculture under section 293, '' after ''section 251 of this title,''; and

(B) in the second sentence of subsection (a) and in subsections (b) and (c), by striking ''or the Secretary of Commerce'' each place it appears and inserting '', the Secretary of Commerce, or the Secretary of Agriculture''.

(b) CHAPTERS 6.—The table of contents for title II of the Trade Act of 1974, as amended by subparagraph (A), is amended by inserting after the items relating to chapter 5 the following:

''CHAPTER 6—ADJUSTMENT ASSISTANCE FOR FARMERS

''Sec. 291. Definitions.
''Sec. 292. Petitions; group eligibility.
''Sec. 293. Determinations by Secretary of Agriculture.
''Sec. 294. Study by Secretary of Agriculture when International Trade Commission begins investigation.
''Sec. 295. Benefit information to agricultural commodity producers.
''Sec. 296. Qualifying requirements for agricultural commodity producers.
''Sec. 297. Fraud and recovery of overpayments.
''Sec. 298. Authorization of appropriations.''.

SEC. 143. STUDY ON TAA FOR FISHERMEN.

Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce shall conduct a study and report to Congress regarding whether a trade adjustment assistance program is appropriate and feasible for fishermen. For purposes of the preceding sentence, the term ''fishermen'' means any person who is engaged in commercial fishing or is a United States fish processor.

Subtitle D—Effective Date

SEC. 151. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in sections 123(c) and 141(b), and subsections (b), (c), and (d) of this section, the amendments made by this division shall apply to petitions for certification filed under chapter 2 or 3 of title II of the Trade Act of 1974 on or after the date that is 90 days after the date of enactment of this Act.

(b) WORKERS CERTIFIED AS ELIGIBLE BEFORE EFFECTIVE DATE.—Notwithstanding subsection (a), a worker shall continue to receive (or be eligible to receive) trade adjustment assistance and other benefits under chapter 2 of title II of the Trade Act of 1974, as in effect on September 30, 2001, for any week for which the worker meets the eligibility requirements of such chapter 2 as in effect on such date, if on or before such date, the worker—

(1) was certified as eligible for trade adjustment assistance benefits under such chapter as in effect on such date; and

(2) would otherwise be eligible to receive trade adjustment assistance benefits under such chapter as in effect on such date.

(c) WORKERS WHO BECAME ELIGIBLE DURING QUALIFIED PERIOD.—

(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, including section 285 of the Trade Act of 1974, any worker who would have been eligible to receive trade adjustment assistance or other benefits under chapter 2 of title II of the Trade Act of 1974 during the qualified period if such chapter 2 had been in effect during such period, shall be eligible to receive trade adjustment assistance and other benefits under chapter 2 of title II of the Trade Act of 1974, as in effect on September 30, 2001, for any week during the qualified period for which the worker meets the eligibility requirements of such chapter 2 as in effect on September 30, 2001.

(2) QUALIFIED PERIOD.—For purposes of this subsection, the term ''qualified period'' means the period beginning on January 11, 2002, and ending on the date that is 90 days after the date of enactment of this Act.

(d) ADJUSTMENT ASSISTANCE FOR FIRMS.—

(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, including section 285 of the Trade Act of 1974, and except as provided in paragraph (2), any firm that would have been eligible to receive adjustment assistance under chapter 3 of title II of the Trade Act if 1974 during the qualified period if such chapter 3 had been in effect during such period, shall be eligible to receive adjustment assistance under chapter 3 of title II of the Trade Act of 1974, as in effect on September 30, 2001, for any week during the qualified period for which the firm meets the eligibility requirements of such chapter 3 as in effect on September 30, 2001.

(2) QUALIFIED PERIOD.—For purposes of this subsection, the term ''qualified period'' means the period beginning on October 1, 2001, and ending on the date that is 90 days after the date of enactment of this Act.

TITLE II—CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 201. CREDIT FOR HEALTH INSURANCE COSTS OF INDIVIDUALS RECEIVING A TRADE READJUSTMENT ALLOWANCE OR A BENEFIT FROM THE PENSION BENEFIT GUARANTY CORPORATION.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and inserting after section 34 the following new section:

"SEC. 35. HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by subtitle A an amount equal to 65 percent of the amount paid by the taxpayer for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months beginning in the taxable year.

''(b) ELIGIBLE COVERAGE MONTH.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible coverage month' means any month if—

''(A) as of the first day of such month, the taxpayer—

''(i) is an eligible individual,

''(ii) is covered by qualified health insurance, the premium for which is paid by the taxpayer,

''(iii) does not have other specified coverage, and

''(iv) is not imprisoned under Federal, State, or local authority, and

''(B) such month begins more than 90 days after the date of the enactment of the Trade Act of 2002.

''(2) JOINT RETURNS.—In the case of a joint return, the requirements of paragraph (1)(A) shall be treated as met with respect to any month if at least 1 spouse satisfies such requirements.

''(c) ELIGIBLE INDIVIDUAL.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible individual' means—

''(A) an eligible TAA recipient,

''(B) an eligible alternative TAA recipient, and

''(C) an eligible PBGC pension recipient.

''(2) ELIGIBLE TAA RECIPIENT.—The term 'eligible TAA recipient' means, with respect to any month, any individual who is receiving for any day of such month a trade readjustment allowance under chapter 2 of title II of the Trade Act of 1974 or who would be eligible to receive such allowance if section 231 of such Act were applied without regard to subsection (a)(3)(B) of such section. An individual shall continue to be treated as an eligible TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient by reason of the preceding sentence.

''(3) ELIGIBLE ALTERNATIVE TAA RECIPIENT.—The term 'eligible alternative TAA recipient' means, with respect to any month, any individual who—

''(A) is a worker described in section 246(a)(3)(B) of the Trade Act of 1974 who is participating in the program established under section 246(a)(1) of such Act, and

''(B) is receiving a benefit for such month under section 246(a)(2) of such Act.

An individual shall continue to be treated as an eligible alternative TAA recipient during the first month that such individual would otherwise cease to be an eligible alternative TAA recipient by reason of the preceding sentence.

''(4) ELIGIBLE PBGC PENSION RECIPIENT.—The term 'eligible PBGC pension recipient' means, with respect to any month, any individual who—

''(A) has attained age 55 as of the first day of such month, and

''(B) is receiving a benefit for such month any portion of which is paid by the Pension Benefit Guaranty Corporation under title IV of the Employee Retirement Income Security Act of 1974.

''(d) QUALIFYING FAMILY MEMBER.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying family member' means—

''(A) the taxpayer's spouse, and

''(B) any dependent of the taxpayer with respect to whom the taxpayer is entitled to a deduction under section 151(c).

Such term does not include any individual who has other specified coverage.

''(2) SPECIAL DEPENDENCY TEST IN CASE OF DIVORCED PARENTS, ETC.—If paragraph (2) or (4) of section 152(e) applies to any child with respect to any calendar year, in the case of any taxable year beginning in such calendar year, such child shall be treated as described in paragraph (1)(B) with respect to the custodial parent (within the meaning of section 152(e)(1)) and not with respect to the noncustodial parent.

''(e) QUALIFIED HEALTH INSURANCE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified health insurance' means any of the following:

''(A) Coverage under a COBRA continuation provision (as defined in section 9832(d)(1)).

''(B) State-based continuation coverage provided by the State under a State law that requires such coverage.

''(C) Coverage offered through a qualified State high risk pool (as defined in section 2744(c)(2) of the Public Health Service Act).

''(D) Coverage under a health insurance program offered for State employees.

''(E) Coverage under a State-based health insurance program that is comparable to the health insurance program offered for State employees.

''(F) Coverage through an arrangement entered into by a State and—

''(i) a group health plan (including such a plan which is a multiemployer plan as defined in section 3(37) of the Employee Retirement Income Security Act of 1974),

''(ii) an issuer of health insurance coverage,

''(iii) an administrator, or

''(iv) an employer.

''(G) Coverage offered through a State arrangement with a private sector health care coverage purchasing pool.

''(H) Coverage under a State-operated health plan that does not receive any Federal financial participation.

''(I) Coverage under a group health plan that is available through the employment of the eligible individual's spouse.

''(J) In the case of any eligible individual and such individual's qualifying family members, coverage under individual health insurance if the eligible individual was covered under individual health insurance during the entire 30-day period that ends on the date that such individual became separated from the employment which qualified such individual for—

''(i) in the case of an eligible TAA recipient, the allowance described in subsection (c)(2),

''(ii) in the case of an eligible alternative TAA recipient, the benefit described in subsection (c)(3)(B), or

''(iii) in the case of any eligible PBGC pension recipient, the benefit described in subsection (c)(4)(B).

For purposes of this subparagraph, the term 'individual health insurance' means any insurance which constitutes medical care offered to individuals other than in connection with a group health plan and does not include Federal- or State-based health insurance coverage.

''(2) REQUIREMENTS FOR STATE-BASED COVERAGE.—

''(A) IN GENERAL.—The term 'qualified health insurance' does not include any coverage described in subparagraphs (B) through (H) of paragraph (1) unless the State involved has elected to have such coverage treated as qualified health insurance under this section and such coverage meets the following requirements:

''(i) GUARANTEED ISSUE.—Each qualifying individual is guaranteed enrollment if the individual pays the premium for enrollment or provides a qualified health insurance costs credit eligibility certificate described in section 7527 and pays the remainder of such premium.

''(ii) NO IMPOSITION OF PREEXISTING CONDITION EXCLUSION.—No pre-existing condition limitations are imposed with respect to any qualifying individual.

''(iii) NONDISCRIMINATORY PREMIUM.—The total premium (as determined without regard to any subsidies) with respect to a qualifying individual may not be greater than the total premium (as so determined) for a similarly situated individual who is not a qualifying individual.

''(iv) SAME BENEFITS.—Benefits under the coverage are the same as (or substantially similar to) the benefits provided to similarly situated individuals who are not qualifying individuals.

''(B) QUALIFYING INDIVIDUAL.—For purposes of this paragraph, the term 'qualifying individual' means—

''(i) an eligible individual for whom, as of the date on which the individual seeks to enroll in the coverage described in subparagraphs (B) through (H) of paragraph (1), the aggregate of the periods of creditable coverage (as defined in section 9801(c)) is 3 months or longer and who, with respect to any month, meets the requirements of clauses (iii) and (iv) of subsection (b)(1)(A); and

''(ii) the qualifying family members of such eligible individual.

''(3) EXCEPTION.—The term 'qualified health insurance' shall not include—

''(A) a flexible spending or similar arrangement, and

''(B) any insurance if substantially all of its coverage is of excepted benefits described in section 9832(c).

''(f) OTHER SPECIFIED COVERAGE.—For purposes of this section, an individual has other specified coverage for any month if, as of the first day of such month—

''(1) SUBSIDIZED COVERAGE.—

''(A) IN GENERAL.—Such individual is covered under any insurance which constitutes medical care (except insurance substantially all of the coverage of which is of excepted benefits described in section 9832(c)) under any health plan maintained by any employer (or former employer) of the taxpayer or the taxpayer's spouse and at least 50 percent of the cost of such coverage (determined under section 4980B) is paid or incurred by the employer.

''(B) ELIGIBLE ALTERNATIVE TAA RECIPIENTS.—In the case of an eligible alternative TAA recipient, such individual is either—

''(i) eligible for coverage under any qualified health insurance (other than insurance described in subparagraph (A), (B), or (F) of subsection (e)(1)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4)) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse, or

''(ii) covered under any such qualified health insurance under which any portion of the cost of coverage (as so determined) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse.

''(C) TREATMENT OF CAFETERIA PLANS.—For purposes of subparagraphs (A) and (B), the cost of coverage shall be treated as paid or incurred by an employer to the extent the coverage is in lieu of a right to receive cash or other qualified benefits under a cafeteria plan (as defined in section 125(d)).

''(2) COVERAGE UNDER MEDICARE, MEDICAID, OR SCHIP.—Such individual—

''(A) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

''(B) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928 of such Act).

''(3) CERTAIN OTHER COVERAGE.—Such individual—

''(A) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code, or

''(B) is entitled to receive benefits under chapter 55 of title 10, United States Code.

''(g) SPECIAL RULES.—

''(1) COORDINATION WITH ADVANCE PAYMENTS OF CREDIT.—With respect to any taxable year, the amount which would (but for this subsection) be allowed as a credit to the taxpayer under subsection (a) shall be reduced (but not below zero) by the aggregate amount paid on behalf of such taxpayer under section 7527 for months beginning in such taxable year.

''(2) COORDINATION WITH OTHER DEDUCTIONS.—Amounts taken into account under subsection (a) shall not be taken into account in determining any deduction allowed under section 162(l) or 213.

''(3) MSA DISTRIBUTIONS.—Amounts distributed from an Archer MSA (as defined in section 220(d)) shall not be taken into account under subsection (a).

''(4) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(5) BOTH SPOUSES ELIGIBLE INDIVIDUALS.—The spouse of the taxpayer shall not be treated as a qualifying family member for purposes of subsection (a), if—

''(A) the taxpayer is married at the close of the taxable year,

''(B) the taxpayer and the taxpayer's spouse are both eligible individuals during the taxable year, and

''(C) the taxpayer files a separate return for the taxable year.

''(6) MARITAL STATUS; CERTAIN MARRIED INDIVIDUALS LIVING APART.—Rules similar to the rules of paragraphs (3) and (4) of section 21(e) shall apply for purposes of this section.

''(7) INSURANCE WHICH COVERS OTHER INDIVIDUALS.—For purposes of this section, rules similar to the rules of section 213(d)(6) shall apply with respect to any contract for qualified health insurance under which amounts are payable for coverage of an individual other than the taxpayer and qualifying family members.

''(8) TREATMENT OF PAYMENTS.—For purposes of this section—

''(A) PAYMENTS BY SECRETARY.—Payments made by the Secretary on behalf of any individual under section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals) shall be treated as having been made by the taxpayer on the first day of the month for which such payment was made.

''(B) PAYMENTS BY TAXPAYER.—Payments made by the taxpayer for eligible coverage months shall be treated as having been made by the taxpayer on the first day of the month for which such payment was made.

''(9) REGULATIONS.—The Secretary may prescribe such regulations and other guidance as may be necessary or appropriate to carry out this section, section 6050T, and section 7527.''.

(b) PROMOTION OF STATE HIGH RISK POOLS.—Title XXVII of the Public Health Service Act is amended by inserting after section 2744 the following new section:

''SEC. 2745. PROMOTION OF QUALIFIED HIGH RISK POOLS.

''(a) SEED GRANTS TO STATES.—The Secretary shall provide from the funds appropriated under subsection (c)(1) a grant of up to $1,000,000 to each State that has not created a qualified high risk pool as of the date of the enactment of this section for the State's costs of creation and initial operation of such a pool.

''(b) MATCHING FUNDS FOR OPERATION OF POOLS.—

''(1) IN GENERAL.—In the case of a State that has established a qualified high risk pool that—

''(A) restricts premiums charged under the pool to no more than 150 percent of the premium for applicable standard risk rates;

''(B) offers a choice of two or more coverage options through the pool; and

''(C) has in effect a mechanism reasonably designed to ensure continued funding of losses incurred by the State after the end of fiscal year 2004 in connection with operation of the pool;

the Secretary shall provide, from the funds appropriated under subsection (c)(2) and allotted to the State under paragraph (2), a grant of up to 50 percent of the losses incurred by the State in connection with the operation of the pool.

''(2) ALLOTMENT.—The amounts appropriated under subsection (c)(2) for a fiscal year shall be made available to the States in accordance with a formula that is based upon the number of uninsured individuals in the States.

''(c) FUNDING.—Out of any money in the Treasury of the United States not otherwise appropriated, there are authorized and appropriated—

''(1) $20,000,000 for fiscal year 2003 to carry out subsection (a); and

''(2) $40,000,000 for each of fiscal years 2003 and 2004 to carry out subsection (b).

Funds appropriated under this subsection for a fiscal year shall remain available for obligation through the end of the following fiscal year. Nothing in this section shall be construed as providing a State with an entitlement to a grant under this section.

''(d) QUALIFIED HIGH RISK POOL AND STATE DEFINED.—For purposes of this section, the term 'qualified high risk pool' has the meaning given such term in section 2744(c)(2) and the term 'State' means any of the 50 States and the District of Columbia.''.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 35 of such Code''.

(2) The table of sections for subpart C of part IV of chapter 1 of the Internal Revenue Code of

1986 is amended by striking the last item and inserting the following new items:

''Sec. 35. Health insurance costs of eligible individuals.

''Sec. 36. Overpayments of tax.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(2) STATE HIGH RISK POOLS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 202. ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7527. ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

''(a) GENERAL RULE.—Not later than August 1, 2003, the Secretary shall establish a program for making payments on behalf of certified individuals to providers of qualified health insurance (as defined in section 35(e)) for such individuals.

''(b) LIMITATION ON ADVANCE PAYMENTS DURING ANY TAXABLE YEAR.—The Secretary may make payments under subsection (a) only to the extent that the total amount of such payments made on behalf of any individual during the taxable year does not exceed 65 percent of the amount paid by the taxpayer for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months beginning in the taxable year.

''(c) CERTIFIED INDIVIDUAL.—For purposes of this section, the term 'certified individual' means any individual for whom a qualified health insurance costs credit eligibility certificate is in effect.

''(d) QUALIFIED HEALTH INSURANCE COSTS CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this section, the term 'qualified health insurance costs credit eligibility certificate' means any written statement that an individual is an eligible individual (as defined in section 35(c)) if such statement provides such information as the Secretary may require for purposes of this section and—

''(1) in the case of an eligible TAA recipient (as defined in section 35(c)(2)) or an eligible alternative TAA recipient (as defined in section 35(c)(3)), is certified by the Secretary of Labor (or by any other person or entity designated by the Secretary), or

''(2) in the case of an eligible PBGC pension recipient (as defined in section 35(c)(4)), is certified by the Pension Benefit Guaranty Corporation (or by any other person or entity designated by the Secretary).''.

(b) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF CARRYING OUT A PROGRAM FOR ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—Subsection (l) of section 6103 of such Code (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(18) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF CARRYING OUT A PROGRAM FOR ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.—The Secretary may disclose to providers of health insurance for any certified individual (as defined in section 7527(c)) return information with respect to such certified individual only to the extent necessary to carry out the program established by section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals).''.

(2) PROCEDURES AND RECORDKEEPING RELATED TO DISCLOSURES.—Subsection (p) of such section is amended—

(A) in paragraph (3)(A) by striking ''or (17)'' and inserting ''(17), or (18)'', and

(B) in paragraph (4) by inserting ''or (17)'' after ''any other person described in subsection (l)(16)'' each place it appears.

(3) UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION.—Section 7213A(a)(1)(B) of such Code is amended by striking ''section 6103(n)'' and inserting ''subsection (l)(18) or (n) of section 6103''.

(c) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6050S the following new section:

''SEC. 6050T. RETURNS RELATING TO CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

''(a) REQUIREMENT OF REPORTING.—Every person who is entitled to receive payments for any month of any calendar year under section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals) with respect to any certified individual (as defined in section 7527(c)) shall, at such time as the Secretary may prescribe, make the return described in subsection (b) with respect to each such individual.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe, and

''(2) contains—

''(A) the name, address, and TIN of each individual referred to in subsection (a),

''(B) the number of months for which amounts were entitled to be received with respect to such individual under section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals),

''(C) the amount entitled to be received for each such month, and

''(D) such other information as the Secretary may prescribe.

''(c) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

''(1) the name and address of the person required to make such return and the phone number of the information contact for such person, and

''(2) the information required to be shown on the return with respect to such individual.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.''.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xi) through (xvii) as clauses (xii) through (xviii), respectively, and by inserting after clause (x) the following new clause:

''(xi) section 6050T (relating to returns relating to credit for health insurance costs of eligible individuals),''.

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking ''or'' at the end of subparagraph (Z), by striking the period at the end of subparagraph (AA) and inserting '', or'', and by adding after subparagraph (AA) the following new subparagraph:

''(BB) section 6050T (relating to returns relating to credit for health insurance costs of eligible individuals).''.

(d) CLERICAL AMENDMENTS.—

(1) ADVANCE PAYMENT.—The table of sections for chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 7527. Advance payment of credit for health insurance costs of eligible individuals.''.

(2) INFORMATION REPORTING.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050S the following new item:

''Sec. 6050T. Returns relating to credit for health insurance costs of eligible individuals.''.

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

SEC. 203. HEALTH INSURANCE ASSISTANCE FOR ELIGIBLE INDIVIDUALS.

(a) ELIGIBILITY FOR GRANTS.—Section 173(a) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(4) from funds appropriated under section 174(c)—

''(A) to a State or entity (as defined in section 173(c)(1)(B)) to carry out subsection (f), including providing assistance to eligible individuals; and

''(B) to a State or entity (as so defined) to carry out subsection (g), including providing assistance to eligible individuals.''.

(b) USE OF FUNDS FOR HEALTH INSURANCE COVERAGE.—Section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) is amended by adding at the end the following:

''(f) HEALTH INSURANCE COVERAGE ASSISTANCE FOR ELIGIBLE INDIVIDUALS.—

''(1) IN GENERAL.—Funds made available to a State or entity under paragraph (4)(A) of subsection (a) may be used by the State or entity for the following:

''(A) HEALTH INSURANCE COVERAGE.—To assist an eligible individual and such individual's qualifying family members in enrolling in qualified health insurance.

''(B) ADMINISTRATIVE AND START-UP EXPENSES.—To pay the administrative expenses related to the enrollment of eligible individuals and such individuals' qualifying family members in qualified health insurance, including—

''(i) eligibility verification activities;

''(ii) the notification of eligible individuals of available qualified health insurance options;

''(iii) processing qualified health insurance costs credit eligibility certificates provided for under section 7527 of the Internal Revenue Code of 1986;

''(iv) providing assistance to eligible individuals in enrolling in qualified health insurance;

''(v) the development or installation of necessary data management systems; and

''(vi) any other expenses determined appropriate by the Secretary, including start-up costs and on going administrative expenses to carry out clauses (iv) through (ix) of paragraph (2)(A).

''(2) QUALIFIED HEALTH INSURANCE.—For purposes of this subsection and subsection (g)—

''(A) IN GENERAL.—The term 'qualified health insurance' means any of the following:

''(i) Coverage under a COBRA continuation provision (as defined in section 733(d)(1) of the Employee Retirement Income Security Act of 1974).

''(ii) State-based continuation coverage provided by the State under a State law that requires such coverage.

''(iii) Coverage offered through a qualified State high risk pool (as defined in section 2744(c)(2) of the Public Health Service Act).

''(iv) Coverage under a health insurance program offered for State employees.

''(v) Coverage under a State-based health insurance program that is comparable to the health insurance program offered for State employees.

''(vi) Coverage through an arrangement entered into by a State and—

''(I) a group health plan (including such a plan which is a multiemployer plan as defined in section 3(37) of the Employee Retirement Income Security Act of 1974),

''(II) an issuer of health insurance coverage,

''(III) an administrator, or

''(IV) an employer.

''(vii) Coverage offered through a State arrangement with a private sector health care coverage purchasing pool.

''(viii) Coverage under a State-operated health plan that does not receive any Federal financial participation.

''(ix) Coverage under a group health plan that is available through the employment of the eligible individual's spouse.

''(x) In the case of any eligible individual and such individual's qualifying family members, coverage under individual health insurance if the eligible individual was covered under individual health insurance during the entire 30-day period that ends on the date that such individual became separated from the employment which qualified such individual for—

''(I) in the case of an eligible TAA recipient, the allowance described in section 35(c)(2) of the Internal Revenue Code of 1986,

''(II) in the case of an eligible alternative TAA recipient, the benefit described in section 35(c)(3)(B) of such Code, or

''(III) in the case of any eligible PBGC pension recipient, the benefit described in section 35(c)(4)(B) of such Code.

For purposes of this clause, the term 'individual health insurance' means any insurance which constitutes medical care offered to individuals other than in connection with a group health plan and does not include Federal- or State-based health insurance coverage.

''(B) REQUIREMENTS FOR STATE-BASED COVERAGE.—

''(i) IN GENERAL.—The term 'qualified health insurance' does not include any coverage described in clauses (ii) through (viii) of subparagraph (A) unless the State involved has elected to have such coverage treated as qualified health insurance under this paragraph and such coverage meets the following requirements:

''(I) GUARANTEED ISSUE.—Each qualifying individual is guaranteed enrollment if the individual pays the premium for enrollment or provides a qualified health insurance costs credit eligibility certificate described in section 7527 of the Internal Revenue Code of 1986 and pays the remainder of such premium.

''(II) NO IMPOSITION OF PREEXISTING CONDITION EXCLUSION.—No pre-existing condition limitations are imposed with respect to any qualifying individual.

''(III) NONDISCRIMINATORY PREMIUM.—The total premium (as determined without regard to any subsidies) with respect to a qualifying individual may not be greater than the total premium (as so determined) for a similarly situated individual who is not a qualifying individual.

''(IV) SAME BENEFITS.—Benefits under the coverage are the same as (or substantially similar to) the benefits provided to similarly situated individuals who are not qualifying individuals.

''(ii) QUALIFYING INDIVIDUAL.—For purposes of this subparagraph, the term 'qualifying individual' means—

''(I) an eligible individual for whom, as of the date on which the individual seeks to enroll in clauses (ii) through (viii) of subparagraph (A), the aggregate of the periods of creditable coverage (as defined in section 9801(c) of the Internal Revenue Code of 1986) is 3 months or longer and who, with respect to any month, meets the requirements of clauses (iii) and (iv) of section 35(b)(1)(A) of such Code; and

''(II) the qualifying family members of such eligible individual.

''(C) EXCEPTION.—The term 'qualified health insurance' shall not include—

''(i) a flexible spending or similar arrangement, and

''(ii) any insurance if substantially all of its coverage is of excepted benefits described in section 733(c) of the Employee Retirement Income Security Act of 1974.

''(3) AVAILABILITY OF FUNDS.—

''(A) EXPEDITED PROCEDURES.—With respect to applications submitted by States or entities for grants under this subsection, the Secretary shall—

''(i) not later than 15 days after the date on which the Secretary receives a completed application from a State or entity, notify the State or entity of the determination of the Secretary with respect to the approval or disapproval of such application;

''(ii) in the case of an application of a State or other entity that is disapproved by the Secretary, provide technical assistance, at the request of the State or entity, in a timely manner to enable the State or entity to submit an approved application; and

''(iii) develop procedures to expedite the provision of funds to States and entities with approved applications.

''(B) AVAILABILITY AND DISTRIBUTION OF FUNDS.—The Secretary shall ensure that funds made available under section 174(c)(1)(A) to carry out subsection (a)(4)(A) are available to States and entities throughout the period described in section 174(c)(2)(A).

''(4) ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this subsection and subsection (g), the term 'eligible individual' means—

''(A) an eligible TAA recipient (as defined in section 35(c)(2) of the Internal Revenue Code of 1986),

''(B) an eligible alternative TAA recipient (as defined in section 35(c)(3) of the Internal Revenue Code of 1986), and

''(C) an eligible PBGC pension recipient (as defined in section 35(c)(4) of the Internal Revenue Code of 1986),

who, as of the first day of the month, does not have other specified coverage and is not imprisoned under Federal, State, or local authority.

''(5) QUALIFYING FAMILY MEMBER DEFINED.—For purposes of this subsection and subsection (g)—

''(A) IN GENERAL.—The term 'qualifying family member' means—

''(i) the eligible individual's spouse, and

''(ii) any dependent of the eligible individual with respect to whom the individual is entitled to a deduction under section 151(c) of the Internal Revenue Code of 1986.

Such term does not include any individual who has other specified coverage.

''(B) SPECIAL DEPENDENCY TEST IN CASE OF DIVORCED PARENTS, ETC.—If paragraph (2) or (4) of section 152(e) of such Code applies to any child with respect to any calendar year, in the case of any taxable year beginning in such calendar year, such child shall be treated as described in subparagraph (A)(ii) with respect to the custodial parent (within the meaning of section 152(e)(1) of such Code) and not with respect to the noncustodial parent.

''(6) STATE.—For purposes of this subsection and subsection (g), the term 'State' includes an entity as defined in subsection (c)(1)(B).

''(7) OTHER SPECIFIED COVERAGE.—For purposes of this subsection, an individual has other specified coverage for any month if, as of the first day of such month—

''(A) SUBSIDIZED COVERAGE.—

''(i) IN GENERAL.—Such individual is covered under any insurance which constitutes medical care (except insurance substantially all of the coverage of which is of excepted benefits described in section 9832(c) of the Internal Revenue Code of 1986) under any health plan maintained by any employer (or former employer) of the taxpayer or the taxpayer's spouse and at least 50 percent of the cost of such coverage (determined under section 4980B of such Code) is paid or incurred by the employer.

''(ii) ELIGIBLE ALTERNATIVE TAA RECIPIENTS.—In the case of an eligible alternative TAA recipient (as defined in section 35(c)(3) of the Internal Revenue Code of 1986), such individual is either—

''(I) eligible for coverage under any qualified health insurance (other than insurance described in clause (i), (ii), or (vi) of paragraph (2)(A)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4) of such Code) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse, or

''(II) covered under any such qualified health insurance under which any portion of the cost of coverage (as so determined) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse.

''(iii) TREATMENT OF CAFETERIA PLANS.—For purposes of clauses (i) and (ii), the cost of coverage shall be treated as paid or incurred by an employer to the extent the coverage is in lieu of a right to receive cash or other qualified benefits under a cafeteria plan (as defined in section 125(d) of the Internal Revenue Code of 1986).

''(B) COVERAGE UNDER MEDICARE, MEDICAID, OR SCHIP.—Such individual—

''(i) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

''(ii) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928 of such Act).

''(C) CERTAIN OTHER COVERAGE.—Such individual—

''(i) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code, or

''(ii) is entitled to receive benefits under chapter 55 of title 10, United States Code.

''(g) INTERIM HEALTH INSURANCE COVERAGE AND OTHER ASSISTANCE.—

''(1) IN GENERAL.—Funds made available to a State or entity under paragraph (4)(B) of subsection (a) may be used by the State or entity to provide assistance and support services to eligible individuals, including health care coverage to the extent provided under subsection (f)(1)(A), transportation, child care, dependent care, and income assistance.

''(2) INCOME SUPPORT.—With respect to any income assistance provided to an eligible individual with such funds, such assistance shall supplement and not supplant other income support or assistance provided under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) (as in effect on the day before the effective date of the Trade Act of 2002) or the unemployment compensation laws of the State where the eligible individual resides.

''(3) HEALTH INSURANCE COVERAGE.—With respect to any assistance provided to an eligible individual with such funds in enrolling in qualified health insurance, the following rules shall apply:

''(A) The State or entity may provide assistance in obtaining such coverage to the eligible individual and to such individual's qualifying family members.

''(B) Such assistance shall supplement and may not supplant any other State or local funds used to provide health care coverage and may not be included in determining the amount of non-Federal contributions required under any program.

''(4) AVAILABILITY OF FUNDS.—

''(A) EXPEDITED PROCEDURES.—With respect to applications submitted by States or entities for grants under this subsection, the Secretary shall—

''(i) not later than 15 days after the date on which the Secretary receives a completed application from a State or entity, notify the State or entity of the determination of the Secretary with

respect to the approval or disapproval of such application;

''(ii) in the case of an application of a State or entity that is disapproved by the Secretary, provide technical assistance, at the request of the State or entity, in a timely manner to enable the State or entity to submit an approved application; and

''(iii) develop procedures to expedite the provision of funds to States and entities with approved applications.

''(B) AVAILABILITY AND DISTRIBUTION OF FUNDS.—The Secretary shall ensure that funds made available under section 174(c)(1)(B) to carry out subsection (a)(4)(B) are available to States and entities throughout the period described in section 174(c)(2)(B).

''(5) INCLUSION OF CERTAIN INDIVIDUALS AS ELIGIBLE INDIVIDUALS.—For purposes of this subsection, the term 'eligible individual' includes an individual who is a member of a group of workers certified after April 1, 2002, under chapter 2 of title II of the Trade Act of 1974 (as in effect on the day before the effective date of the Trade Act of 2002) and is participating in the trade readjustment allowance program under such chapter (as so in effect) or who would be determined to be participating in such program under such chapter (as so in effect) if such chapter were applied without regard to section 231(a)(3)(B) of the Trade Act of 1974 (as so in effect).''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 174 of the Workforce Investment Act of 1998 (29 U.S.C. 2919) is amended by adding at the end the following:

''(c) ASSISTANCE FOR ELIGIBLE WORKERS.—

''(1) AUTHORIZATION AND APPROPRIATION FOR FISCAL YEAR 2002.—There are authorized to be appropriated and appropriated—

''(A) to carry out subsection (a)(4)(A) of section 173, $10,000,000 for fiscal year 2002; and

''(B) to carry out subsection (a)(4)(B) of section 173, $50,000,000 for fiscal year 2002.

''(2) AUTHORIZATION OF APPROPRIATIONS FOR SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated—

''(A) to carry out subsection (a)(4)(A) of section 173, $60,000,000 for each of fiscal years 2003 through 2007; and

''(B) to carry out subsection (a)(4)(B) of section 173—

''(i) $100,000,000 for fiscal year 2003; and

''(ii) $50,000,000 for fiscal year 2004.

''(3) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to—

''(A) paragraphs (1)(A) and (2)(A) for each fiscal year shall, notwithstanding section 189(g), remain available for obligation during the pendency of any outstanding claim under the Trade Act of 1974, as amended by the Trade Act of 2002; and

''(B) paragraph (1)(B) and (2)(B), for each fiscal year shall, notwithstanding section 189(g), remain available during the period that begins on the date of enactment of the Trade Act of 2002 and ends on September 30, 2004.''.

(d) CONFORMING AMENDMENT.—Section 132(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2862(a)(2)(A)) is amended by inserting '', other than under subsection (a)(4), (f), and (g)'' after ''grants''.

(e) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

(1) ERISA AMENDMENTS.—Section 605 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165) is amended—

(A) by inserting ''(a) IN GENERAL.—'' before ''For purposes of this part''; and

(B) by adding at the end the following:

''(b) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

''(1) IN GENERAL.—In the case of a nonelecting TAA-eligible individual and notwithstanding subsection (a), such individual may elect continuation coverage under this part during the 60-day period that begins on the first day of the month in which the individual becomes a TAA-eligible individual, but only if such election is made not later than 6 months after the date of the TAA-related loss of coverage.

''(2) COMMENCEMENT OF COVERAGE; NO REACH-BACK.—Any continuation coverage elected by a TAA-eligible individual under paragraph (1) shall commence at the beginning of the 60-day election period described in such paragraph and shall not include any period prior to such 60-day election period.

''(3) PREEXISTING CONDITIONS.—With respect to an individual who elects continuation coverage pursuant to paragraph (1), the period—

''(A) beginning on the date of the TAA-related loss of coverage, and

''(B) ending on the first day of the 60-day election period described in paragraph (1),

shall be disregarded for purposes of determining the 63-day periods referred to in section 701(c)(2), section 2701(c)(2) of the Public Health Service Act, and section 9801(c)(2) of the Internal Revenue Code of 1986.

''(4) DEFINITIONS.—For purposes of this subsection:

''(A) NONELECTING TAA-ELIGIBLE INDIVIDUAL.—The term 'nonelecting TAA-eligible individual' means a TAA-eligible individual who—

''(i) has a TAA-related loss of coverage; and

''(ii) did not elect continuation coverage under this part during the TAA-related election period.

''(B) TAA-ELIGIBLE INDIVIDUAL.—The term 'TAA-eligible individual' means—

''(i) an eligible TAA recipient (as defined in paragraph (2) of section 35(c) of the Internal Revenue Code of 1986), and

''(ii) an eligible alternative TAA recipient (as defined in paragraph (3) of such section).

''(C) TAA-RELATED ELECTION PERIOD.—The term 'TAA-related election period' means, with respect to a TAA-related loss of coverage, the 60-day election period under this part which is a direct consequence of such loss.

''(D) TAA-RELATED LOSS OF COVERAGE.—The term 'TAA-related loss of coverage' means, with respect to an individual whose separation from employment gives rise to being an TAA-eligible individual, the loss of health benefits coverage associated with such separation.''.

(2) PHSA AMENDMENTS.—Section 2205 of the Public Health Service Act (42 U.S.C. 300bb–5) is amended—

(A) by inserting ''(a) IN GENERAL.—'' before ''For purposes of this title''; and

(B) by adding at the end the following:

''(b) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

''(1) IN GENERAL.—In the case of a nonelecting TAA-eligible individual and notwithstanding subsection (a), such individual may elect continuation coverage under this title during the 60-day period that begins on the first day of the month in which the individual becomes a TAA-eligible individual, but only if such election is made not later than 6 months after the date of the TAA-related loss of coverage.

''(2) COMMENCEMENT OF COVERAGE; NO REACH-BACK.—Any continuation coverage elected by a TAA-eligible individual under paragraph (1) shall commence at the beginning of the 60-day election period described in such paragraph and shall not include any period prior to such 60-day election period.

''(3) PREEXISTING CONDITIONS.—With respect to an individual who elects continuation coverage pursuant to paragraph (1), the period—

''(A) beginning on the date of the TAA-related loss of coverage, and

''(B) ending on the first day of the 60-day election period described in paragraph (1),

shall be disregarded for purposes of determining the 63-day periods referred to in section 2701(c)(2), section 701(c)(2) of the Employee Retirement Income Security Act of 1974, and section 9801(c)(2) of the Internal Revenue Code of 1986.

''(4) DEFINITIONS.—For purposes of this subsection:

''(A) NONELECTING TAA-ELIGIBLE INDIVIDUAL.—The term 'nonelecting TAA-eligible individual' means a TAA-eligible individual who—

''(i) has a TAA-related loss of coverage; and

''(ii) did not elect continuation coverage under this part during the TAA-related election period.

''(B) TAA-ELIGIBLE INDIVIDUAL.—The term 'TAA-eligible individual' means—

''(i) an eligible TAA recipient (as defined in paragraph (2) of section 35(c) of the Internal Revenue Code of 1986), and

''(ii) an eligible alternative TAA recipient (as defined in paragraph (3) of such section).

''(C) TAA-RELATED ELECTION PERIOD.—The term 'TAA-related election period' means, with respect to a TAA-related loss of coverage, the 60-day election period under this part which is a direct consequence of such loss.

''(D) TAA-RELATED LOSS OF COVERAGE.—The term 'TAA-related loss of coverage' means, with respect to an individual whose separation from employment gives rise to being an TAA-eligible individual, the loss of health benefits coverage associated with such separation.''.

(3) IRC AMENDMENTS.—Paragraph (5) of section 4980B(f) of the Internal Revenue Code of 1986 (relating to election) is amended by adding at the end the following:

''(C) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

''(i) IN GENERAL.—In the case of a nonelecting TAA-eligible individual and notwithstanding subparagraph (A), such individual may elect continuation coverage under this subsection during the 60-day period that begins on the first day of the month in which the individual becomes a TAA-eligible individual, but only if such election is made not later than 6 months after the date of the TAA-related loss of coverage.

''(ii) COMMENCEMENT OF COVERAGE; NO REACH-BACK.—Any continuation coverage elected by a TAA-eligible individual under clause (i) shall commence at the beginning of the 60-day election period described in such paragraph and shall not include any period prior to such 60-day election period.

''(iii) PREEXISTING CONDITIONS.—With respect to an individual who elects continuation coverage pursuant to clause (i), the period—

''(I) beginning on the date of the TAA-related loss of coverage, and

''(II) ending on the first day of the 60-day election period described in clause (i),

shall be disregarded for purposes of determining the 63-day periods referred to in section 9801(c)(2), section 701(c)(2) of the Employee Retirement Income Security Act of 1974, and section 2701(c)(2) of the Public Health Service Act.

''(iv) DEFINITIONS.—For purposes of this subsection:

''(I) NONELECTING TAA-ELIGIBLE INDIVIDUAL.—The term 'nonelecting TAA-eligible individual' means a TAA-eligible individual who has a TAA-related loss of coverage and did not elect continuation coverage under this subsection during the TAA-related election period.

''(II) TAA-ELIGIBLE INDIVIDUAL.—The term 'TAA-eligible individual' means an eligible TAA recipient (as defined in paragraph (2) of section 35(c)) and an eligible alternative TAA recipient (as defined in paragraph (3) of such section).

''(III) TAA-RELATED ELECTION PERIOD.—The term 'TAA-related election period' means, with respect to a TAA-related loss of coverage, the 60-day election period under this subsection which is a direct consequence of such loss.

''(IV) TAA-RELATED LOSS OF COVERAGE.—The term 'TAA-related loss of coverage' means, with respect to an individual whose separation from employment gives rise to being an TAA-eligible individual, the loss of health benefits coverage associated with such separation.''.

(f) RULE OF CONSTRUCTION.—Nothing in this title (or the amendments made by this title), other than provisions relating to COBRA continuation coverage and reporting requirements,

shall be construed as creating any new mandate on any party regarding health insurance coverage.

TITLE III—CUSTOMS REAUTHORIZATION

SEC. 301. SHORT TITLE.

This Act may be cited as the ''Customs Border Security Act of 2002''.

Subtitle A—United States Customs Service

CHAPTER 1—DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL AND COMMERCIAL OPERATIONS

SEC. 311. AUTHORIZATION OF APPROPRIATIONS FOR NONCOMMERCIAL OPERATIONS, COMMERCIAL OPERATIONS, AND AIR AND MARINE INTERDICTION.

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

(1) by striking subparagraph (A), and inserting the following:

''(A) $1,365,456,000 for fiscal year 2003.''; and

(2) by striking subparagraph (B), and inserting the following:

''(B) $1,399,592,400 for fiscal year 2004.''.

(b) COMMERCIAL OPERATIONS.—

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

(A) by striking clause (i), and inserting the following:

''(i) $1,642,602,000 for fiscal year 2003.''; and

(B) by striking clause (ii), and inserting the following:

''(ii) $1,683,667,050 for fiscal year 2004.''.

(2) AUTOMATED COMMERCIAL ENVIRONMENT COMPUTER SYSTEM.—Of the amount made available for each of fiscal years 2003 and 2004 under section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)), as amended by paragraph (1), $308,000,000 shall be available until expended for each such fiscal year for the development, establishment, and implementation of the Automated Commercial Environment computer system.

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

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

(1) by striking subparagraph (A), and inserting the following:

''(A) $170,829,000 for fiscal year 2003.''; and

(2) by striking subparagraph (B), and inserting the following:

''(B) $175,099,725 for fiscal year 2004.''.

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

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

SEC. 312. ANTITERRORIST AND ILLICIT NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND THE GULF COAST SEAPORTS.

(a) FISCAL YEAR 2003.—Of the amounts made available for fiscal year 2003 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 311(a) of this Act, $90,244,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of antiterrorist and illicit narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf Coast seaports, as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) FISCAL YEAR 2004.—Of the amounts made available for fiscal year 2004 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 311(a) of this Act, $9,000,000 shall be available until expended for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (a).

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

(1) IN GENERAL.—The Commissioner of Customs may use amounts made available for fiscal year 2003 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 311(a) of this Act, for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—

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

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

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

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

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

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

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

SEC. 313. COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.

As part of the annual performance plan for each of the fiscal years 2003 and 2004 covering each program activity set forth in the budget of the United States Customs Service, as required under section 1115 of title 31, United States Code, the Commissioner of Customs shall establish performance goals and performance indicators, and shall comply with all other requirements contained in paragraphs (1) through (6) of subsection (a) of such section with respect to each of the activities to be carried out pursuant to section 312.

CHAPTER 2—CHILD CYBER-SMUGGLING CENTER OF THE CUSTOMS SERVICE

SEC. 321. AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM TO PREVENT CHILD PORNOGRAPHY/CHILD SEXUAL EXPLOITATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Customs Service $10,000,000 for fiscal year 2003 to carry out the program to prevent child pornography/child sexual exploitation established

by the Child Cyber-Smuggling Center of the Customs Service.

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

CHAPTER 3—MISCELLANEOUS PROVISIONS

SEC. 331. ADDITIONAL CUSTOMS SERVICE OFFICERS FOR UNITED STATES-CANADA BORDER.

Of the amount made available for fiscal year 2003 under paragraphs (1) and (2)(A) of section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)), as amended by section 311 of this Act, $28,300,000 shall be available until expended for the Customs Service to hire approximately 285 additional Customs Service officers to address the needs of the offices and ports along the United States-Canada border.

SEC. 332. STUDY AND REPORT RELATING TO PERSONNEL PRACTICES OF THE CUSTOMS SERVICE.

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

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

SEC. 333. STUDY AND REPORT RELATING TO ACCOUNTING AND AUDITING PROCEDURES OF THE CUSTOMS SERVICE.

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

(2) In conducting the study, the Commissioner—

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

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

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

SEC. 334. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.

(a) ESTABLISHMENT AND IMPLEMENTATION.—

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

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

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

SEC. 335. STUDY AND REPORT RELATING TO TIMELINESS OF PROSPECTIVE RULINGS.

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

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

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

SEC. 336. STUDY AND REPORT RELATING TO CUSTOMS USER FEES.

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

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

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

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

SEC. 337. FEES FOR CUSTOMS INSPECTIONS AT EXPRESS COURIER FACILITIES.

(a) IN GENERAL.—Section 13031(b)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) is amended as follows:

(1) In subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''the processing of merchandise that is informally entered or released'' and inserting ''the processing of letters, documents, records, shipments, merchandise, or any other item that is valued at an amount that is less than $2,000 (or such higher amount as the Secretary of the Treasury may set by regulation pursuant to section 498 of the Tariff Act of 1930), except such items entered for transportation and exportation or immediate exportation''; and

(B) by striking clause (ii), and inserting the following:

''(ii) Subject to the provisions of subparagraph (B), in the case of an express consignment carrier facility or centralized hub facility, $.66 per individual airway bill or bill of lading.''.

(2) By redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following:

''(B)(i) Beginning in fiscal year 2004, the Secretary of the Treasury may adjust (not more than once per fiscal year) the amount described in subparagraph (A)(ii) to an amount that is not less than $.35 and not more than $1.00 per individual airway bill or bill of lading. The Secretary shall provide notice in the Federal Register of a proposed adjustment under the preceding sentence and the reasons therefor and shall allow for public comment on the proposed adjustment.

''(ii) Notwithstanding section 451 of the Tariff Act of 1930, the payment required by subparagraph (A)(ii) shall be the only payment required for reimbursement of the Customs Service in connection with the processing of an individual airway bill or bill of lading in accordance with such subparagraph and for providing services at express consignment carrier facilities or centralized hub facilities, except that the Customs Service may require such facilities to cover expenses of the Customs Service for adequate office space, equipment, furnishings, supplies, and security.

''(iii)(I) The payment required by subparagraph (A)(ii) and clause (ii) of this subparagraph shall be paid on a quarterly basis by the carrier using the facility to the Customs Service in accordance with regulations prescribed by the Secretary of the Treasury.

''(II) 50 percent of the amount of payments received under subparagraph (A)(ii) and clause (ii) of this subparagraph shall, in accordance with section 524 of the Tariff Act of 1930, be deposited in the Customs User Fee Account and shall be used to directly reimburse each appropriation for the amount paid out of that appropriation for the costs incurred in providing services to express consignment carrier facilities or centralized hub facilities. Amounts deposited in accordance with the preceding sentence shall be available until expended for the provision of customs services to express consignment carrier facilities or centralized hub facilities.

''(III) Notwithstanding section 524 of the Tariff Act of 1930, the remaining 50 percent of the amount of payments received under subparagraph (A)(ii) and clause (ii) of this subparagraph shall be paid to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) of this section.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2002.

SEC. 338. NATIONAL CUSTOMS AUTOMATION PROGRAM.

Section 411(b) of the Tariff Act of 1930 (19 U.S.C. 1411(b)) is amended by striking the second sentence and inserting the following: ''The Secretary may, by regulation, require the electronic submission of information described in subsection (a) or any other information required to be submitted to the Customs Service separately pursuant to this subpart.''.

SEC. 339. AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS STAFFING.

There are authorized to be appropriated to the Department of Treasury such sums as may be necessary to provide an increase in the annual rate of basic pay—

(1) for all journeyman Customs inspectors and Canine Enforcement Officers who have completed at least one year's service and are receiving an annual rate of basic pay for positions at GS–9 of the General Schedule under section 5332 of title 5, United States Code, from the annual rate of basic pay payable for positions at GS–9 of the General Schedule under such section 5332, to an annual rate of basic pay payable for positions at GS–11 of the General Schedule under such section 5332; and

(2) for the support staff associated with the personnel described in subparagraph (A), at the appropriate GS level of the General Schedule under such section 5332.

CHAPTER 4—ANTITERRORISM PROVISIONS

SEC. 341. IMMUNITY FOR UNITED STATES OFFICIALS THAT ACT IN GOOD FAITH.

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

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

(2) by adding at the end the following:

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

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

SEC. 342. EMERGENCY ADJUSTMENTS TO OFFICES, PORTS OF ENTRY, OR STAFFING OF THE CUSTOMS SERVICE.

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

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

(2) by adding at the end the following:

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

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

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

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

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

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

SEC. 343. MANDATORY ADVANCED ELECTRONIC INFORMATION FOR CARGO AND OTHER IMPROVED CUSTOMS REPORTING PROCEDURES.

(a) CARGO INFORMATION.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations providing for the transmission to the Customs Service, through an electronic data interchange system, of information pertaining to cargo destined for importation into the United States or exportation from the United States, prior to such importation or exportation.

(2) INFORMATION REQUIRED.—The information required by the regulations promulgated pursuant to paragraph (1) under the parameters set forth in paragraph (3) shall be such information as the Secretary determines to be reasonably necessary to ensure aviation, maritime, and surface transportation safety and security pursuant to those laws enforced and administered by the Customs Service.

(3) PARAMETERS.—In developing regulations pursuant to paragraph (1), the Secretary shall adhere to the following parameters:

(A) The Secretary shall solicit comments from and consult with a broad range of parties likely to be affected by the regulations, including importers, exporters, carriers, customs brokers, and freight forwarders, among other interested parties.

(B) In general, the requirement to provide particular information shall be imposed on the party most likely to have direct knowledge of that information. Where requiring information from the party with direct knowledge of that information is not practicable, the regulations shall take into account how, under ordinary commercial practices, information is acquired by the party on which the requirement is imposed, and whether and how such party is able to verify the information. Where information is not reasonably verifiable by the party on which a requirement is imposed, the regulations shall permit that party to transmit information on the basis of what it reasonably believes to be true.

(C) The Secretary shall take into account the existence of competitive relationships among the parties on which requirements to provide particular information are imposed.

(D) Where the regulations impose requirements on carriers of cargo, they shall take into account differences among different modes of transportation, including differences in commercial practices, operational characteristics, and technological capacity to collect and transmit information electronically.

(E) The regulations shall take into account the extent to which the technology necessary for parties to transmit and the Customs Service to receive and analyze data in a timely fashion is available. To the extent that the Secretary determines that the necessary technology will not be widely available to particular modes of transportation or other affected parties until after promulgation of the regulations, the regulations shall provide interim requirements appropriate for the technology that is available at the time of promulgation.

(F) The information collected pursuant to the regulations shall be used exclusively for ensuring aviation, maritime, and surface transportation safety and security, and shall not be used for determining entry or for any other commercial enforcement purposes.

(G) The regulations shall protect the privacy of business proprietary and any other confidential information provided to the Customs Service. However, this parameter does not repeal, amend, or otherwise modify other provisions of law relating to the public disclosure of information transmitted to the Customs Service.

(H) In determining the timing for transmittal of any information, the Secretary shall balance likely impact on flow of commerce with impact on aviation, maritime, and surface transportation safety and security. With respect to requirements that may be imposed on carriers of cargo, the timing for transmittal of information shall take into account differences among different modes of transportation, as described in subparagraph (D).

(I) Where practicable, the regulations shall avoid imposing requirements that are redundant with one another or that are redundant with requirements in other provisions of law.

(J) The Secretary shall determine whether it is appropriate to provide transition periods between promulgation of the regulations and the effective date of the regulations and shall prescribe such transition periods in the regulations, as appropriate. The Secretary may determine that different transition periods are appropriate for different classes of affected parties.

(K) With respect to requirements imposed on carriers, the Secretary, in consultation with the Postmaster General, shall determine whether it is appropriate to impose the same or similar requirements on shipments by the United States Postal Service. If the Secretary determines that such requirements are appropriate, then they shall be set forth in the regulations.

(L) Not later than 15 days prior to promulgation of the regulations, the Secretary shall transmit to the Committees on Finance and Commerce, Science, and Transportation of the Senate and the Committees on Ways and Means and Transportation and Infrastructure of the House of Representatives a report setting forth—

(i) the proposed regulations;

(ii) an explanation of how particular requirements in the proposed regulations meet the needs of aviation, maritime, and surface transportation safety and security;

(iii) an explanation of how the Secretary expects the proposed regulations to affect the commercial practices of affected parties; and

(iv) an explanation of how the proposed regulations address particular comments received from interested parties.

(b) DOCUMENTATION OF WATERBORNE CARGO.—Part II of title IV of the Tariff Act of 1930 is amended by inserting after section 431 the following new section:

''SEC. 431A. DOCUMENTATION OF WATERBORNE CARGO.

''(a) APPLICABILITY.—This section shall apply to all cargo to be exported that is moved by a vessel carrier from a port in the United States.

''(b) DOCUMENTATION REQUIRED.—(1) No shipper of cargo subject to this section (including an ocean transportation intermediary that is a non-vessel-operating common carrier (as defined in section 3(17)(B) of the Shipping Act of 1984 (46 U.S.C. App. 1702(17)(B)) may tender or cause to be tendered to a vessel carrier cargo subject to this section for loading on a vessel in a United States port, unless such cargo is properly documented pursuant to this subsection.

''(2) For the purposes of this subsection, cargo shall be considered properly documented if the shipper submits to the vessel carrier or its agent a complete set of shipping documents no later than 24 hours after the cargo is delivered to the marine terminal operator, but under no circumstances later than 24 hours prior to departure of the vessel.

''(3) A complete set of shipping documents shall include—

''(A) for shipments for which a shipper's export declaration is required, a copy of the export declaration or, if the shipper files such declarations electronically in the Automated Export System, the complete bill of lading, and the master or equivalent shipping instructions, including the Internal Transaction Number (ITN); or

''(B) for shipments for which a shipper's export declaration is not required, a shipper's export declaration exemption statement and such other documents or information as the Secretary may by regulation prescribe.

''(4) The Secretary shall by regulation prescribe the time, manner, and form by which shippers shall transmit documents or information required under this subsection to the Customs Service.

''(c) LOADING UNDOCUMENTED CARGO PROHIBITED.—

''(1) No marine terminal operator (as defined in section 3(14) of the Shipping Act of 1984 (46 U.S.C. App. 1702(14))) may load, or cause to be loaded, any cargo subject to this section on a vessel unless instructed by the vessel carrier operating the vessel that such cargo has been properly documented in accordance with this section.

''(2) When cargo is booked by 1 vessel carrier to be transported on the vessel of another vessel carrier, the booking carrier shall notify the operator of the vessel that the cargo has been properly documented in accordance with this section. The operator of the vessel may rely on such notification in releasing the cargo for loading aboard the vessel.

''(d) REPORTING OF UNDOCUMENTED CARGO.—A vessel carrier shall notify the Customs Service of any cargo tendered to such carrier that is not properly documented pursuant to this section

and that has remained in the marine terminal for more than 48 hours after being delivered to the marine terminal, and the location of the cargo in the marine terminal. For vessel carriers that are members of vessel sharing agreements (or any other arrangement whereby a carrier moves cargo on another carrier's vessel), the vessel carrier accepting the booking shall be responsible for reporting undocumented cargo, without regard to whether it operates the vessel on which the transportation is to be made.

''(e) ASSESSMENT OF PENALTIES.—Whoever is found to have violated subsection (b) of this section shall be liable to the United States for civil penalties in a monetary amount up to the value of the cargo, or the actual cost of the transportation, whichever is greater.

''(f) SEIZURE OF UNDOCUMENTED CARGO.—

''(1) Any cargo that is not properly documented pursuant to this section and has remained in the marine terminal for more than 48 hours after being delivered to the marine terminal operator shall be subject to search, seizure, and forfeiture.

''(2) The shipper of any such cargo is liable to the marine terminal operator and to the ocean carrier for demurrage and other applicable charges for any undocumented cargo which has been notified to or searched or seized by the Customs Service for the entire period the cargo remains under the order and direction of the Customs Service. Unless the cargo is seized by the Customs Service and forfeited, the marine terminal operator and the ocean carrier shall have a lien on the cargo for the amount of the demurrage and other charges.

''(g) EFFECT ON OTHER PROVISIONS.—Nothing in this section shall be construed, interpreted, or applied to relieve or excuse any party from compliance with any obligation or requirement arising under any other law, regulation, or order with regard to the documentation or carriage of cargo.''.

(c) SECRETARY.—For purposes of this section, the term ''Secretary'' means the Secretary of the Treasury. If, at the time the regulations required by subsection (a)(1) are promulgated, the Customs Service is no longer located in the Department of the Treasury, then the Secretary of the Treasury shall exercise the authority under subsection (a) jointly with the Secretary of the Department in which the Customs Service is located.

SEC. 343A. SECURE SYSTEMS OF TRANSPORTATION.

(a) JOINT TASK FORCE.—The Secretary of the Treasury shall establish a joint task force to evaluate, prototype, and certify secure systems of transportation. The joint task force shall be comprised of officials from the Department of Transportation and the Customs Service, and any other officials that the Secretary deems appropriate. The task force shall establish a program to evaluate and certify secure systems of international intermodal transport no later than 1 year after the date of enactment of this Act. The task force shall solicit and consider input from a broad range of interested parties.

(b) PROGRAM REQUIREMENTS.—At a minimum the program referred to in subsection (a) shall require certified systems of international intermodal transport to be significantly more secure than existing transportation programs, and the program shall—

(1) establish standards and a process for screening and evaluating cargo prior to import into or export from the United States;

(2) establish standards and a process for a system of securing cargo and monitoring it while in transit;

(3) establish standards and a process for allowing the United States Government to ensure and validate compliance with the program elements; and

(4) include any other elements that the task force deems necessary to ensure the security and integrity of the international intermodal transport movements.

(c) RECOGNITION OF CERTIFIED SYSTEMS.—

(1) SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall recognize certified systems of intermodal transport in the requirements of a national security plan for United States seaports, and in the provisions requiring planning to reopen United States ports for commerce.

(2) COMMISSIONER OF CUSTOMS.—The Commissioner of Customs shall recognize certified systems of intermodal transport in the evaluation of cargo risk for purposes of United States imports and exports.

(d) REPORT.—Within 1 year after the program described in subsection (a) is implemented, the Secretary of the Treasury shall transmit a report to the Committees on Commerce, Science, and Transportation and Finance of the Senate and the Committees on Transportation and Infrastructure and Ways and Means of the House of Representatives that—

(1) evaluates the program and its requirements;

(2) states the Secretary's views as to whether any procedure, system, or technology evaluated as part of the program offers a higher level of security than under existing procedures;

(3) states the Secretary's views as to the integrity of the procedures, technology, or systems evaluated as part of the program; and

(4) makes a recommendation with respect to whether the program, or any procedure, system, or technology should be incorporated in a nationwide system for certified systems of intermodal transport.

SEC. 344. BORDER SEARCH AUTHORITY FOR CERTAIN CONTRABAND IN OUTBOUND MAIL.

(a) IN GENERAL.—The Tariff Act of 1930 is amended by inserting after section 582 the following:

''SEC. 583. EXAMINATION OF OUTBOUND MAIL.

''(a) EXAMINATION.—

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

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

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

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

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

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

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

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

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

''(c) SEARCH OF MAIL SEALED AGAINST INSPECTION WEIGHING IN EXCESS OF 16 OUNCES.—

''(1) IN GENERAL.—Mail weighing in excess of 16 ounces sealed against inspection under the postal laws and regulations of the United States may be searched by a Customs officer, subject to paragraph (2), if there is reasonable cause to suspect that such mail contains one or more of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(d) SEARCH OF MAIL SEALED AGAINST INSPECTION WEIGHING 16 OUNCES OR LESS.—Notwithstanding any other provision of this section, subsection (a)(1) shall not apply to mail weighing 16 ounces or less sealed against inspection under the postal laws and regulations of the United States.''.

(b) CERTIFICATION BY SECRETARY.—Not later than 3 months after the date of enactment of this section, the Secretary of State shall determine whether the application of section 583 of the Tariff Act of 1930 to foreign mail transiting the United States that is imported or exported by the United States Postal Service is being handled in a manner consistent with international law and any international obligation of the United States. Section 583 of such Act shall not apply to such foreign mail unless the Secretary certifies to Congress that the application of such section 583 is consistent with international law and any international obligation of the United States.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on the date of enactment of this Act.

(2) CERTIFICATION WITH RESPECT TO FOREIGN MAIL.—The provisions of section 583 of the Tariff Act of 1930 relating to foreign mail transiting the United States that is imported or exported by the United States Postal Service shall not take effect until the Secretary of State certifies to Congress, pursuant to subsection (b), that the application of such section 583 is consistent with international law and any international obligation of the United States.

SEC. 345. AUTHORIZATION OF APPROPRIATIONS FOR REESTABLISHMENT OF CUSTOMS OPERATIONS IN NEW YORK CITY.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated for the reestablishment of operations

of the Customs Service in New York, New York, such sums as may be necessary for fiscal year 2003.

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

(A) Operations relating to the Port Director of New York City, the New York Customs Management Center (including the Director of Field Operations), and the Special Agent-In-Charge for New York.

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

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

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

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

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

CHAPTER 5—TEXTILE TRANSSHIPMENT PROVISIONS

SEC. 351. GAO AUDIT OF TEXTILE TRANSSHIPMENT MONITORING BY CUSTOMS SERVICE.

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

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

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

SEC. 352. AUTHORIZATION OF APPROPRIATIONS FOR TEXTILE TRANSSHIPMENT ENFORCEMENT OPERATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated for transshipment (as described in section 351(c)) enforcement operations, outreach, and education of the Customs Service $9,500,000 for fiscal year 2003.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 353. IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT.

Of the amount made available for fiscal year 2003 under section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)), as amended by section 311(b)(1) of this Act, $1,317,000 shall be available until expended for the Customs Service to provide technical assistance to help sub-Saharan African countries develop and implement effective visa and anti-transshipment systems as required by the African Growth and Opportunity Act (title I of Public Law 106–200), as follows:

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

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

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

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

Subtitle B—Office of the United States Trade Representative

SEC. 361. AUTHORIZATION OF APPROPRIATIONS.

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

(1) in subparagraph (A)—

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

(B) by striking clause (i), and inserting the following:

''(i) $32,300,000 for fiscal year 2003.''; and

(C) by striking clause (ii), and inserting the following:

''(ii) $33,108,000 for fiscal year 2004.''; and

(2) in subparagraph (B)—

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

(B) by striking clause (ii); and

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

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

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

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

(1) IN GENERAL.—There is authorized to be appropriated such sums as may be necessary for fiscal year 2003 for the salaries and expenses of two additional legislative specialist employee positions within the Office of the Assistant United States Trade Representative for Congressional Affairs.

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

Subtitle C—United States International Trade Commission

SEC. 371. AUTHORIZATION OF APPROPRIATIONS.

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

(1) by striking clause (i), and inserting the following:

''(i) $54,000,000 for fiscal year 2003.''; and

(2) by striking clause (ii), and inserting the following:

''(ii) $57,240,000 for fiscal year 2004.''.

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

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

Subtitle D—Other trade provisions

SEC. 381. INCREASE IN AGGREGATE VALUE OF ARTICLES EXEMPT FROM DUTY ACQUIRED ABROAD BY UNITED STATES RESIDENTS.

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

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

SEC. 382. REGULATORY AUDIT PROCEDURES.

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

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

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

SEC. 383. PAYMENT OF DUTIES AND FEES.

Section 505(a) of the Tariff Act of 1930 (19 U.S.C. 1505(a)) is amended to read as follows:

''(a) DEPOSIT OF ESTIMATED DUTIES AND FEES.—Unless the entry is subject to a periodic payment or the merchandise is entered for warehouse or transportation, or under bond, the importer of record shall deposit with the Customs Service at the time of entry, or at such later time as the Secretary may prescribe by regulation (but not later than 10 working days after entry or release) the amount of duties and fees estimated to be payable on such merchandise. As soon as a periodic payment module of the Automated Commercial Environment is developed, but no later than October 1, 2004, a participating importer of record, or the importer's filer, may deposit estimated duties and fees for entries of merchandise no later than the 15th day of the month following the month in which the merchandise is entered or released, whichever comes first.''.

DIVISION B—BIPARTISAN TRADE PROMOTION AUTHORITY

TITLE XXI—TRADE PROMOTION AUTHORITY

SEC. 2101. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as the ''Bipartisan Trade Promotion Authority Act of 2002''.

(b) FINDINGS.—The Congress makes the following findings:

(1) The expansion of international trade is vital to the national security of the United States. Trade is critical to the economic growth and strength of the United States and to its leadership in the world. Stable trading relationships promote security and prosperity. Trade agreements today serve the same purposes that security pacts played during the Cold War, binding nations together through a series of mutual rights and obligations. Leadership by the United States in international trade fosters open markets, democracy, and peace throughout the world.

(2) The national security of the United States depends on its economic security, which in turn is founded upon a vibrant and growing industrial base. Trade expansion has been the engine of economic growth. Trade agreements maximize opportunities for the critical sectors and building blocks of the economy of the United States, such as information technology, telecommunications and other leading technologies, basic industries, capital equipment, medical equipment, services, agriculture, environmental technology, and intellectual property. Trade will create new opportunities for the United States and preserve the unparalleled strength of the United States in economic, political, and military affairs. The United States, secured by expanding trade and economic opportunities, will meet the challenges of the twenty-first century.

(3) Support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. Therefore—

(A) the recent pattern of decisions by dispute settlement panels of the WTO and the Appellate Body to impose obligations and restrictions on the use of antidumping, countervailing, and safeguard measures by WTO members under the Antidumping Agreement, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards has raised concerns; and

(B) the Congress is concerned that dispute settlement panels of the WTO and the Appellate Body appropriately apply the standard of review contained in Article 17.6 of the Antidumping Agreement, to provide deference to a permissible interpretation by a WTO member of provisions of that Agreement, and to the evaluation by a WTO member of the facts where that evaluation is unbiased and objective and the establishment of the facts is proper.

SEC. 2102. TRADE NEGOTIATING OBJECTIVES.

(a) OVERALL TRADE NEGOTIATING OBJECTIVES.—The overall trade negotiating objectives of the United States for agreements subject to the provisions of section 2103 are—

(1) to obtain more open, equitable, and reciprocal market access;

(2) to obtain the reduction or elimination of barriers and distortions that are directly related to trade and that decrease market opportunities for United States exports or otherwise distort United States trade;

(3) to further strengthen the system of international trading disciplines and procedures, including dispute settlement;

(4) to foster economic growth, raise living standards, and promote full employment in the United States and to enhance the global economy;

(5) to ensure that trade and environmental policies are mutually supportive and to seek to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources;

(6) to promote respect for worker rights and the rights of children consistent with core labor standards of the ILO (as defined in section 2113(6)) and an understanding of the relationship between trade and worker rights;

(7) to seek provisions in trade agreements under which parties to those agreements strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement for trade;

(8) to ensure that trade agreements afford small businesses equal access to international markets, equitable trade benefits, and expanded export market opportunities, and provide for the reduction or elimination of trade barriers that disproportionately impact small businesses; and

(9) to promote universal ratification and full compliance with ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—

(1) TRADE BARRIERS AND DISTORTIONS.—The principal negotiating objectives of the United States regarding trade barriers and other trade distortions are—

(A) to expand competitive market opportunities for United States exports and to obtain fairer and more open conditions of trade by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for United States exports or otherwise distort United States trade; and

(B) to obtain reciprocal tariff and nontariff barrier elimination agreements, with particular attention to those tariff categories covered in section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(2) TRADE IN SERVICES.—The principal negotiating objective of the United States regarding trade in services is to reduce or eliminate barriers to international trade in services, including regulatory and other barriers that deny national treatment and market access or unreasonably restrict the establishment or operations of service suppliers.

(3) FOREIGN INVESTMENT.—Recognizing that United States law on the whole provides a high level of protection for investment, consistent with or greater than the level required by international law, the principal negotiating objectives of the United States regarding foreign investment are to reduce or eliminate artificial or trade-distorting barriers to foreign investment, while ensuring that foreign investors in the United States are not accorded greater substantive rights with respect to investment protections than United States investors in the United States, and to secure for investors important rights comparable to those that would be available under United States legal principles and practice, by—

(A) reducing or eliminating exceptions to the principle of national treatment;

(B) freeing the transfer of funds relating to investments;

(C) reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

(D) seeking to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice;

(E) seeking to establish standards for fair and equitable treatment consistent with United States legal principles and practice, including the principle of due process;

(F) providing meaningful procedures for resolving investment disputes;

(G) seeking to improve mechanisms used to resolve disputes between an investor and a government through—

(i) mechanisms to eliminate frivolous claims and to deter the filing of frivolous claims;

(ii) procedures to ensure the efficient selection of arbitrators and the expeditious disposition of claims;

(iii) procedures to enhance opportunities for public input into the formulation of government positions; and

(iv) providing for an appellate body or similar mechanism to provide coherence to the interpretations of investment provisions in trade agreements; and

(H) ensuring the fullest measure of transparency in the dispute settlement mechanism, to the extent consistent with the need to protect information that is classified or business confidential, by—

(i) ensuring that all requests for dispute settlement are promptly made public;

(ii) ensuring that—

(I) all proceedings, submissions, findings, and decisions are promptly made public; and

(II) all hearings are open to the public; and

(iii) establishing a mechanism for acceptance of amicus curiae submissions from businesses, unions, and nongovernmental organizations.

(4) INTELLECTUAL PROPERTY.—The principal negotiating objectives of the United States regarding trade-related intellectual property are—

(A) to further promote adequate and effective protection of intellectual property rights, including through—

(i)(I) ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)), particularly with respect to meeting enforcement obligations under that agreement; and

(II) ensuring that the provisions of any multilateral or bilateral trade agreement governing intellectual property rights that is entered into by the United States reflect a standard of protection similar to that found in United States law;

(ii) providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property;

(iii) preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights;

(iv) ensuring that standards of protection and enforcement keep pace with technological developments, and in particular ensuring that rightholders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works; and

(v) providing strong enforcement of intellectual property rights, including through accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms;

(B) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection; and

(C) to respect the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001.

(5) TRANSPARENCY.—The principal negotiating objective of the United States with respect to transparency is to obtain wider and broader application of the principle of transparency through—

(A) increased and more timely public access to information regarding trade issues and the activities of international trade institutions;

(B) increased openness at the WTO and other international trade fora by increasing public access to appropriate meetings, proceedings, and submissions, including with regard to dispute settlement and investment; and

(C) increased and more timely public access to all notifications and supporting documentation submitted by parties to the WTO.

(6) ANTI-CORRUPTION.—The principal negotiating objectives of the United States with respect to the use of money or other things of value to influence acts, decisions, or omissions of foreign governments or officials or to secure any improper advantage in a manner affecting trade are—

(A) to obtain high standards and appropriate domestic enforcement mechanisms applicable to persons from all countries participating in the applicable trade agreement that prohibit such attempts to influence acts, decisions, or omissions of foreign governments; and

(B) to ensure that such standards do not place United States persons at a competitive disadvantage in international trade.

(7) IMPROVEMENT OF THE WTO AND MULTILATERAL TRADE AGREEMENTS.—The principal negotiating objectives of the United States regarding the improvement of the World Trade Organization, the Uruguay Round Agreements, and other multilateral and bilateral trade agreements are—

(A) to achieve full implementation and extend the coverage of the World Trade Organization and such agreements to products, sectors, and conditions of trade not adequately covered; and

(B) to expand country participation in and enhancement of the Information Technology Agreement and other trade agreements.

(8) REGULATORY PRACTICES.—The principal negotiating objectives of the United States regarding the use of government regulation or other practices by foreign governments to provide a competitive advantage to their domestic producers, service providers, or investors and thereby reduce market access for United States goods, services, and investments are—

(A) to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations;

(B) to require that proposed regulations be based on sound science, cost-benefit analysis, risk assessment, or other objective evidence;

(C) to establish consultative mechanisms among parties to trade agreements to promote increased transparency in developing guidelines, rules, regulations, and laws for government procurement and other regulatory regimes; and

(D) to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products.

(9) ELECTRONIC COMMERCE.—The principal negotiating objectives of the United States with respect to electronic commerce are—

(A) to ensure that current obligations, rules, disciplines, and commitments under the World Trade Organization apply to electronic commerce;

(B) to ensure that—

(i) electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form; and

(ii) the classification of such goods and services ensures the most liberal trade treatment possible;

(C) to ensure that governments refrain from implementing trade-related measures that impede electronic commerce;

(D) where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment; and

(E) to extend the moratorium of the World Trade Organization on duties on electronic transmissions.

(10) RECIPROCAL TRADE IN AGRICULTURE.—(A) The principal negotiating objective of the United States with respect to agriculture is to obtain competitive opportunities for United States exports of agricultural commodities in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value-added commodities by—

(i) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for United States exports—

(I) giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries; and

(II) providing reasonable adjustment periods for United States import-sensitive products, in close consultation with the Congress on such products before initiating tariff reduction negotiations;

(ii) reducing tariffs to levels that are the same as or lower than those in the United States;

(iii) reducing or eliminating subsidies that decrease market opportunities for United States exports or unfairly distort agriculture markets to the detriment of the United States;

(iv) allowing the preservation of programs that support family farms and rural communities but do not distort trade;

(v) developing disciplines for domestic support programs, so that production that is in excess of domestic food security needs is sold at world prices;

(vi) eliminating government policies that create price-depressing surpluses;

(vii) eliminating state trading enterprises whenever possible;

(viii) developing, strengthening, and clarifying rules and effective dispute settlement mechanisms to eliminate practices that unfairly decrease United States market access opportunities or distort agricultural markets to the detriment of the United States, particularly with respect to import-sensitive products, including—

(I) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on requiring price transparency in the operation of state trading enterprises and such other mechanisms in order to end cross subsidization, price discrimination, and price undercutting;

(II) unjustified trade restrictions or commercial requirements, such as labeling, that affect new technologies, including biotechnology;

(III) unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements;

(IV) other unjustified technical barriers to trade; and

(V) restrictive rules in the administration of tariff rate quotas;

(ix) eliminating practices that adversely affect trade in perishable or cyclical products, while improving import relief mechanisms to recognize the unique characteristics of perishable and cyclical agriculture;

(x) ensuring that import relief mechanisms for perishable and cyclical agriculture are as accessible and timely to growers in the United States as those mechanisms that are used by other countries;

(xi) taking into account whether a party to the negotiations has failed to adhere to the provisions of already existing trade agreements with the United States or has circumvented obligations under those agreements;

(xii) taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to the provisions of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements;

(xiii) otherwise ensuring that countries that accede to the World Trade Organization have made meaningful market liberalization commitments in agriculture;

(xiv) taking into account the impact that agreements covering agriculture to which the United States is a party, including the North American Free Trade Agreement, have on the United States agricultural industry;

(xv) maintaining bona fide food assistance programs and preserving United States market development and export credit programs; and

(xvi) striving to complete a general multilateral round in the World Trade Organization by January 1, 2005, and seeking the broadest market access possible in multilateral, regional, and bilateral negotiations, recognizing the effect that simultaneous sets of negotiations may have on United States import-sensitive commodities (including those subject to tariff-rate quotas).

(B)(i) Before commencing negotiations with respect to agriculture, the United States Trade Representative, in consultation with the Congress, shall seek to develop a position on the treatment of seasonal and perishable agricultural products to be employed in the negotiations in order to develop an international consensus on the treatment of seasonal or perishable agricultural products in investigations relating to dumping and safeguards and in any other relevant area.

(ii) During any negotiations on agricultural subsidies, the United States Trade Representative shall seek to establish the common base year for calculating the Aggregated Measurement of Support (as defined in the Agreement on Agriculture) as the end of each country's Uruguay Round implementation period, as reported in each country's Uruguay Round market access schedule.

(iii) The negotiating objective provided in subparagraph (A) applies with respect to agricultural matters to be addressed in any trade agreement entered into under section 2103(a) or (b), including any trade agreement entered into under section 2103(a) or (b) that provides for accession to a trade agreement to which the United States is already a party, such as the North American Free Trade Agreement and the United States-Canada Free Trade Agreement.

(11) LABOR AND THE ENVIRONMENT.—The principal negotiating objectives of the United States with respect to labor and the environment are—

(A) to ensure that a party to a trade agreement with the United States does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the United States and that party after entry into force of a trade agreement between those countries;

(B) to recognize that parties to a trade agreement retain the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other labor or environmental matters determined to have higher priorities, and to recognize that a country is effectively enforcing its laws if a course of action or inaction reflects a reasonable exercise of such discretion, or results from a bona fide decision regarding the allocation of resources, and no retaliation may be authorized based on the exercise of these rights or the right to establish domestic labor standards and levels of environmental protection;

(C) to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 2113(6));

(D) to strengthen the capacity of United States trading partners to protect the environment through the promotion of sustainable development;

(E) to reduce or eliminate government practices or policies that unduly threaten sustainable development;

(F) to seek market access, through the elimination of tariffs and nontariff barriers, for United States environmental technologies, goods, and services; and

(G) to ensure that labor, environmental, health, or safety policies and practices of the parties to trade agreements with the United States do not arbitrarily or unjustifiably discriminate against United States exports or serve as disguised barriers to trade.

(12) DISPUTE SETTLEMENT AND ENFORCEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement and enforcement of trade agreements are—

(A) to seek provisions in trade agreements providing for resolution of disputes between governments under those trade agreements in an effective, timely, transparent, equitable, and reasoned manner, requiring determinations based on facts and the principles of the agreements, with the goal of increasing compliance with the agreements;

(B) to seek to strengthen the capacity of the Trade Policy Review Mechanism of the World Trade Organization to review compliance with commitments;

(C) to seek adherence by panels convened under the Dispute Settlement Understanding and by the Appellate Body to the standard of review applicable under the Uruguay Round Agreement involved in the dispute, including greater deference, where appropriate, to the fact-finding and technical expertise of national investigating authorities;

(D) to seek provisions encouraging the early identification and settlement of disputes through consultation;

(E) to seek provisions to encourage the provision of trade-expanding compensation if a party to a dispute under the agreement does not come into compliance with its obligations under the agreement;

(F) to seek provisions to impose a penalty upon a party to a dispute under the agreement that—

(i) encourages compliance with the obligations of the agreement;

(ii) is appropriate to the parties, nature, subject matter, and scope of the violation; and

(iii) has the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism; and

(G) to seek provisions that treat United States principal negotiating objectives equally with respect to—

(i) the ability to resort to dispute settlement under the applicable agreement;

(ii) the availability of equivalent dispute settlement procedures; and

(iii) the availability of equivalent remedies.

(13) WTO EXTENDED NEGOTIATIONS.—The principal negotiating objectives of the United States regarding trade in civil aircraft are those set forth in section 135(c) of the Uruguay Round Agreements Act (19 U.S.C. 3355(c)) and regarding rules of origin are the conclusion of an agreement described in section 132 of that Act (19 U.S.C. 3552).

(14) TRADE REMEDY LAWS.—The principal negotiating objectives of the United States with respect to trade remedy laws are—

(A) to preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws, and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, or that lessen the effectiveness of domestic and international safeguard provisions, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions; and

(B) to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers.

(15) BORDER TAXES.—The principal negotiating objective of the United States regarding border taxes is to obtain a revision of the WTO rules with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes.

(16) TEXTILE NEGOTIATIONS.—The principal negotiating objectives of the United States with respect to trade in textiles and apparel articles are to obtain competitive opportunities for United States exports of textiles and apparel in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in textiles and apparel.

(17) WORST FORMS OF CHILD LABOR.—The principal negotiating objective of the United States with respect to the trade-related aspects of the worst forms of child labor are to seek commitments by parties to trade agreements to vigorously enforce their own laws prohibiting the worst forms of child labor.

(c) PROMOTION OF CERTAIN PRIORITIES.—In order to address and maintain United States competitiveness in the global economy, the President shall—

(1) seek greater cooperation between the WTO and the ILO;

(2) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 2113(6)) and to promote compliance with ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(3) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to develop and implement standards for the protection of the environment and human health based on sound science, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(4) conduct environmental reviews of future trade and investment agreements, consistent with Executive Order 13141 of November 16, 1999, and its relevant guidelines, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such reviews;

(5) review the impact of future trade agreements on United States employment, including labor markets, modeled after Executive Order 13141 to the extent appropriate in establishing procedures and criteria, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such review, and make that report available to the public;

(6) take into account other legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, and consumer interests and the law and regulations related thereto;

(7) direct the Secretary of Labor to consult with any country seeking a trade agreement with the United States concerning that country's labor laws and provide technical assistance to that country if needed;

(8) in connection with any trade negotiations entered into under this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a meaningful labor rights report of the country, or countries, with respect to which the President is negotiating, on a time frame determined in accordance with section 2107(b)(2)(E);

(9) with respect to any trade agreement which the President seeks to implement under trade authorities procedures, submit to the Congress a report describing the extent to which the country or countries that are parties to the agreement have in effect laws governing exploitative child labor;

(10) continue to promote consideration of multilateral environmental agreements and consult with parties to such agreements regarding the consistency of any such agreement that includes trade measures with existing environmental exceptions under Article XX of the GATT 1994;

(11) report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, not later than 12 months after the imposition of a penalty or remedy by the United States permitted by a trade agreement to which this title applies, on the effectiveness of the penalty or remedy applied under United States law in enforcing United States rights under the trade agreement; and

(12) seek to establish consultative mechanisms among parties to trade agreements to examine the trade consequences of significant and unanticipated currency movements and to scrutinize whether a foreign government engaged in a pattern of manipulating its currency to promote a competitive advantage in international trade.

The report under paragraph (11) shall address whether the penalty or remedy was effective in changing the behavior of the targeted party and whether the penalty or remedy had any adverse impact on parties or interests not party to the dispute.

(d) CONSULTATIONS.—

(1) CONSULTATIONS WITH CONGRESSIONAL ADVISERS.—In the course of negotiations conducted under this title, the United States Trade Representative shall consult closely and on a timely

basis with, and keep fully apprised of the negotiations, the Congressional Oversight Group convened under section 2107 and all committees of the House of Representatives and the Senate with jurisdiction over laws that would be affected by a trade agreement resulting from the negotiations.

(2) CONSULTATION BEFORE AGREEMENT INITIALED.—In the course of negotiations conducted under this title, the United States Trade Representative shall—

(A) consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the congressional advisers for trade policy and negotiations appointed under section 161 of the Trade Act of 1974 (19 U.S.C. 2211), the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Congressional Oversight Group convened under section 2107; and

(B) with regard to any negotiations and agreement relating to agricultural trade, also consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(e) ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS.—In determining whether to enter into negotiations with a particular country, the President shall take into account the extent to which that country has implemented, or has accelerated the implementation of, its obligations under the Uruguay Round Agreements.

SEC. 2103. TRADE AGREEMENTS AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

(1) IN GENERAL.—Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, priorities, and objectives of this title will be promoted thereby, the President—

(A) may enter into trade agreements with foreign countries before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c); and

(B) may, subject to paragraphs (2) and (3), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement.

The President shall notify the Congress of the President's intention to enter into an agreement under this subsection.

(2) LIMITATIONS.—No proclamation may be made under paragraph (1) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of the enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment;

(B) reduces the rate of duty below that applicable under the Uruguay Round Agreements, on any import sensitive agricultural product; or

(C) increases any rate of duty above the rate that applied on the date of the enactment of this Act.

(3) AGGREGATE REDUCTION; EXEMPTION FROM STAGING.—

(A) AGGREGATE REDUCTION.—Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

(i) a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article; and

(ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(B) EXEMPTION FROM STAGING.—No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) ROUNDING.—If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by an amount equal to the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) OTHER LIMITATIONS.—A rate of duty reduction that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction is included within an implementing bill provided for under section 2105 and that bill is enacted into law.

(6) OTHER TARIFF MODIFICATIONS.—Notwithstanding paragraphs (1)(B), (2)(A), (2)(C), and (3) through (5), and subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act, the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act, if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization.

(7) AUTHORITY UNDER URUGUAY ROUND AGREEMENTS ACT NOT AFFECTED.—Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(b) AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) IN GENERAL.—(A) Whenever the President determines that—

(i) one or more existing duties or any other import restriction of any foreign country or the United States or any other barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy, or

(ii) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect,

and that the purposes, policies, priorities, and objectives of this title will be promoted thereby, the President may enter into a trade agreement described in subparagraph (B) during the period described in subparagraph (C).

(B) The President may enter into a trade agreement under subparagraph (A) with foreign countries providing for—

(i) the reduction or elimination of a duty, restriction, barrier, or other distortion described in subparagraph (A); or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(C) The President may enter into a trade agreement under this paragraph before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c).

(2) CONDITIONS.—A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in section 2102(a) and (b) and the President satisfies the conditions set forth in section 2104.

(3) BILLS QUALIFYING FOR TRADE AUTHORITIES PROCEDURES.—(A) The provisions of section 151 of the Trade Act of 1974 (in this title referred to as ''trade authorities procedures'') apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such section 151 applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this title be referred to as an ''implementing bill''.

(B) The provisions referred to in subparagraph (A) are—

(i) a provision approving a trade agreement entered into under this subsection and approving the statement of administrative action, if any, proposed to implement such trade agreement; and

(ii) if changes in existing laws or new statutory authority are required to implement such trade agreement or agreements, provisions, necessary or appropriate to implement such trade agreement or agreements, either repealing or amending existing laws or providing new statutory authority.

(c) EXTENSION DISAPPROVAL PROCESS FOR CONGRESSIONAL TRADE AUTHORITIES PROCEDURES.—

(1) IN GENERAL.—Except as provided in section 2105(b)—

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) before July 1, 2005; and

(B) the trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) after June 30, 2005, and before July 1, 2007, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before June 1, 2005.

(2) REPORT TO CONGRESS BY THE PRESIDENT.—If the President is of the opinion that the trade authorities procedures should be extended to implementing bills described in paragraph (1)(B), the President shall submit to the Congress, not later than March 1, 2005, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under subsection (b) and the anticipated schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this title, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) OTHER REPORTS TO CONGRESS.—

(A) REPORT BY THE ADVISORY COMMITTEE.—The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to the Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains—

(i) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this title; and

(ii) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(B) REPORT BY ITC.—The President shall promptly inform the International Trade Commission of the President's decision to submit a

report to the Congress under paragraph (2). The International Trade Commission shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains a review and analysis of the economic impact on the United States of all trade agreements implemented between the date of enactment of this Act and the date on which the President decides to seek an extension requested under paragraph (2).

(4) STATUS OF REPORTS.—The reports submitted to the Congress under paragraphs (2) and (3), or any portion of such reports, may be classified to the extent the President determines appropriate.

(5) EXTENSION DISAPPROVAL RESOLUTIONS.—(A) For purposes of paragraph (1), the term ''extension disapproval resolution'' means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: ''That the ____ disapproves the request of the President for the extension, under section 2103(c)(1)(B)(i) of the Bipartisan Trade Promotion Authority Act of 2002, of the trade authorities procedures under that Act to any implementing bill submitted with respect to any trade agreement entered into under section 2103(b) of that Act after June 30, 2005.'', with the blank space being filled with the name of the resolving House of the Congress.

(B) Extension disapproval resolutions—

(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be referred, in the House of Representatives, to the Committee on Ways and Means and, in addition, to the Committee on Rules.

(C) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution after June 30, 2005.

(d) COMMENCEMENT OF NEGOTIATIONS.—In order to contribute to the continued economic expansion of the United States, the President shall commence negotiations covering tariff and nontariff barriers affecting any industry, product, or service sector, and expand existing sectoral agreements to countries that are not parties to those agreements, in cases where the President determines that such negotiations are feasible and timely and would benefit the United States. Such sectors include agriculture, commercial services, intellectual property rights, industrial and capital goods, government procurement, information technology products, environmental technology and services, medical equipment and services, civil aircraft, and infrastructure products. In so doing, the President shall take into account all of the principal negotiating objectives set forth in section 2102(b).

SEC. 2104. CONSULTATIONS AND ASSESSMENT.

(a) NOTICE AND CONSULTATION BEFORE NEGOTIATION.—The President, with respect to any agreement that is subject to the provisions of section 2103(b), shall—

(1) provide, at least 90 calendar days before initiating negotiations, written notice to the Congress of the President's intention to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations, the specific United States objectives for the negotiations, and whether the President intends to seek an agreement, or changes to an existing agreement;

(2) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, such other committees of the House and Senate as the President deems appropriate, and the Congressional Oversight group convened under section 2107; and

(3) upon the request of a majority of the members of the Congressional Oversight Group under section 2107(c), meet with the Congressional Oversight Group before initiating the negotiations or at any other time concerning the negotiations.

(b) NEGOTIATIONS REGARDING AGRICULTURE.—

(1) IN GENERAL.—Before initiating or continuing negotiations the subject matter of which is directly related to the subject matter under section 2102(b)(10)(A)(i) with any country, the President shall assess whether United States tariffs on agricultural products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In addition, the President shall consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than United States tariffs and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(2) SPECIAL CONSULTATIONS ON IMPORT SENSITIVE PRODUCTS.—(A) Before initiating negotiations with regard to agriculture, and, with respect to the Free Trade Area for the Americas and negotiations with regard to agriculture under the auspices of the World Trade Organization, as soon as practicable after the enactment of this Act, the United States Trade Representative shall—

(i) identify those agricultural products subject to tariff-rate quotas on the date of enactment of this Act, and agricultural products subject to tariff reductions by the United States as a result of the Uruguay Round Agreements, for which the rate of duty was reduced on January 1, 1995, to a rate which was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994;

(ii) consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning—

(I) whether any further tariff reductions on the products identified under clause (i) should be appropriate, taking into account the impact of any such tariff reduction on the United States industry producing the product concerned;

(II) whether the products so identified face unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements; and

(III) whether the countries participating in the negotiations maintain export subsidies or other programs, policies, or practices that distort world trade in such products and the impact of such programs, policies, and practices on United States producers of the products;

(iii) request that the International Trade Commission prepare an assessment of the probable economic effects of any such tariff reduction on the United States industry producing the product concerned and on the United States economy as a whole; and

(iv) upon complying with clauses (i), (ii), and (iii), notify the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate of those products identified under clause (i) for which the Trade Representative intends to seek tariff liberalization in the negotiations and the reasons for seeking such tariff liberalization.

(B) If, after negotiations described in subparagraph (A) are commenced—

(i) the United States Trade Representative identifies any additional agricultural product described in subparagraph (A)(i) for tariff reductions which were not the subject of a notification under subparagraph (A)(iv), or

(ii) any additional agricultural product described in subparagraph (A)(i) is the subject of a request for tariff reductions by a party to the negotiations,

the Trade Representative shall, as soon as practicable, notify the committees referred to in subparagraph (A)(iv) of those products and the reasons for seeking such tariff reductions.

(3) NEGOTIATIONS REGARDING THE FISHING INDUSTRY.—Before initiating, or continuing, negotiations which directly relate to fish or shellfish trade with any country, the President shall consult with the Committee on Ways and Means and the Committee on Resources of the House of Representatives, and the Committee on Finance and the Committee on Commerce, Science, and Transportation of the Senate, and shall keep the Committees apprised of negotiations on an ongoing and timely basis.

(c) NEGOTIATIONS REGARDING TEXTILES.—Before initiating or continuing negotiations the subject matter of which is directly related to textiles and apparel products with any country, the President shall assess whether United States tariffs on textile and apparel products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(d) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

(1) CONSULTATION.—Before entering into any trade agreement under section 2103(b), the President shall consult with—

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

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement; and

(C) the Congressional Oversight Group convened under section 2107.

(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, priorities, and objectives of this title; and

(C) the implementation of the agreement under section 2105, including the general effect of the agreement on existing laws.

(3) REPORT REGARDING UNITED STATES TRADE REMEDY LAWS.—

(A) CHANGES IN CERTAIN TRADE LAWS.—The President, at least 180 calendar days before the day on which the President enters into a trade agreement under section 2103(b), shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(i) the range of proposals advanced in the negotiations with respect to that agreement, that may be in the final agreement, and that could require amendments to title VII of the Tariff Act

of 1930 or to chapter 1 of title II of the Trade Act of 1974; and

(ii) how these proposals relate to the objectives described in section 2102(b)(14).

(B) CERTAIN AGREEMENTS.—With respect to a trade agreement entered into with Chile or Singapore, the report referred to in subparagraph (A) shall be submitted by the President at least 90 calendar days before the day on which the President enters into that agreement.

(C) RESOLUTIONS.—(i) At any time after the transmission of the report under subparagraph (A), if a resolution is introduced with respect to that report in either House of Congress, the procedures set forth in clauses (iii) through (vi) shall apply to that resolution if—

(I) no other resolution with respect to that report has previously been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be, pursuant to those procedures; and

(II) no procedural disapproval resolution under section 2105(b) introduced with respect to a trade agreement entered into pursuant to the negotiations to which the report under subparagraph (A) relates has previously been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be.

(ii) For purposes of this subparagraph, the term ''resolution'' means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: ''That the ____ finds that the proposed changes to United States trade remedy laws contained in the report of the President transmitted to the Congress on ____ under section 2104(d)(3) of the Bipartisan Trade Promotion Authority Act of 2002 with respect to ____, are inconsistent with the negotiating objectives described in section 2102(b)(14) of that Act.'', with the first blank space being filled with the name of the resolving House of Congress, the second blank space being filled with the appropriate date of the report, and the third blank space being filled with the name of the country or countries involved.

(iii) Resolutions in the House of Representatives—

(I) may be introduced by any Member of the House;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee.

(iv) Resolutions in the Senate—

(I) may be introduced by any Member of the Senate;

(II) shall be referred to the Committee on Finance; and

(III) may not be amended.

(v) It is not in order for the House of Representatives to consider any resolution that is not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules.

(v) It is not in order for the Senate to consider any resolution that is not reported by the Committee on Finance.

(vi) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to floor consideration of certain resolutions in the House and Senate) shall apply to resolutions.

(e) ADVISORY COMMITTEE REPORTS.—The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement entered into under section 2103(a) or (b) of this Act shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 2103(a)(1) or 2105(a)(1)(A) of the President's intention to enter into the agreement.

(f) ITC ASSESSMENT.—

(1) IN GENERAL.—The President, at least 90 calendar days before the day on which the President enters into a trade agreement under section 2103(b), shall provide the International Trade Commission (referred to in this subsection as ''the Commission'') with the details of the agreement as it exists at that time and request the Commission to prepare and submit an assessment of the agreement as described in paragraph (2). Between the time the President makes the request under this paragraph and the time the Commission submits the assessment, the President shall keep the Commission current with respect to the details of the agreement.

(2) ITC ASSESSMENT.—Not later than 90 calendar days after the President enters into the agreement, the Commission shall submit to the President and the Congress a report assessing the likely impact of the agreement on the United States economy as a whole and on specific industry sectors, including the impact the agreement will have on the gross domestic product, exports and imports, aggregate employment and employment opportunities, the production, employment, and competitive position of industries likely to be significantly affected by the agreement, and the interests of United States consumers.

(3) REVIEW OF EMPIRICAL LITERATURE.—In preparing the assessment, the Commission shall review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and shall provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the agreement.

SEC. 2105. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL.—

(1) NOTIFICATION AND SUBMISSION.—Any agreement entered into under section 2103(b) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which the President enters into the trade agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) within 60 days after entering into the agreement, the President submits to the Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the agreement;

(C) after entering into the agreement, the President submits to the Congress, on a day on which both Houses of Congress are in session, a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill described in section 2103(b)(3);

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2); and

(D) the implementing bill is enacted into law.

(2) SUPPORTING INFORMATION.—The supporting information required under paragraph (1)(C)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, priorities, and objectives of this title; and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i);

(II) whether and how the agreement changes provisions of an agreement previously negotiated;

(III) how the agreement serves the interests of United States commerce;

(IV) how the implementing bill meets the standards set forth in section 2103(b)(3); and

(V) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in section 2102(c) regarding the promotion of certain priorities.

(3) RECIPROCAL BENEFITS.—In order to ensure that a foreign country that is not a party to a trade agreement entered into under section 2103(b) does not receive benefits under the agreement unless the country is also subject to the obligations under the agreement, the implementing bill submitted with respect to the agreement shall provide that the benefits and obligations under the agreement apply only to the parties to the agreement, if such application is consistent with the terms of the agreement. The implementing bill may also provide that the benefits and obligations under the agreement do not apply uniformly to all parties to the agreement, if such application is consistent with the terms of the agreement.

(4) DISCLOSURE OF COMMITMENTS.—Any agreement or other understanding with a foreign government or governments (whether oral or in writing) that—

(A) relates to a trade agreement with respect to which the Congress enacts an implementing bill under trade authorities procedures, and

(B) is not disclosed to the Congress before an implementing bill with respect to that agreement is introduced in either House of Congress,

shall not be considered to be part of the agreement approved by the Congress and shall have no force and effect under United States law or in any dispute settlement body.

(b) LIMITATIONS ON TRADE AUTHORITIES PROCEDURES.—

(1) FOR LACK OF NOTICE OR CONSULTATIONS.—

(A) IN GENERAL.—The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement or trade agreements entered into under section 2103(b) if during the 60-day period beginning on the date that one House of Congress agrees to a procedural disapproval resolution for lack of notice or consultations with respect to such trade agreement or agreements, the other House separately agrees to a procedural disapproval resolution with respect to such trade agreement or agreements.

(B) PROCEDURAL DISAPPROVAL RESOLUTION.—(i) For purposes of this paragraph, the term ''procedural disapproval resolution'' means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: ''That the President has failed or refused to notify or consult in accordance with the Bipartisan Trade Promotion Authority Act of 2002 on negotiations with respect to _____ and, therefore, the trade authorities procedures under that Act shall not apply to any implementing bill submitted with respect to such trade agreement or agreements.'', with the blank space being filled with a description of the trade agreement or agreements with respect to which the President is considered to have failed or refused to notify or consult.

(ii) For purposes of clause (i), the President has ''failed or refused to notify or consult in accordance with the Bipartisan Trade Promotion Authority Act of 2002'' on negotiations with respect to a trade agreement or trade agreements if—

(I) the President has failed or refused to consult (as the case may be) in accordance with section 2104 or 2105 with respect to the negotiations, agreement, or agreements;

(II) guidelines under section 2107(b) have not been developed or met with respect to the negotiations, agreement, or agreements;

(III) the President has not met with the Congressional Oversight Group pursuant to a request made under section 2107(c) with respect to the negotiations, agreement, or agreements; or

(IV) the agreement or agreements fail to make progress in achieving the purposes, policies, priorities, and objectives of this title.

(2) PROCEDURES FOR CONSIDERING RESOLUTIONS.—(A) Procedural disapproval resolutions—

(i) in the House of Representatives—

(I) may be introduced by any Member of the House;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee; and

(ii) in the Senate—

(I) may be introduced by any Member of the Senate;

(II) shall be referred to the Committee on Finance; and

(III) may not be amended.

(B) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to a procedural disapproval resolution introduced with respect to a trade agreement if no other procedural disapproval resolution with respect to that trade agreement has previously been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be, and if no resolution described in section 2104(d)(3)(C)(ii) with respect to that trade agreement has been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be, pursuant to the procedures set forth in clauses (iii) through (vi) of such section 2104(d)(3)(C).

(C) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules.

(D) It is not in order for the Senate to consider any procedural disapproval resolution not reported by the Committee on Finance.

(3) FOR FAILURE TO MEET OTHER REQUIREMENTS.—Not later than December 31, 2002, the Secretary of Commerce, in consultation with the Secretary of State, the Secretary of the Treasury, the Attorney General, and the United States Trade Representative, shall transmit to the Congress a report setting forth the strategy of the executive branch to address concerns of the Congress regarding whether dispute settlement panels and the Appellate Body of the WTO have added to obligations, or diminished rights, of the United States, as described in section 2101(b)(3). Trade authorities procedures shall not apply to any implementing bill with respect to an agreement negotiated under the auspices of the WTO unless the Secretary of Commerce has issued such report in a timely manner.

(c) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsection (b) of this section, section 2103(c), aand section 2104(d)(3)(C) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 2106. TREATMENT OF CERTAIN TRADE AGREEMENTS FOR WHICH NEGOTIATIONS HAVE ALREADY BEGUN.

(a) CERTAIN AGREEMENTS.—Notwithstanding the prenegotiation notification and consultation requirement described in section 2104(a), if an agreement to which section 2103(b) applies—

(1) is entered into under the auspices of the World Trade Organization,

(2) is entered into with Chile,

(3) is entered into with Singapore, or

(4) establishes a Free Trade Area for the Americas,

and results from negotiations that were commenced before the date of the enactment of this Act, subsection (b) shall apply.

(b) TREATMENT OF AGREEMENTS.—In the case of any agreement to which subsection (a) applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 2104(a) (relating only to 90 days notice prior to initiating negotiations), and any procedural disapproval resolution under section 2105(b)(1)(B) shall not be in order on the basis of a failure or refusal to comply with the provisions of section 2104(a); and

(2) the President shall, as soon as feasible after the enactment of this Act—

(A) notify the Congress of the negotiations described in subsection (a), the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the committees referred to in section 2104(a)(2) and the Congressional Oversight Group convened under section 2107.

SEC. 2107. CONGRESSIONAL OVERSIGHT GROUP.

(a) MEMBERS AND FUNCTIONS.—

(1) IN GENERAL.—By not later than 60 days after the date of the enactment of this Act, and not later than 30 days after the convening of each Congress, the chairman of the Committee on Ways and Means of the House of Representatives and the chairman of the Committee on Finance of the Senate shall convene the Congressional Oversight Group.

(2) MEMBERSHIP FROM THE HOUSE.—In each Congress, the Congressional Oversight Group shall be comprised of the following Members of the House of Representatives:

(A) The chairman and ranking member of the Committee on Ways and Means, and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the House of Representatives which would have, under the Rules of the House of Representatives, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this title would apply.

(3) MEMBERSHIP FROM THE SENATE.—In each Congress, the Congressional Oversight Group shall also be comprised of the following members of the Senate:

(A) The chairman and ranking member of the Committee on Finance and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the Senate which would have, under the Rules of the Senate, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this title would apply.

(4) ACCREDITATION.—Each member of the Congressional Oversight Group described in paragraph (2)(A) and (3)(A) shall be accredited by the United States Trade Representative on behalf of the President as an official adviser to the United States delegation in negotiations for any trade agreement to which this title applies. Each member of the Congressional Oversight Group described in paragraph (2)(B) and (3)(B) shall be accredited by the United States Trade Representative on behalf of the President as an official adviser to the United States delegation in the negotiations by reason of which the member is in the Congressional Oversight Group. The Congressional Oversight Group shall consult with and provide advice to the Trade Representative regarding the formulation of specific objectives, negotiating strategies and positions, the development of the applicable trade agreement, and compliance and enforcement of the negotiated commitments under the trade agreement.

(5) CHAIR.—The Congressional Oversight Group shall be chaired by the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate.

(b) GUIDELINES.—

(1) PURPOSE AND REVISION.—The United States Trade Representative, in consultation with the chairmen and ranking minority members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(A) shall, within 120 days after the date of the enactment of this Act, develop written guidelines to facilitate the useful and timely exchange of information between the Trade Representative and the Congressional Oversight Group convened under this section; and

(B) may make such revisions to the guidelines as may be necessary from time to time.

(2) CONTENT.—The guidelines developed under paragraph (1) shall provide for, among other things—

(A) regular, detailed briefings of the Congressional Oversight Group regarding negotiating objectives, including the promotion of certain priorities referred to in section 2102(c), and positions and the status of the applicable negotiations, beginning as soon as practicable after the Congressional Oversight Group is convened, with more frequent briefings as trade negotiations enter the final stage;

(B) access by members of the Congressional Oversight Group, and staff with proper security clearances, to pertinent documents relating to the negotiations, including classified materials;

(C) the closest practicable coordination between the Trade Representative and the Congressional Oversight Group at all critical periods during the negotiations, including at negotiation sites;

(D) after the applicable trade agreement is concluded, consultation regarding ongoing compliance and enforcement of negotiated commitments under the trade agreement; and

(E) the time frame for submitting the report required under section 2102(c)(8).

(c) REQUEST FOR MEETING.—Upon the request of a majority of the Congressional Oversight Group, the President shall meet with the Congressional Oversight Group before initiating negotiations with respect to a trade agreement, or at any other time concerning the negotiations.

SEC. 2108. ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS.

(a) IN GENERAL.—At the time the President submits to the Congress the final text of an agreement pursuant to section 2105(a)(1)(C), the President shall also submit a plan for implementing and enforcing the agreement. The implementation and enforcement plan shall include the following:

(1) BORDER PERSONNEL REQUIREMENTS.—A description of additional personnel required at border entry points, including a list of additional customs and agricultural inspectors.

(2) AGENCY STAFFING REQUIREMENTS.—A description of additional personnel required by Federal agencies responsible for monitoring and implementing the trade agreement, including personnel required by the Office of the United States Trade Representative, the Department of Commerce, the Department of Agriculture (including additional personnel required to implement sanitary and phytosanitary measures in order to obtain market access for United States exports), the Department of the Treasury, and such other agencies as may be necessary.

(3) CUSTOMS INFRASTRUCTURE REQUIREMENTS.—A description of the additional equipment and facilities needed by the United States Customs Service.

(4) IMPACT ON STATE AND LOCAL GOVERNMENTS.—A description of the impact the trade agreement will have on State and local governments as a result of increases in trade.

(5) COST ANALYSIS.—An analysis of the costs associated with each of the items listed in paragraphs (1) through (4).

(b) BUDGET SUBMISSION.—The President shall include a request for the resources necessary to support the plan described in subsection (a) in the first budget that the President submits to the Congress after the submission of the plan.

SEC. 2109. COMMITTEE STAFF.

The grant of trade promotion authority under this title is likely to increase the activities of the primary committees of jurisdiction in the area of international trade. In addition, the creation of the Congressional Oversight Group under section 2107 will increase the participation of a broader number of Members of Congress in the formulation of United States trade policy and oversight of the international trade agenda for the United States. The primary committees of jurisdiction should have adequate staff to accommodate these increases in activities.

SEC. 2110. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Title I of the Trade Act of 1974 (19 U.S.C. 2111 et seq.) is amended as follows:

(1) IMPLEMENTING BILL.—

(A) Section 151(b)(1) (19 U.S.C. 2191(b)(1)) is amended by striking ''section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988, or section 282 of the Uruguay Round Agreements Act'' and inserting ''section 282 of the Uruguay Round Agreements Act, or section 2105(a)(1) of the Bipartisan Trade Promotion Authority Act of 2002''.

(B) Section 151(c)(1) (19 U.S.C. 2191(c)(1)) is amended by striking ''or section 282 of the Uruguay Round Agreements Act'' and inserting '', section 282 of the Uruguay Round Agreements Act, or section 2105(a)(1) of the Bipartisan Trade Promotion Authority Act of 2002''.

(2) ADVICE FROM INTERNATIONAL TRADE COMMISSION.—Section 131 (19 U.S.C. 2151) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988,'' and inserting ''section 123 of this Act or section 2103(a) or (b) of the Bipartisan Trade Promotion Authority Act of 2002,''; and

(ii) in paragraph (2), by striking ''section 1102 (b) or (c) of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002'';

(B) in subsection (b), by striking ''section 1102(a)(3)(A)'' and inserting ''section 2103(a)(3)(A) of the Bipartisan Trade Promotion Authority Act of 2002''; and

(C) in subsection (c), by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988,'' and inserting ''section 2103 of the Bipartisan Trade Promotion Authority Act of 2002,''.

(3) HEARINGS AND ADVICE.—Sections 132, 133(a), and 134(a) (19 U.S.C. 2152, 2153(a), and 2154(a)) are each amended by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988,'' each place it appears and inserting ''section 2103 of the Bipartisan Trade Promotion Authority Act of 2002,''.

(4) PREREQUISITES FOR OFFERS.—Section 134(b) (19 U.S.C. 2154(b)) is amended by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 2103 of the Bipartisan Trade Promotion Authority Act of 2002''.

(5) ADVICE FROM PRIVATE AND PUBLIC SECTORS.—Section 135 (19 U.S.C. 2155) is amended—

(A) in subsection (a)(1)(A), by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 2103 of the Bipartisan Trade Promotion Authority Act of 2002'';

(B) in subsection (e)(1)—

(i) by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' each place it appears and inserting ''section 2103 of the Bipartisan Trade Promotion Authority Act of 2002''; and

(ii) by striking ''section 1103(a)(1)(A) of such Act of 1988'' and inserting ''section 2105(a)(1)(A) of the Bipartisan Trade Promotion Authority Act of 2002''; and

(C) in subsection (e)(2), by striking ''section 1101 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 2102 of the Bipartisan Trade Promotion Authority Act of 2002''.

(6) TRANSMISSION OF AGREEMENTS TO CONGRESS.—Section 162(a) (19 U.S.C. 2212(a)) is amended by striking ''or under section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''or under section 2103 of the Bipartisan Trade Promotion Authority Act of 2002''.

(b) APPLICATION OF CERTAIN PROVISIONS.—For purposes of applying sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137)—

(1) any trade agreement entered into under section 2103 shall be treated as an agreement entered into under section 101 or 102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 2103 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974.

SEC. 2111. REPORT ON IMPACT OF TRADE PROMOTION AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the International Trade Commission shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the economic impact on the United States of the trade agreements described in subsection (b).

(b) AGREEMENTS.—The trade agreements described in this subsection are the following:

(1) The United States-Israel Free Trade Agreement.

(2) The United States-Canada Free Trade Agreement.

(3) The North American Free Trade Agreement.

(4) The Uruguay Round Agreements.

(5) The Tokyo Round of Multilateral Trade Negotiations.

SEC. 2112. INTERESTS OF SMALL BUSINESS.

The Assistant United States Trade Representative for Industry and Telecommunications shall be responsible for ensuring that the interests of small business are considered in all trade negotiations in accordance with the objective described in section 2102(a)(8). It is the sense of the Congress that the small business functions should be reflected in the title of the Assistant United States Trade Representative assigned the responsibility for small business.

SEC. 2113. DEFINITIONS.

In this title:

(1) AGREEMENT ON AGRICULTURE.—The term ''Agreement on Agriculture'' means the agreement referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

(2) AGREEMENT ON SAFEGUARDS.—The term ''Agreement on Safeguards means the agreement referred to in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(12)).

(3) AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES.—The term ''Agreement on Subsidies and Countervailing Measures'' means the agreement referred to in section 101(d)(13) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(13)).

(4) ANTIDUMPING AGREEMENT.—The term ''Antidumping Agreement'' means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(7) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(7)).

(5) APPELLATE BODY.—The term ''Appellate Body'' means the Appellate Body established under Article 17.1 of the Dispute Settlement Understanding.

(6) CORE LABOR STANDARDS.—The term ''core labor standards'' means—

(A) the right of association;

(B) the right to organize and bargain collectively;

(C) a prohibition on the use of any form of forced or compulsory labor;

(D) a minimum age for the employment of children; and

(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(7) DISPUTE SETTLEMENT UNDERSTANDING.—The term ''Dispute Settlement Understanding'' means the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 101(d)(16) of the Uruguay Round Agreements Act.

(8) GATT 1994.—The term ''GATT 1994'' has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(9) ILO.—The term ''ILO'' means the International Labor Organization.

(10) IMPORT SENSITIVE AGRICULTURAL PRODUCT.—The term ''import sensitive agricultural product'' means an agricultural product—

(A) with respect to which, as a result of the Uruguay Round Agreements the rate of duty was the subject of tariff reductions by the United States and, pursuant to such Agreements, was reduced on January 1, 1995, to a rate that was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994; or

(B) which was subject to a tariff-rate quota on the date of the enactment of this Act.

(11) UNITED STATES PERSON.—The term ''United States person'' means—

(A) a United States citizen;

(B) a partnership, corporation, or other legal entity organized under the laws of the United States; and

(C) a partnership, corporation, or other legal entity that is organized under the laws of a foreign country and is controlled by entities described in subparagraph (B) or United States citizens, or both.

(12) URUGUAY ROUND AGREEMENTS.—The term ''Uruguay Round Agreements'' has the meaning given that term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

(13) WORLD TRADE ORGANIZATION; WTO.—The terms ''World Trade Organization'' and ''WTO'' mean the organization established pursuant to the WTO Agreement.

(14) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

(15) WTO MEMBER.—The term ''WTO member'' has the meaning given that term in section 2(10) of the Uruguay Round Agreements Act (19 U.S.C. 3501(10)).

DIVISION C—ANDEAN TRADE PREFERENCE ACT

TITLE XXXI—ANDEAN TRADE PREFERENCE

SEC. 3101. SHORT TITLE.

This title may be cited as the ''Andean Trade Promotion and Drug Eradication Act''.

SEC. 3102. FINDINGS.

Congress makes the following findings:

(1) Since the Andean Trade Preference Act was enacted in 1991, it has had a positive impact on United States trade with Bolivia, Colombia, Ecuador, and Peru. Two-way trade has doubled, with the United States serving as the leading source of imports and leading export market

for each of the Andean beneficiary countries. This has resulted in increased jobs and expanded export opportunities in both the United States and the Andean region.

(2) The Andean Trade Preference Act has been a key element in the United States counternarcotics strategy in the Andean region, promoting export diversification and broad-based economic development that provides sustainable economic alternatives to drug-crop production, strengthening the legitimate economies of Andean countries and creating viable alternatives to illicit trade in coca.

(3) Notwithstanding the success of the Andean Trade Preference Act, the Andean region remains threatened by political and economic instability and fragility, vulnerable to the consequences of the drug war and fierce global competition for its legitimate trade.

(4) The continuing instability in the Andean region poses a threat to the security interests of the United States and the world. This problem has been partially addressed through foreign aid, such as Plan Colombia, enacted by Congress in 2000. However, foreign aid alone is not sufficient. Enhancement of legitimate trade with the United States provides an alternative means for reviving and stabilizing the economies in the Andean region.

(5) The Andean Trade Preference Act constitutes a tangible commitment by the United States to the promotion of prosperity, stability, and democracy in the beneficiary countries.

(6) Renewal and enhancement of the Andean Trade Preference Act will bolster the confidence of domestic private enterprise and foreign investors in the economic prospects of the region, ensuring that legitimate private enterprise can be the engine of economic development and political stability in the region.

(7) Each of the Andean beneficiary countries is committed to conclude negotiation of a Free Trade Area of the Americas by the year 2005, as a means of enhancing the economic security of the region.

(8) Temporarily enhancing trade benefits for Andean beneficiary countries will promote the growth of free enterprise and economic opportunity in these countries and serve the security interests of the United States, the region, and the world.

SEC. 3103. ARTICLES ELIGIBLE FOR PREFERENTIAL TREATMENT.

(a) ELIGIBILITY OF CERTAIN ARTICLES.—Section 204 of the Andean Trade Preference Act (19 U.S.C. 3203) is amended—

(1) by striking subsection (c) and redesignating subsections (d) through (g) as subsections (c) through (f), respectively; and

(2) by amending subsection (b) to read as follows:

''(b) EXCEPTIONS AND SPECIAL RULES.—

''(1) CERTAIN ARTICLES THAT ARE NOT IMPORT-SENSITIVE.—The President may proclaim duty-free treatment under this title for any article described in subparagraph (A), (B), (C), or (D) that is the growth, product, or manufacture of an ATPDEA beneficiary country, that is imported directly into the customs territory of the United States from an ATPDEA beneficiary country, and that meets the requirements of this section, if the President determines that such article is not import-sensitive in the context of imports from ATPDEA beneficiary countries:

''(A) Footwear not designated at the time of the effective date of this title as eligible for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

''(B) Petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS.

''(C) Watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply.

''(D) Handbags, luggage, flat goods, work gloves, and leather wearing apparel that were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

''(2) EXCLUSIONS.—Subject to paragraph (3), duty-free treatment under this title may not be extended to—

''(A) textiles and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on that date;

''(B) rum and tafia classified in subheading 2208.40 of the HTS;

''(C) sugars, syrups, and sugar-containing products subject to over-quota duty rates under applicable tariff-rate quotas; or

''(D) tuna prepared or preserved in any manner in airtight containers, except as provided in paragraph (4).

''(3) APPAREL ARTICLES AND CERTAIN TEXTILE ARTICLES.—

''(A) IN GENERAL.—Apparel articles that are imported directly into the customs territory of the United States from an ATPDEA beneficiary country shall enter the United States free of duty and free of any quantitative restrictions, limitations, or consultation levels, but only if such articles are described in subparagraph (B).

''(B) COVERED ARTICLES.—The apparel articles referred to in subparagraph (A) are the following:

''(i) APPAREL ARTICLES ASSEMBLED FROM PRODUCTS OF THE UNITED STATES OR ATPDEA BENEFICIARY COUNTRIES OR PRODUCTS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—Apparel articles sewn or otherwise assembled in 1 or more ATPDEA beneficiary countries, or the United States, or both, exclusively from any one or any combination of the following:

''(I) Fabrics or fabric components wholly formed, or components knit-to-shape, in the United States, from yarns wholly formed in the United States or 1 or more ATPDEA beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States). Apparel articles shall qualify under this subclause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are knit fabrics, is carried out in the United States. Apparel articles shall qualify under this subclause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States.

''(II) Fabrics or fabric components formed or components knit-to-shape, in 1 or more ATPDEA beneficiary countries, from yarns wholly formed in 1 or more ATPDEA beneficiary countries, if such fabrics (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in 1 or more ATPDEA beneficiary countries) or components are in chief value of llama, alpaca, or vicuña.

''(III) Fabrics or yarns, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA.

''(ii) ADDITIONAL FABRICS.—At the request of any interested party, the President is authorized to proclaim additional fabrics and yarns as eligible for preferential treatment under clause (i)(III) if—

''(I) the President determines that such fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner;

''(II) the President has obtained advice regarding the proposed action from the appropriate advisory committee established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) and the United States International Trade Commission;

''(III) within 60 days after the request, the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth the action proposed to be proclaimed and the reasons for such action, and the advice obtained under subclause (II);

''(IV) a period of 60 calendar days, beginning with the first day on which the President has met the requirements of subclause (III), has expired; and

''(V) the President has consulted with such committees regarding the proposed action during the period referred to in subclause (III).

''(iii) APPAREL ARTICLES ASSEMBLED IN 1 OR MORE ATPDEA BENEFICIARY COUNTRIES FROM REGIONAL FABRICS OR REGIONAL COMPONENTS.—(I) Subject to the limitation set forth in subclause (II), apparel articles sewn or otherwise assembled in 1 or more ATPDEA beneficiary countries from fabrics or from fabric components formed or from components knit-to-shape, in 1 or more ATPDEA beneficiary countries, from yarns wholly formed in the United States or 1 or more ATPDEA beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in 1 or more ATPDEA beneficiary countries), whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in clause (i) (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in clause (i)).

''(II) The preferential treatment referred to in subclause (I) shall be extended in the 1-year period beginning October 1, 2002, and in each of the 4 succeeding 1-year periods, to imports of apparel articles in an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available.

''(III) For purposes of subclause (II), the term 'applicable percentage' means 2 percent for the 1-year period beginning October 1, 2002, increased in each of the 4 succeeding 1-year periods by equal increments, so that for the period beginning October 1, 2006, the applicable percentage does not exceed 5 percent.

''(iv) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—A handloomed, handmade, or folklore article of an ATPDEA beneficiary country identified under subparagraph (C) that is certified as such by the competent authority of such beneficiary country.

''(v) CERTAIN OTHER APPAREL ARTICLES.—

''(I) GENERAL RULE.—Any apparel article classifiable under subheading 6212.10 of the HTS, except for articles entered under clause (i), (ii), (iii), or (iv), if the article is both cut and sewn or otherwise assembled in the United States, or one or more ATPDEA beneficiary countries, or both.

''(II) LIMITATION.—During the 1-year period beginning on October 1, 2003, and during each of the 3 succeeding 1-year periods, apparel articles described in subclause (I) of a producer or an entity controlling production shall be eligible for preferential treatment under this paragraph only if the aggregate cost of fabrics (exclusive of all findings and trimmings) formed in the United States that are used in the production of all such articles of that producer or entity that are entered and eligible under this clause during the preceding 1-year period is at least 75 percent of the aggregate declared customs value of the fabric (exclusive of all findings and trimmings) contained in all such articles of that producer or entity that are entered and eligible under this clause during the preceding 1-year period.

''(III) DEVELOPMENT OF PROCEDURE TO ENSURE COMPLIANCE.—The United States Customs Service shall develop and implement methods and procedures to ensure ongoing compliance with the requirement set forth in subclause (II). If the Customs Service finds that a producer or

an entity controlling production has not satisfied such requirement in a 1-year period, then apparel articles described in subclause (I) of that producer or entity shall be ineligible for preferential treatment under this paragraph during any succeeding 1-year period until the aggregate cost of fabrics (exclusive of all findings and trimmings) formed in the United States that are used in the production of such articles of that producer or entity entered during the preceding 1-year period is at least 85 percent of the aggregate declared customs value of the fabric (exclusive of all findings and trimmings) contained in all such articles of that producer or entity that are entered and eligible under this clause during the preceding 1-year period.

''(vi) SPECIAL RULES.—

''(I) EXCEPTION FOR FINDINGS AND TRIMMINGS.—An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains findings or trimmings of foreign origin, if such findings and trimmings do not exceed 25 percent of the cost of the components of the assembled product. Examples of findings and trimmings are sewing thread, hooks and eyes, snaps, buttons, 'bow buds', decorative lace, trim, elastic strips, zippers, including zipper tapes and labels, and other similar products.

''(II) CERTAIN INTERLINING.—(aa) An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains certain interlinings of foreign origin, if the value of such interlinings (and any findings and trimmings) does not exceed 25 percent of the cost of the components of the assembled article.

''(bb) Interlinings eligible for the treatment described in division (aa) include only a chest type plate, 'hymo' piece, or 'sleeve header', of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments.

''(cc) The treatment described in this subclause shall terminate if the President makes a determination that United States manufacturers are producing such interlinings in the United States in commercial quantities.

''(III) DE MINIMIS RULE.—An article that would otherwise be ineligible for preferential treatment under this subparagraph because the article contains yarns not wholly formed in the United States or in one or more ATPDEA beneficiary countries shall not be ineligible for such treatment if the total weight of all such yarns is not more than 7 percent of the total weight of the good.

''(IV) SPECIAL ORIGIN RULE.—An article otherwise eligible for preferential treatment under clause (i) or (iii) shall not be ineligible for such treatment because the article contains nylon filament yarn (other than elastomeric yarn) that is classifiable under subheading 5402.10.30, 5402.10.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.41.10, 5402.41.90, 5402.51.00, or 5402.61.00 of the HTS from a country that is a party to an agreement with the United States establishing a free trade area, which entered into force before January 1, 1995.

''(vii) TEXTILE LUGGAGE.—Textile luggage—

''(I) assembled in an ATPDEA beneficiary country from fabric wholly formed and cut in the United States, from yarns wholly formed in the United States, that is entered under subheading 9802.00.80 of the HTS; or

''(II) assembled from fabric cut in an ATPDEA beneficiary country from fabric wholly formed in the United States from yarns wholly formed in the United States.

''(C) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—For purposes of subparagraph (B)(iv), the President shall consult with representatives of the ATPDEA beneficiary countries concerned for the purpose of identifying particular textile and apparel goods that are mutually agreed upon as being handloomed, handmade, or folklore goods of a kind described in section 2.3(a), (b), or (c) of the Annex or Appendix 3.1.B.11 of the Annex.

''(D) PENALTIES FOR TRANSSHIPMENT.—

''(i) PENALTIES FOR EXPORTERS.—If the President determines, based on sufficient evidence, that an exporter has engaged in transshipment with respect to apparel articles from an ATPDEA beneficiary country, then the President shall deny all benefits under this title to such exporter, and any successor of such exporter, for a period of 2 years.

''(ii) PENALTIES FOR COUNTRIES.—Whenever the President finds, based on sufficient evidence, that transshipment has occurred, the President shall request that the ATPDEA beneficiary country or countries through whose territory the transshipment has occurred take all necessary and appropriate actions to prevent such transshipment. If the President determines that a country is not taking such actions, the President shall reduce the quantities of apparel articles that may be imported into the United States from such country by the quantity of the transshipped articles multiplied by 3, to the extent consistent with the obligations of the United States under the WTO.

''(iii) TRANSSHIPMENT DESCRIBED.—Transshipment within the meaning of this subparagraph has occurred when preferential treatment under subparagraph (A) has been claimed for an apparel article on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this clause, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under subparagraph (A).

''(E) BILATERAL EMERGENCY ACTIONS.—

''(i) IN GENERAL.—The President may take bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any apparel article imported from an ATPDEA beneficiary country if the application of tariff treatment under subparagraph (A) to such article results in conditions that would be cause for the taking of such actions under such section 4 with respect to a like article described in the same 8-digit subheading of the HTS that is imported from Mexico.

''(ii) RULES RELATING TO BILATERAL EMERGENCY ACTION.—For purposes of applying bilateral emergency action under this subparagraph—

''(I) the requirements of paragraph (5) of section 4 of the Annex (relating to providing compensation) shall not apply;

''(II) the term 'transition period' in section 4 of the Annex shall mean the period ending December 31, 2006; and

''(III) the requirements to consult specified in section 4 of the Annex shall be treated as satisfied if the President requests consultations with the ATPDEA beneficiary country in question and the country does not agree to consult within the time period specified under section 4 of the Annex.

''(4) TUNA.—

''(A) GENERAL RULE.—Tuna that is harvested by United States vessels or ATPDEA beneficiary country vessels, that is prepared or preserved in any manner, in an ATPDEA beneficiary country, in foil or other flexible airtight containers weighing with their contents not more than 6.8 kilograms each, and that is imported directly into the customs territory of the United States from an ATPDEA beneficiary country, shall enter the United States free of duty and free of any quantitative restrictions.

''(B) DEFINITIONS.—In this paragraph—

''(i) UNITED STATES VESSEL.—A 'United States vessel' is a vessel having a certificate of documentation with a fishery endorsement under chapter 121 of title 46, United States Code.

''(ii) ATPDEA VESSEL.—An 'ATPDEA vessel' is a vessel—

''(I) which is registered or recorded in an ATPDEA beneficiary country;

''(II) which sails under the flag of an ATPDEA beneficiary country;

''(III) which is at least 75 percent owned by nationals of an ATPDEA beneficiary country or by a company having its principal place of business in an ATPDEA beneficiary country, of which the manager or managers, chairman of the board of directors or of the supervisory board, and the majority of the members of such boards are nationals of an ATPDEA beneficiary country and of which, in the case of a company, at least 50 percent of the capital is owned by an ATPDEA beneficiary country or by public bodies or nationals of an ATPDEA beneficiary country;

''(IV) of which the master and officers are nationals of an ATPDEA beneficiary country; and

''(V) of which at least 75 percent of the crew are nationals of an ATPDEA beneficiary country.

''(5) CUSTOMS PROCEDURES.—

''(A) IN GENERAL.—

''(i) REGULATIONS.—Any importer that claims preferential treatment under paragraph (1), (3), or (4) shall comply with customs procedures similar in all material respects to the requirements of Article 502(1) of the NAFTA as implemented pursuant to United States law, in accordance with regulations promulgated by the Secretary of the Treasury.

''(ii) DETERMINATION.—

''(I) IN GENERAL.—In order to qualify for the preferential treatment under paragraph (1), (3), or (4) and for a Certificate of Origin to be valid with respect to any article for which such treatment is claimed, there shall be in effect a determination by the President that each country described in subclause (II)—

''(aa) has implemented and follows, or

''(bb) is making substantial progress toward implementing and following,

procedures and requirements similar in all material respects to the relevant procedures and requirements under chapter 5 of the NAFTA.

''(II) COUNTRY DESCRIBED.—A country is described in this subclause if it is an ATPDEA beneficiary country—

''(aa) from which the article is exported; or

''(bb) in which materials used in the production of the article originate or in which the article or such materials undergo production that contributes to a claim that the article is eligible for preferential treatment under paragraph (1), (3), or (4).

''(B) CERTIFICATE OF ORIGIN.—The Certificate of Origin that otherwise would be required pursuant to the provisions of subparagraph (A) shall not be required in the case of an article imported under paragraph (1), (3), or (4) if such Certificate of Origin would not be required under Article 503 of the NAFTA (as implemented pursuant to United States law), if the article were imported from Mexico.

''(C) REPORT ON COOPERATION OF ATPDEA COUNTRIES CONCERNING CIRCUMVENTION.—The United States Commissioner of Customs shall conduct a study analyzing the extent to which each ATPDEA beneficiary country—

''(i) has cooperated fully with the United States, consistent with its domestic laws and procedures, in instances of circumvention or alleged circumvention of existing quotas on imports of textile and apparel goods, to establish necessary relevant facts in the places of import, export, and, where applicable, transshipment, including investigation of circumvention practices, exchanges of documents, correspondence, reports, and other relevant information, to the extent such information is available;

''(ii) has taken appropriate measures, consistent with its domestic laws and procedures, against exporters and importers involved in instances of false declaration concerning quantities, description, classification, or origin of textile and apparel goods; and

''(iii) has penalized the individuals and entities involved in any such circumvention, consistent with its domestic laws and procedures, and has worked closely to seek the cooperation of any third country to prevent such circumvention from taking place in that third country.

The Commissioner of Customs shall submit to the Congress, not later than October 1, 2003, a report on the study conducted under this subparagraph.

''(6) DEFINITIONS.—In this subsection—

''(A) ANNEX.—The term 'the Annex' means Annex 300-B of the NAFTA.

''(B) ATPDEA BENEFICIARY COUNTRY.—The term 'ATPDEA beneficiary country' means any 'beneficiary country', as defined in section 203(a)(1) of this title, which the President designates as an ATPDEA beneficiary country, taking into account the criteria contained in subsections (c) and (d) of section 203 and other appropriate criteria, including the following:

''(i) Whether the beneficiary country has demonstrated a commitment to—

''(I) undertake its obligations under the WTO, including those agreements listed in section 101(d) of the Uruguay Round Agreements Act, on or ahead of schedule; and

''(II) participate in negotiations toward the completion of the FTAA or another free trade agreement.

''(ii) The extent to which the country provides protection of intellectual property rights consistent with or greater than the protection afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights described in section 101(d)(15) of the Uruguay Round Agreements Act.

''(iii) The extent to which the country provides internationally recognized worker rights, including—

''(I) the right of association;

''(II) the right to organize and bargain collectively;

''(III) a prohibition on the use of any form of forced or compulsory labor;

''(IV) a minimum age for the employment of children; and

''(V) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

''(iv) Whether the country has implemented its commitments to eliminate the worst forms of child labor, as defined in section 507(6) of the Trade Act of 1974.

''(v) The extent to which the country has met the counternarcotics certification criteria set forth in section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j) for eligibility for United States assistance.

''(vi) The extent to which the country has taken steps to become a party to and implements the Inter-American Convention Against Corruption.

''(vii) The extent to which the country—

''(I) applies transparent, nondiscriminatory, and competitive procedures in government procurement equivalent to those contained in the Agreement on Government Procurement described in section 101(d)(17) of the Uruguay Round Agreements Act; and

''(II) contributes to efforts in international fora to develop and implement international rules in transparency in government procurement.

''(viii) The extent to which the country has taken steps to support the efforts of the United States to combat terrorism.

''(C) NAFTA.—The term 'NAFTA' means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

''(D) WTO.—The term 'WTO' has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

''(E) ATPDEA.—The term 'ATPDEA' means the Andean Trade Promotion and Drug Eradication Act.

''(F) FTAA.—The term 'FTAA' means the Free Trade Area for the Americas.''.

(b) DETERMINATION REGARDING RETENTION OF DESIGNATION.—Section 203(e)(1) of the Andean Trade Preference Act (19 U.S.C. 3202(e)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting ''(A)'' after ''(1)''; and

(3) by adding at the end the following:

''(B) The President may, after the requirements of paragraph (2) have been met—

''(i) withdraw or suspend the designation of any country as an ATPDEA beneficiary country, or

''(ii) withdraw, suspend, or limit the application of preferential treatment under section 204(b)(1), (3), or (4) to any article of any country,

if, after such designation, the President determines that, as a result of changed circumstances, the performance of such country is not satisfactory under the criteria set forth in section 204(b)(6)(B).''.

(c) CONFORMING AMENDMENTS.—(1) Section 202 of the Andean Trade Preference Act (19 U.S.C. 3201) is amended by inserting ''(or other preferential treatment)'' after ''treatment''.

(2) Section 204(a) of the Andean Trade Preference Act (19 U.S.C. 3203(a)) is amended—

(A) in paragraph (1)—

(i) by inserting ''(or otherwise provided for)'' after ''eligibility''; and

(ii) by inserting ''(or preferential treatment)'' after ''duty-free treatment''; and

(B) in paragraph (2), by striking ''subsection (a)'' and inserting ''paragraph (1)''.

(d) PETITIONS FOR REVIEW.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall promulgate regulations regarding the review of eligibility of articles and countries under the Andean Trade Preference Act, consistent with section 203(e) of such Act, as amended by this title.

(2) CONTENT OF REGULATIONS.—The regulations shall be similar to the regulations regarding eligibility under the generalized system of preferences under title V of the Trade Act of 1974 with respect to the timetable for reviews and content, and shall include procedures for requesting withdrawal, suspension, or limitations of preferential duty treatment under the Andean Trade Preference Act, conducting reviews of such requests, and implementing the results of the reviews.

(e) REPORTING REQUIREMENTS.—Section 203(f) of the Andean Trade Preference Act (19 U.S.C. 3202(f)) is amended to read as follows:

''(f) REPORTING REQUIREMENTS.—

''(1) IN GENERAL.—Not later than April 30, 2003, and every 2 years thereafter during the period this title is in effect, the United States Trade Representative shall submit to the Congress a report regarding the operation of this title, including—

''(A) with respect to subsections (c) and (d), the results of a general review of beneficiary countries based on the considerations described in such subsections; and

''(B) the performance of each beneficiary country or ATPEA beneficiary country, as the case may be, under the criteria set forth in section 204(b)(6)(B).

''(2) PUBLIC COMMENT.—Before submitting the report described in paragraph (1), the United States Trade Representative shall publish a notice in the Federal Register requesting public comments on whether beneficiary countries are meeting the criteria listed in section 204(b)(6)(B).''.

SEC. 3104. TERMINATION.

(a) IN GENERAL.—Section 208 of the Andean Trade Preference Act (19 U.S.C. 3206) is amended to read as follows:

''SEC. 208. TERMINATION OF PREFERENTIAL TREATMENT.

''No duty-free treatment or other preferential treatment extended to beneficiary countries under this title shall remain in effect after December 31, 2006.''.

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (3), the entry—

(A) of any article to which duty-free treatment (or preferential treatment) under the Andean Trade Preference Act (19 U.S.C. 3201 et seq.) would have applied if the entry had been made on December 4, 2001, and

(B) that was made after December 4, 2001, and before the date of the enactment of this Act,

shall be liquidated or reliquidated as if such duty-free treatment (or preferential treatment) applied, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(2) ENTRY.—As used in this subsection, the term ''entry'' includes a withdrawal from warehouse for consumption.

(3) REQUESTS.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

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

SEC. 3105. REPORT ON FREE TRADE AGREEMENT WITH ISRAEL.

(a) REPORT TO CONGRESS.—The United States Trade Representative shall review the implementation of the United States-Israel Free Trade Agreement and shall submit to the Speaker of the House of Representatives, the President of the Senate, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate a report on the results of such review.

(b) CONTENTS OF REPORT.—The report under subsection (a) shall include the following:

(1) A review of the terms of the United States-Israel Free Trade Agreement, particularly the terms with respect to market access commitments.

(2) A review of subsequent agreements which may have been reached between the parties to the Agreement and of unilateral concessions of additional benefits received by each party from the other.

(3) A review of any current negotiations between the parties to the Agreement with respect to implementation of the Agreement and other pertinent matters.

(4) An assessment of the degree of fulfillment of obligations under the Agreement by the United States and Israel.

(5) An assessment of improvements in structuring future trade agreements that should be considered based on the experience of the United States under the Agreement.

(c) TIMING OF REPORT.—The United States Trade Representative shall submit the report under subsection (a) not later than 6 months after the date of the enactment of this Act.

(d) DEFINITION.—In this section, the terms ''United States-Israel Free Trade Agreement'' and ''Agreement'' means the Agreement on the Establishment of a Free Trade Area between the Government of the United States of America and the Government of Israel entered into on April 22, 1985.

SEC. 3106. MODIFICATION OF DUTY TREATMENT FOR TUNA.

Subheading 1604.14.20 of the Harmonized Tariff Schedule of the United States is amended—

(1) in the article description, by striking ''20 percent of the United States pack of canned tuna'' and inserting ''4.8 percent of apparent United States consumption of tuna in airtight containers''; and

(2) by redesignating such subheading as subheading 1604.14.22.

SEC. 3107. TRADE BENEFITS UNDER THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

(a) IN GENERAL.—Section 213(b)(2)(A) of the Carribean Basin Economic Recovery Act (19 U.S.C. 2703(b)(2)(A)) is amended as follows:

(1) Clause (i) is amended—

(A) by striking the matter preceding subclause (I) and inserting the following:

''(i) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States, (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed and cut in the United States) that are—''; and

(B) by adding at the end the following:

''Apparel articles entered on or after September 1, 2002, shall qualify under the preceding sentence only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are knit fabrics, is carried out in the United States. Apparel articles entered on or after September 1, 2002, shall qualify under the first sentence of this clause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States.''.

(2) Clause (ii) is amended to read as follows:

''(ii) OTHER APPAREL ARTICLES ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more CBTPA beneficiary countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed in the United States). Apparel articles entered on or after September 1, 2002, shall qualify under the preceding sentence only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are knit fabrics, is carried out in the United States. Apparel articles entered on or after September 1, 2002, shall qualify under the first sentence of this clause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States.''.

(3) Clause (iii)(II) is amended to read as follows:

''(II) The amount referred to in subclause (I) is as follows:

''(aa) 500,000,000 square meter equivalents during the 1-year period beginning on October 1, 2002.

''(bb) 850,000,000 square meter equivalents during the 1-year period beginning on October 1, 2003.

''(cc) 970,000,000 square meter equivalents in each succeeding 1-year period through September 30, 2008.''.

(4) Clause (iii)(IV) is amended to read as follows:

''(IV) The amount referred to in subclause (III) is as follows:

''(aa) 4,872,000 dozen during the 1-year period beginning on October 1, 2001.

''(bb) 9,000,000 dozen during the 1-year period beginning on October 1, 2002.

''(cc) 10,000,000 dozen during the 1-year period beginning on October 1, 2003.

''(dd) 12,000,000 dozen in each succeeding 1-year period through September 30, 2008.''.

(5) Clause (iv) is amended to read as follows:

''(iv) CERTAIN OTHER APPAREL ARTICLES.—

''(I) GENERAL RULE.—Subject to subclause (II), any apparel article classifiable under subheading 6212.10 of the HTS, except for articles entered under clause (i), (ii), (iii), (v), or (vi), if the article is both cut and sewn or otherwise assembled in the United States, or one or more CBTPA beneficiary countries, or both.

''(II) LIMITATION.—During the 1-year period beginning on October 1, 2001, and during each of the 6 succeeding 1-year periods, apparel articles described in subclause (I) of a producer or an entity controlling production shall be eligible for preferential treatment under subparagraph (B) only if the aggregate cost of fabrics (exclusive of all findings and trimmings) formed in the United States that are used in the production of all such articles of that producer or entity that are entered and eligible under this clause during the preceding 1-year period is at least 75 percent of the aggregate declared customs value of the fabric (exclusive of all findings and trimmings) contained in all such articles of that producer or entity that are entered and eligible under this clause during the preceding 1-year period.

''(III) DEVELOPMENT OF PROCEDURE TO ENSURE COMPLIANCE.—The United States Customs Service shall develop and implement methods and procedures to ensure ongoing compliance with the requirement set forth in subclause (II). If the Customs Service finds that a producer or an entity controlling production has not satisfied such requirement in a 1-year period, then apparel articles described in subclause (I) of that producer or entity shall be ineligible for preferential treatment under subparagraph (B) during any succeeding 1-year period until the aggregate cost of fabrics (exclusive of all findings and trimmings) formed in the United States that are used in the production of such articles of that producer or entity entered during the preceding 1-year period is at least 85 percent of the aggregate declared customs value of the fabric (exclusive of all findings and trimmings) contained in all such articles of that producer or entity that are entered and eligible under this clause during the preceding 1-year period.''.

(6) Clause (vii) is amended by adding at the end the following new subclause:

''(V) THREAD.—An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the thread used to assemble the article is dyed, printed, or finished in one or more CBTPA beneficiary countries.''.

(7) Section 213(b)(2)(A) of such Act is further amended by adding at the end the following new clause:

''(ix) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES FROM UNITED STATES AND CBTPA BENEFICIARY COUNTRY COMPONENTS.—Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries with thread formed in the United States from components cut in the United States and in one or more CBTPA beneficiary countries from fabric wholly formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States and one or more CBTPA beneficiary countries from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS). Apparel articles shall qualify under this clause only if they meet the requirements of clause (i) or (ii) (as the case may be) with respect to dyeing, printing, and finishing of knit and woven fabrics from which the articles are assembled.''.

(b) EFFECTIVE DATE OF CERTAIN PROVISIONS.—The amendment made by subsection (a)(3) shall take effect on October 1, 2002.

SEC. 3108. TRADE BENEFITS UNDER THE AFRICAN GROWTH AND OPPORTUNITY ACT.

(a) IN GENERAL.—Section 112(b) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)) is amended as follows:

(1) Paragraph (1) is amended by amending the matter preceding subparagraph (A) to read as follows:

''(1) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States, (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed and cut in the United States) that are—''.

(2) Paragraph (2) is amended to read as follows:

''(2) OTHER APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed in the United States).''.

(3) Paragraph (3) is amended—

(A) by amending the matter preceding subparagraph (A) to read as follows:

''(3) APPAREL ARTICLES FROM REGIONAL FABRIC OR YARNS.—Apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or more beneficiary sub-Saharan African countries from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries (including fabrics not formed from yarns, if such fabrics are classified under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed in one or more beneficiary sub-Saharan African countries), or from components knit-to-shape in one or more beneficiary sub-Saharan African countries from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries, or apparel articles wholly formed on seamless knitting machines in a beneficiary sub-Saharan African country from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries, subject to the following:''; and

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

''(B) SPECIAL RULE FOR LESSER DEVELOPED COUNTRIES.—

''(i) IN GENERAL.—Subject to subparagraph (A), preferential treatment under this paragraph shall be extended through September 30, 2004, for apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more lesser developed beneficiary sub-Saharan African countries regardless of the country of origin of the fabric or the yarn used to make such articles.

''(ii) LESSER DEVELOPED BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY.—For purposes of clause (i), the term 'lesser developed beneficiary sub-Saharan African country' means—

''(I) a beneficiary sub-Saharan African country that had a per capita gross national product of less than $1,500 in 1998, as measured by the International Bank for Reconstruction and Development;

''(II) Botswana; and

''(III) Namibia.''.

(4) Paragraph (4)(B) is amended by striking ''18.5'' and inserting ''21.5''.

(5) Section 112(b) of such Act is further amended by adding at the end the following new paragraph:

''(7) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES FROM UNITED STATES AND BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY COMPONENTS.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from components cut in the United States and one or more beneficiary sub-Saharan African countries from fabric wholly formed in the

United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States and one or more beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States).''.

(b) INCREASE IN LIMITATION ON CERTAIN BENEFITS.—The applicable percentage under clause (ii) of section 112(b)(3)(A) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)(3)(A)) shall be increased—

(1) by 2.17 percent for the 1-year period beginning on October 1, 2002, and

(2) by equal increments in each succeeding 1-year period provided for in such clause, so that for the 1-year period beginning October 1, 2007, the applicable percentage is increased by 3.5 percent,

except that such increase shall not apply with respect to articles eligible under subparagraph (B) of section 112(b)(3) of that Act.

DIVISION D—EXTENSION OF CERTAIN PREFERENTIAL TRADE TREATMENT

TITLE XLI—EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES

SEC. 4101. EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES.

(a) EXTENSION OF DUTY-FREE TREATMENT UNDER SYSTEM.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465(a)) is amended by striking ''September 30, 2001'' and inserting ''December 31, 2006''.

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (2), the entry—

(A) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on September 30, 2001,

(B) that was made after September 30, 2001, and before the date of the enactment of this Act, and

(C) to which duty-free treatment under title V of that Act did not apply,

shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(2) REQUESTS.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

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

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

SEC. 4102. AMENDMENTS TO GENERALIZED SYSTEM OF PREFERENCES.

(a) ELIGIBILITY FOR GENERALIZED SYSTEM OF PREFERENCES.—Section 502(b)(2)(F) of the Trade Act of 1974 (19 U.S.C. 2462(b)(2)(F)) is amended by striking the period at the end and inserting ''or such country has not taken steps to support the efforts of the United States to combat terrorism.''.

(b) DEFINITION OF INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—Section 507(4) of the Trade Act of 1974 (19 U.S.C. 2467(4)) is amended by amending subparagraph (D) to read as follows:

''(D) a minimum age for the employment of children, and a prohibition on the worst forms of child labor, as defined in paragraph (6); and''.

DIVISION E—MISCELLANEOUS PROVISIONS

TITLE L—MISCELLANEOUS TRADE BENEFITS

Subtitle A—Wool Provisions

SEC. 5101. WOOL PROVISIONS.

(a) SHORT TITLE.—This section may be cited as the ''Wool Manufacturer Payment Clarification and Technical Corrections Act''.

(b) CLARIFICATION OF TEMPORARY DUTY SUSPENSION.—Heading 9902.51.13 of the Harmonized Tariff Schedule of the United States is amended by inserting ''average'' before ''diameters''.

(c) PAYMENTS TO MANUFACTURERS OF CERTAIN WOOL PRODUCTS.—

(1) PAYMENTS.—Section 505 of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 303) is amended as follows:

(A) Subsection (a) is amended—

(i) by striking ''In each of the calendar years'' and inserting ''For each of the calendar years''; and

(ii) by striking ''for a refund of duties'' and all that follows through the end of the subsection and inserting ''for a payment equal to an amount determined pursuant to subsection (d)(1).''.

(B) Subsection (b) is amended to read as follows:

''(b) WOOL YARN.—

''(1) IMPORTING MANUFACTURERS.—For each of the calendar years 2000, 2001, and 2002, a manufacturer of worsted wool fabrics who imports wool yarn of the kind described in heading 5107.10 or 9902.51.13 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(2).

''(2) NONIMPORTING MANUFACTURERS.—For each of the calendar years 2001 and 2002, any other manufacturer of worsted wool fabrics of imported wool yarn of the kind described in heading 5107.10 or 9902.51.13 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(2).''.

(C) Subsection (c) is amended to read as follows:

''(c) WOOL FIBER AND WOOL TOP.—

''(1) IMPORTING MANUFACTURERS.—For each of the calendar years 2000, 2001, and 2002, a manufacturer of wool yarn or wool fabric who imports wool fiber or wool top of the kind described in heading 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5103.10, 5103.20, 5104.00, 5105.21, 5105.29, or 9902.51.14 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(3).

''(2) NONIMPORTING MANUFACTURERS.—For each of the calendar years 2001 and 2002, any other manufacturer of wool yarn or wool fabric of imported wool fiber or wool top of the kind described in heading 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5103.10, 5103.20, 5104.00, 5105.21, 5105.29, or 9902.51.14 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(3).''.

(D) Section 505 is further amended by striking subsection (d) and inserting the following new subsections:

''(d) AMOUNT OF ANNUAL PAYMENTS TO MANUFACTURERS.—

''(1) MANUFACTURERS OF MEN'S SUITS, ETC. OF IMPORTED WORSTED WOOL FABRICS.—

''(A) ELIGIBLE TO RECEIVE MORE THAN $5,000.—Each annual payment to manufacturers described in subsection (a) who, according to the records of the Customs Service as of September 11, 2001, are eligible to receive more than $5,000 for each of the calendar years 2000, 2001, and 2002, shall be in an amount equal to one-third of the amount determined by multiplying $30,124,000 by a fraction—

''(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the manufacturers described in subsection (a) who, according to the records of the Customs Service as of September 11, 2001, are eligible to receive more than $5,000 for each such calendar year under this section as it was in effect on that date.

''(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term 'eligible wool products' refers to imported worsted wool fabrics described in subsection (a).

''(C) OTHERS.—All manufacturers described in subsection (a), other than the manufacturers to which subparagraph (A) applies, shall each receive an annual payment in an amount equal to one-third of the amount determined by dividing $1,665,000 by the number of all such other manufacturers.

''(2) MANUFACTURERS OF WORSTED WOOL FABRICS OF IMPORTED WOOL YARN.—

''(A) IMPORTING MANUFACTURERS.—Each annual payment to an importing manufacturer described in subsection (b)(1) shall be in an amount equal to one-third of the amount determined by multiplying $2,202,000 by a fraction—

''(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the importing manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the importing manufacturers described in subsection (b)(1).

''(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term 'eligible wool products' refers to imported wool yarn described in subsection (b)(1).

''(C) NONIMPORTING MANUFACTURERS.—Each annual payment to a nonimporting manufacturer described in subsection (b)(2) shall be in an amount equal to one-half of the amount determined by multiplying $141,000 by a fraction—

''(i) the numerator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by the nonimporting manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the purchases of imported eligible wool products in calendar year 1999 by all the nonimporting manufacturers described in subsection (b)(2).

''(3) MANUFACTURERS OF WOOL YARN OR WOOL FABRIC OF IMPORTED WOOL FIBER OR WOOL TOP.—

''(A) IMPORTING MANUFACTURERS.—Each annual payment to an importing manufacturer described in subsection (c)(1) shall be in an amount equal to one-third of the amount determined by multiplying $1,522,000 by a fraction—

''(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the importing manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the importing manufacturers described in subsection (c)(1).

''(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term 'eligible wool products' refers to imported wool fiber or wool top described in subsection (c)(1).

''(C) NONIMPORTING MANUFACTURERS.—Each annual payment to a nonimporting manufacturer described in subsection (c)(2) shall be in an amount equal to one-half of the amount determined by multiplying $597,000 by a fraction—

''(i) the numerator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by the nonimporting manufacturer making the claim, and

''(ii) the denominator of which is the amount attributable to the purchases of imported eligible

wool products in calendar year 1999 by all the nonimporting manufacturers described in subsection (c)(2).

''(4) LETTERS OF INTENT.—Except for the nonimporting manufacturers described in subsections (b)(2) and (c)(2) who may make claims under this section by virtue of the enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, only manufacturers who, according to the records of the Customs Service, filed with the Customs Service before September 11, 2001, letters of intent to establish eligibility to be claimants are eligible to make a claim for a payment under this section.

''(5) AMOUNT ATTRIBUTABLE TO PURCHASES BY NONIMPORTING MANUFACTURERS.—

''(A) AMOUNT ATTRIBUTABLE.—For purposes of paragraphs (2)(C) and (3)(C), the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by a nonimporting manufacturer shall be the amount the nonimporting manufacturer paid for eligible wool products in calendar year 1999, as evidenced by invoices. The nonimporting manufacturer shall make such calculation and submit the resulting amount to the Customs Service, within 45 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, in a signed affidavit that attests that the information contained therein is true and accurate to the best of the affiant's belief and knowledge. The nonimporting manufacturer shall retain the records upon which the calculation is based for a period of five years beginning on the date the affidavit is submitted to the Customs Service.

''(B) ELIGIBLE WOOL PRODUCT.—For purposes of subparagraph (A)—

''(i) the eligible wool product for nonimporting manufacturers of worsted wool fabrics is wool yarn of the kind described in heading 5107.10 or 9902.51.13 of the Harmonized Tariff Schedule of the United States purchased in calendar year 1999; and

''(ii) the eligible wool products for nonimporting manufacturers of wool yarn or wool fabric are wool fiber or wool top of the kind described in heading 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5103.10, 5103.20, 5104.00, 5105.21, 5105.29, or 9902.51.14 of such Schedule purchased in calendar year 1999.

''(6) AMOUNT ATTRIBUTABLE TO DUTIES PAID.—For purposes of paragraphs (1), (2)(A), and (3)(A), the amount attributable to the duties paid by a manufacturer shall be the amount shown on the records of the Customs Service as of September 11, 2001, under this section as then in effect.

''(7) SCHEDULE OF PAYMENTS; REALLOCATIONS.—

''(A) SCHEDULE.—Of the payments described in paragraphs (1), (2)(A), and (3)(A), the Customs Service shall make the first and second installments on or before the date that is 45 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, and the third installment on or before April 15, 2003. Of the payments described in paragraphs (2)(C) and (3)(C), the Customs Service shall make the first installment on or before the date that is 120 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, and the second installment on or before April 15, 2003.

''(B) REALLOCATIONS.—In the event that a manufacturer that would have received payment under subparagraph (A) or (C) of paragraph (1), (2), or (3) ceases to be qualified for such payment as such a manufacturer, the amounts otherwise payable to the remaining manufacturers under such subparagraph shall be increased on a pro rata basis by the amount of the payment such manufacturer would have received.

''(8) REFERENCE.—For purposes of paragraphs (1)(A) and (6), the 'records of the Customs Service as of September 11, 2001' are the records of the Wool Duty Unit of the Customs Service on September 11, 2001, as adjusted by the Customs Service to the extent necessary to carry out this section. The amounts so adjusted are not subject to administrative or judicial review.

''(e) AFFIDAVITS BY MANUFACTURERS.—

''(1) AFFIDAVIT REQUIRED.—A manufacturer may not receive a payment under this section for calendar year 2000, 2001, or 2002, as the case may be, unless that manufacturer has submitted to the Customs Service for that calendar year a signed affidavit that attests that, during that calendar year, the affiant was a manufacturer in the United States described in subsection (a), (b), or (c).

''(2) TIMING.—An affidavit under paragraph (1) shall be valid—

''(A) in the case of a manufacturer described in paragraph (1), (2)(A), or (3)(A) of subsection (d) filing a claim for a payment for calendar year 2000 or 2001, or both, only if the affidavit is postmarked no later than 15 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act; and

''(B) in the case of a claim for a payment for calendar year 2002, only if the affidavit is postmarked no later than March 1, 2003.

''(f) OFFSETS.—Notwithstanding any other provision of this section, any amount otherwise payable under subsection (d) to a manufacturer in calendar year 2001 and, where applicable, in calendar years 2002 and 2003, shall be reduced by the amount of any payment received by that manufacturer under this section before the enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act.

''(g) DEFINITION.—For purposes of this section, the manufacturer is the party that owns—

''(1) imported worsted wool fabric, of the kind described in heading 9902.51.11 or 9902.51.12 of the Harmonized Tariff Schedule of the United States, at the time the fabric is cut and sewn in the United States into men's or boys' suits, suit-type jackets, or trousers;

''(2) imported wool yarn, of the kind described in heading 5107.01 or 9902.51.13 of such Schedule, at the time the yarn is processed in the United States into worsted wool fabric; or

''(3) imported wool fiber or wool top, of the kind described in heading 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5103.10, 5103.20, 5104.00, 5105.21, 5105.29, or 9902.51.14 of such Schedule, at the time the wool fiber or wool top is processed in the United States into wool yarn.''.

(2) FUNDING.—There is authorized to be appropriated and is hereby appropriated, out of amounts in the General Fund of the Treasury not otherwise appropriated, $36,251,000 to carry out the amendments made by paragraph (1).

SEC. 5102. DUTY SUSPENSION ON WOOL.

(a) EXTENSION OF TEMPORARY DUTY REDUCTIONS.—

(1) HEADING 9902.51.11.— Heading 9902.51.11 of the Harmonized Tariff Schedule of the United States is amended by striking ''2003'' and inserting ''2005''.

(2) HEADING 9902.51.12.— Heading 9902.51.12 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking ''2003'' and inserting ''2005''; and

(B) by striking ''6%'' and inserting ''Free''.

(3) HEADING 9902.51.13.—Heading 9902.51.13 of the Harmonized Tariff Schedule of the United States is amended by striking ''2003'' and inserting ''2005''.

(4) HEADING 9902.51.14.—Heading 9902.51.14 of the Harmonized Tariff Schedule of the United States is amended by striking ''2003'' and inserting ''2005''.

(b) LIMITATION ON QUANTITY OF IMPORTS.—

(1) NOTE 15.—U.S. Note 15 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking ''from January 1 to December 31 of each year, inclusive''; and

(B) by striking '', or such other'' and inserting the following: ''in calendar year 2001, 3,500,000 square meter equivalents in calendar year 2002, and 4,500,000 square meter equivalents in calendar year 2003 and each calendar year thereafter, or such greater''.

(2) NOTE 16.—U.S. Note 16 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking ''from January 1 to December 31 of each year, inclusive''; and

(B) by striking '', or such other'' and inserting the following: ''in calendar year 2001, 2,500,000 square meter equivalents in calendar year 2002, and 3,500,000 square meter equivalents in calendar year 2003 and each calendar year thereafter, or such greater''.

(c) EXTENSION OF DUTY REFUNDS AND WOOL RESEARCH TRUST FUND.—

(1) IN GENERAL.—The United States Customs Service shall pay each manufacturer that receives a payment under section 505 of the Trade and Development Act of 2000 (Public Law 106–200) for calendar year 2002, and that provides an affidavit that it remains a manufacturer in the United States as of January 1 of the year of the payment, 2 additional payments, each payment equal to the payment received for calendar year 2002 as follows:

(A) The first payment to be made after January 1, 2004, but on or before April 15, 2004.

(B) The second payment to be made after January 1, 2005, but on or before April 15, 2005.

(2) CONFORMING AMENDMENT.—Section 506(f) of the Trade and Development Act of 2000 (Public Law 106–200) is amended by striking ''2004'' and inserting ''2006''.

(3) AUTHORIZATION.—There is authorized to be appropriated and is hereby appropriated out of amounts in the general fund of the Treasury not otherwise appropriated such sums as are necessary to carry out the provisions of this subsection.

(d) EFFECTIVE DATE.—The amendment made by subsection (a)(2)(B) applies to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002.

Subtitle B—Other Provisions

SEC. 5201. FUND FOR WTO DISPUTE SETTLEMENTS.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury a fund for the payment of settlements under this section.

(b) AUTHORITY OF USTR TO PAY SETTLEMENTS.—Amounts in the fund established under subsection (a) shall be available, as provided in appropriations Acts, only for the payment by the United States Trade Representative of the amount of the total or partial settlement of any dispute pursuant to proceedings under the auspices of the World Trade Organization, if—

(1) in the case of a total or partial settlement in an amount of not more than $10,000,000, the Trade Representative certifies to the Secretary of the Treasury that the settlement is in the best interests of the United States; and

(2) in the case of a total or partial settlement in an amount of more than $10,000,000, the Trade Representative certifies to the Congress that the settlement is in the best interests of the United States.

(c) APPROPRIATIONS.—There are authorized to be appropriated to the fund established under subsection (a)—

(1) $50,000,000; and

(2) amounts equivalent to amounts recovered by the United States pursuant to the settlement of disputes pursuant to proceedings under the auspices of the World Trade Organization.

Amounts appropriated to the fund are authorized to remain available until expended.

(d) MANAGEMENT OF FUND.—Sections 9601 and 9602(b) of the Internal Revenue Code of 1986 shall apply to the fund established under subsection (a) to the same extent as such provisions apply to trust funds established under subchapter A of chapter 98 of such Code.

SEC. 5202. CERTAIN STEAM OR OTHER VAPOR GENERATING BOILERS USED IN NUCLEAR FACILITIES.

(a) IN GENERAL.—Subheading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking ''4.9%'' and inserting ''Free''; and

(2) by striking ''12/31/2003'' and inserting ''12/31/2006''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002.

(2) RETROACTIVE APPLICATION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (4), the entry of any article—

(A) that was made on or after January 1, 2002, and

(B) to which duty-free treatment would have applied if the amendment made by this section had been in effect on the date of such entry,

shall be liquidated or reliquidated as if such duty-free treatment applied, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(3) ENTRY.—As used in this subsection, the term ''entry'' includes a withdrawal from warehouse for consumption.

(4) REQUESTS.—Liquidation or reliquidation may be made under paragraph (2) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

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

SEC. 5203. SUGAR TARIFF-RATE QUOTA CIRCUMVENTION.

(a) IN GENERAL.—Chapter 17 of the Harmonized Tariff Schedule of the United States is amended in the superior text to subheading 1702.90.05 by striking ''Containing'' and all that follows through ''solids:'' and inserting the following:

''Containing soluble non-sugar solids (excluding any foreign substances, including but not limited to molasses, that may have been added to or developed in the product) equal to 6 percent or less by weight of the total soluble solids:''.

(b) MONITORING FOR CIRCUMVENTION.—The Secretary of Agriculture and the Commissioner of Customs shall continuously monitor imports of sugar and sugar-containing products provided for in chapters 17, 18, 19, and 21 of the Harmonized Tariff Schedule of the United States, other than molasses imported for use in animal feed or the production of rum and articles prepared for marketing to the ultimate consumer in the form and package in which imported, for indications that an article is being used to circumvent a tariff-rate quota provided for in those chapters. The Secretary and Commissioner shall specifically examine imports of articles provided for in subheading 1703.10.30 of the Harmonized Tariff Schedule of the United States.

(c) REPORTS AND RECOMMENDATIONS.—The Secretary and the Commissioner shall report their findings to Congress and the President not later than 180 days after the date of enactment of this Act and every 6 months thereafter. The reports shall include data and a description of developments and trends in the composition of trade of articles provided for in the chapters of the Harmonized Tariff Schedule of the United States identified in subsection (b) and any indications of circumvention that may exist. The reports shall also include recommendations for ending such circumvention, including recommendations for legislation.

And the Senate agree to the same.

From the Committee on Ways and Means, for consideration of the House amendment and the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS,
PHILLIP M. CRANE,

From the Committee on Education and the Workforce, for consideration of the Senate amendment, and modifications committed to conference:

JOHN BOEHNER,
SAM JOHNSON,

From the Committee on Energy and Commerce, for consideration of sec. 603 of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
MICHAEL BILIRAKIS,

From the Committee on Government Reform, for consideration of sec. 344 of the House amendment, and sec. 1143 of the Senate amendment, and modifications committed to conference:

DAN BURTON,
BOB BARR,

From the Committee on the Judiciary, for consideration of secs. 111, 601, and 701 of the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER,
HOWARD COBLE,

From the Committee on the Rules, for consideration of secs. 2103, 2105, and 2106 of the House amendment and secs. 2103, 2105, and 2106 of the Senate amendment, and modifications committed to conference:

DAVID DREIER,
JOHN LINDER,
Managers on the Part of the House.

MAX BAUCUS,
JOHN BREAUX,
CHUCK GRASSLEY,
ORRIN HATCH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3009), to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

DIVISION A—TRADE ADJUSTMENT ASSISTANCE

SEC. 101—SHORT TITLE

Present law

No provision.

House amendment

Section 101 of H.R. 3009 provides that Division A of the Act may be cited as the ''Trade Adjustment Assistance Reform Act of 2002.''

Senate amendment

Section 101 of H.R. 3009 provides that Division A of the Act may be cited as the ''Trade Adjustment Assistance Reform Act of 2002.''

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

TITLE I—TRADE ADJUSTMENT ASSISTANCE PROGRAM

Subtitle A—Trade Adjustment Assistance for Workers

SEC. 111—REAUTHORIZATION OF THE TRADE ADJUSTMENT ASSISTANCE PROGRAM

Present law

Current section 245 authorizes to be appropriated to the Department of Labor such sums as may be necessary to carry out the purposes of the TAA and NAFTA–TAA for workers programs for the period October 1, 1998 through September 30, 2001. Current section 285 provides for termination of all Trade Adjustment Assistance programs on September 30, 2001, but provides that workers, and firms eligible to receive benefits on or before that date shall continue to be eligible to receive such benefits as though the programs were in effect.

House amendment

Senate amendment

Section III of the Senate bill creates a new section 248 of the Trade Act of 1974 which authorizes to be appropriated to the Department of Labor such sums as may be necessary to carry out the purposes of the Trade Adjustment Assistance for workers program for the period October 1, 2001, through September 30, 2007. Section 701 of the Senate bill amends current section 285 to provide for termination of all Trade Adjustment Assistance programs on September 30, 2007, but provides that workers, and firms, communities, farmers, and fishermen eligible to receive benefits on or before that date shall continue to be eligible to receive such benefits as though the programs were in effect.

Conference agreement

Conferees agree to extend the authorization of the Trade Adjustment Assistance programs through September 30, 2007, and to consolidate the NAFTA–TAA program with the regular TAA program.

SEC. 112—FILING OF PETITIONS AND PROVISION OF RAPID RESPONSE ASSISTANCE; EXPEDITED REVIEW OF PETITIONS BY SECRETARY OF LABOR

Present law

Current sections 221 and 250 set forth requirements concerning who may file a petition for certification of eligibility to apply for TAA and NAFTA–TAA assistance, respectively. Under both programs, petitions may be filed by a group of workers or by their certified or recognized union or other duly authorized representative. TAA petitions are filed with the Secretary of Labor. NAFTA–TAA petitions are filed with the Governor of the relevant State and forwarded by him to the Secretary of Labor. Under section 223, the Secretary of Labor must rule on eligibility within 60 days after a TAA petition is filed. Under section 250, the Governor must make a preliminary eligibility determination within 10 days after a NAFTA–TAA petition is filed, and the Secretary of Labor must make a final eligibility determination within the next 30 days. Section 221 also sets forth notice and hearing obligations of the Secretary of Labor upon receipt of a TAA petition. Section 250 provides that, in the event of preliminary certification of eligibility to apply for NAFTA–TAA benefits, the Governor immediately provide the affected workers with certain rapid response services.

House amendment

The House Amendment provided for a shortened period for the Secretary of Labor to consider petitions from 60 days to 40 days

and for other rapid response assistance to workers.

Senate amendment

Section 111 of the Senate bill creates a new section 231 of the Trade Act of 1974, which consolidates the TAA and NAFTA-TAA programs by establishing a single program with a single set of group eligibility criteria and a single set of procedures and standards for filing and reviewing petitions, certifying eligibility, and terminating certifications of eligibility.

Section 231 expands the list of entities that may file a petition for group certification of eligibility to include employers, one-stop operators or one-stop partners, State employment agencies, and any entity to which notice of a plant closing or mass layoff must be given under section 3 of the Worker Adjustment and Retaining Notification Act. Section 231 also provides that the President, or the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives (by resolution), may direct the Secretary of Labor to initiate a certification process under this chapter to determine the eligibility for Trade Adjustment Assistance of a group of workers.

Section 231 creates a single process for filing and reviewing petitions for Trade Adjustment Assistance for workers, under which all petitions are filed with both the Secretary of Labor and the Governor of the State. Upon filing of the petition, the Governor is required to fulfill the requirements of any agreement entered into with the Department of Labor under section 222, to provide certain rapid response services, and to notify workers on whose behalf a petition has been filed of their potential eligibility for certain existing federal health care, child care, transportation, and other assistance programs. Upon filing the petition, the Secretary of Labor must make his certification determination within 40 days and provide the notice required.

Conference agreement

The Senate recedes to the House with a change providing for simultaneous filing of petitions with the Secretary of Labor and State Governor.

SEC. 113—GROUP ELIGIBILITY REQUIREMENTS

Present law

Current law sections 222 and 250 of Title II of the Trade Act of 1974 set forth group eligibility criteria. Under TAA, the Secretary must certify a group of workers as eligible to apply for Trade Adjustment Assistance if he determines (1) that a significant number or proportion of the workers in such workers' firm have become or are threatened to become totally or partially separated; (2) sales or production of such firm have decreased absolutely; and (3) imports of articles like or directly competitive with articles produced by such workers' firm contributed importantly to the total or partial separation or threat thereof, and to the decline in sales or production. Under NAFTA-TAA, group eligibility may be based on the same criteria set forth in section 222, but section 250 also provides for NAFTA-TAA eligibility where there has been a shift in production by the workers' firm to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm. Section 222 also includes special eligibility provisions with respect to oil and natural gas producers.

House amendment

The House Amendment at Section 113 expanded the Trade Adjustment Assistance programs to secondary workers that are suppliers to firms that were certified and which satisfied certain conditions.

Senate amendment

Section 111 of the Senate Amendment creates a new section 231 under which the eligibility criteria are revised. First, workers are eligible for TAA if the value or volume of imports of articles like or directly competitive with articles produced by that firm have increased and the increase in the value or volume of imports contributed importantly to the workers' separation or threat of separation. Second, eligibility is extended to workers who are separated due to shifts in production to any country, rather than only when the shift in production is to Mexico or Canada. Third, eligibility is extended to adversely affected secondary workers. Eligible secondary workers include workers in supplier firms and, with respect to trade with NAFTA countries, downstream firms. Fourth, a new special eligibility provision is added with respect to taconite pellets.

Conference agreement

The Conferees agree to extend coverage of Trade Adjustment Assistance to new categories of workers: 1) secondary workers that supply directly to another firm component parts for articles that were the basis for a certification of eligibility, 2) downstream workers that were affected by trade with Mexico or Canada, and 3) certain workers that have been laid off because their firm has shifted its production to another country that has a free trade agreement with the United States, that has a unilaterally preferential trading arrangement with the United States, or when there has been or is likely to be an increase in imports of the relevant articles.

SEC. 114—QUALIFYING REQUIREMENTS FOR TRADE READJUSTMENT ALLOWANCES

Present law

Current section 231 establishes qualifying requirements that must be met in order for an individual worker within a certified group to receive Trade Adjustment Assistance. In order to receive trade readjustment allowances, a certified worker must have been separated on or after the eligibility date established in the certification but within 2 years of the date of the certification determination; been employed for at least 26 of the 52 weeks preceding the separation at wages of $30 or more a week; be eligible for and have exhausted unemployment insurance benefits; not be disqualified for extended compensation payable under the Federal-State Extended Unemployment Compensation Act of 1970 by reason of the work acceptance and job search requirements in section 202(a)(3) of that Act; and be enrolled in a training program approved by the Secretary of Labor or have received a training waiver.

House amendment

The House Amendment at Section 114 provided for requirements and deadlines for workers to enroll in training.

Senate amendment

Section 111 of the Senate Amendment adds a new section 235 which maintains the individual eligibility requirements in current law, with the exception of revisions to provisions governing bases for granting training waivers.

Conference agreement

The Senate recedes to the House, with a change to adopt a training enrollment deadline of 16 weeks after separation.

SEC. 115—WAIVERS OF TRAINING REQUIREMENTS

Present law

Section 231 sets forth permissible bases for granting a training waiver. Pursuant to section 250(d), training waivers are not available in the NAFTA-TAA program.

House amendment

The House Amendment provides that all workers who are eligible to apply for Trade Adjustment Assistance may be considered for training waivers and codifies several bases on which the Secretary may grant a waiver.

Senate Amendment

Section 111 of the Senate Amendment adds a new section 235 which provides that all workers who are eligible to apply for Trade Adjustment Assistance may be considered for training waivers and codifies several bases on which the Secretary may grant a waiver.

Conference agreement

The House receded to the Senate with a change to delete the Senate provision giving the Secretary discretion to grant waivers for ''other'' reasons.

SEC. 116—AMENDMENTS TO LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES

Present law

Current section 233 provides that each certified worker may receive trade readjustment allowances for a maximum of 52 weeks. Current law also provides that, in most circumstances, a worker is treated as participating in training during any week which is part of a break in training that does not exceed 14 days.

House amendment

Section 116 of the House Amendment would add 26 weeks of trade adjustment allowances for those workers who were in training and required the extension of benefits for the purpose of completing training.

Senate amendment

Section 111 of the Senate Amendment adds a new section 23 7 which increases the maximum time period during which a worker may receive trade adjustment allowances to 78 weeks, extends the permissible duration of a break in training to 30 days, and provides for an additional 26 weeks of income support for workers requiring remedial education. Section 237 also clarifies that the requirement that a worker exhaust unemployment insurance benefits prior to receiving trade adjustment allowances does not apply to any extension of unemployment insurance by a State using its own funds that extends beyond either the 26 week period mandated by Federal law or any additional period provided for under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

Conference agreement

The Senate recedes to the House.

SEC. 117—ANNUAL TOTAL AMOUNT OF PAYMENTS FOR TRAINING

Present law

Current section 236 establishes the terms and conditions under which training is available to eligible workers; permits the Secretary of Labor to approve certain specified types of training programs and to pay the costs of approved training and certain supplemental costs, including subsistence and transportation costs, for eligible workers; and caps total annual funding for training under the TAA for workers program at $80 million. Section 250 separately caps training expenditures under the NAFTA-TAA program at $30 million annually.

House amendment

The House provided $30 million additional funds for the Trade Adjustment Assistance program. Combined with NAFTA Trade Adjustment Assistance, the total training funds available were $140 million.

Senate amendment

Section 111 of the Senate Amendment adds a new section 240 which sets the total funds available for training expenditures under the unified TAA for workers program to $300 million annually.

Conference agreement

Conferees agreed to a combined training cap of $220 million for Trade Adjustment Assistance training.

SEC. 118—PROVISION OF EMPLOYER-BASED TRAINING

Present law

No applicable section.

House amendment

The House Amendment included provisions related to employer based training including on-the-job training and customized training with partial reimbursements provided to the employer.

Senate amendment

Section 111 of the Senate Amendment adds a new section 240 which revises the list of training programs which the Secretary may approve to include customized training. It also adds a new section 237, which clarifies that the prohibition on payment of trade adjustment allowances to a worker receiving on-the-job training does not apply to a worker enrolled in a non-paid customized training program.

Conference agreement

The Senate recedes to the House.

SEC. 119—COORDINATION WITH TITLE I OF THE WORKFORCE INVESTMENT ACT OF 1998

Present law

No provision.

House amendment

The House Amendment provided multiple provisions related to coordinating efforts under the Trade Adjustment Assistance programs to provide information and benefits to workers under the Workforce Investment Act.

Senate amendment

No provision.

Conference agreement

Conferees agreed to drop House language with the exception of a provision related to coordinating the delivery of Trade Adjustment Assistance benefits and information at one-stop delivery systems under the Workforce Investment Act.

SEC. 120—EXPENDITURE PERIOD

Present law

No provision.

House amendment

The House amendment provided that certain funds obligated for any fiscal year to carry out activities may be expended by each State in the succeeding two fiscal years.

Senate amendment

No provision.

Conference agreement

The Senate recedes to the House.

SEC. 121—JOB SEARCH ALLOWANCES

Present law

Under current section 237, when the Secretary of Labor determines that local employment is not available, an adversely affected worker certified eligible for TAA benefits may receive reimbursement of 90 percent of the cost of necessary job search expenses up to $800.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 241 which raises the maximum reimbursement for job search expenses to $1,250 per worker.

Conference agreement

The House recedes to the Senate.

SEC. 122—RELOCATION ALLOWANCES

Present law

Under current section 238, when the Secretary of Labor determines that local employment is not available, an adversely affected worker certified eligible for TAA benefits may receive a relocation allowance consisting of (1) 90 percent of the reasonable and necessary expenses incurred in transporting a worker and his family, if any, and household effects, and (2) a lump sum equivalent to three times the worker's average weekly wage, up to a maximum payment of $800.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 242 which raises the maximum lump sum portion of the relocation allowance to $1,250.

Conference agreement

The House recedes to the Senate.

SEC. 123—REPEAL OF NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE PROGRAM

Present law

Current law authorizes a Trade Adjustment Assistance Program for workers affected by NAFTA trade.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 231 which combines the TAA and NAFTA-TAA programs, establishing a single program with a single set of group eligibility criteria and a single set of procedures and standards for filing and reviewing petitions, certifying eligibility, and terminating certification of eligibility.

Conference agreement

The House recedes to the Senate to the extent of repealing the NAFTA Trade Adjustment Assistance program and creating a single, unified TAA program for workers.

SEC. 124—DEMONSTRATION PROJECT FOR ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE FOR OLDER WORKERS

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 243 which directs the Secretary of Labor, within one year of enactment, to establish a two-year wage insurance pilot program under which a State uses the funds provided to the State for Trade Adjustment allowances to pay to an adversely affected worker certified under section 231, for a period not to exceed two years, a wage subsidy of up to 50 percent of the difference between the wages received by the adversely affected worker from reemployment and the wages received by the adversely affected worker at the time of separation. An adversely affected worker may be eligible to receive a wage subsidy if the worker obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment, is at least 50 years of age, earns not more than $50,000 a year in wages from reemployment, is employed at least 30 hours a week in the reemployment, and does not return to the employment from which the worker was separated. The wage subsidy available to workers in the wage insurance program is 50 percent of the difference between the amount of the wages received by the worker from reemployment and the amount of the wages received by the worker at the time of separation, if the wages the worker receives from reemployment are less than $40,000 a year. The wage subsidy is 25 percent if the wages received by the worker from reemployment are greater than $40,000 a year but not more than $50,000 a year. Total payments made to an adversely affected worker under the wage insurance program may not exceed $5,000 in each year of the 2–year period. A worker participating in the wage insurance program is not eligible to receive any other Trade Adjustment Assistance benefits, unless the Secretary of Labor determines that the worker has shown circumstances that warrant eligibility for training benefits under section 240.

Conference agreement

The Conferees agree to create a new alternative Trade Adjustment Assistance program for older workers.

SEC. 125—DECLARATIONS OF POLICY; SENSE OF CONGRESS

Present law

No provision.

House amendment

The House passed amendment included a declaration of policy and Sense of the Congress related to the responsibility of the Secretary of Labor to provide information to workers related to benefits available to them under the TAA and other federal programs.

Senate amendment

Although certain supportive services are available to dislocated workers under WIA, current law makes no express linkage between these services and Trade Adjustment Assistance and TAA certified workers may not be able to access them. Section 111 of the Senate Amendment adds a new section 243 which provides that States may apply for and the Secretary of Labor may make available to adversely affected workers certified under the Trade Adjustment Assistance program supportive services available under WIA, including transportation, child care, and dependent care, that are necessary to enable a worker to participate in or complete training. Section 243 requires the Comptroller General to conduct a study of all assistance provided by the Federal Government for workers facing job loss and economic distress; to submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the study within one year of enactment of this Act; and to distribute the report to all WIA one-stop partners. Section 243 further provides that each State may conduct a study of its assistance programs for workers facing job loss and economic distress. Each State is eligible for a grant from the Secretary of Labor, not to exceed $50,000, to enable it to conduct the study. In the event that a grant is awarded, the State must, within one year of receiving the grant, provide its report to the Committee on Finance and the Committee on Ways and Means and distribute its report to one-stop partners in the State.

Conference agreement

The Senate recedes to the House.

Subtitle B—Trade Adjustment Assistance for Firms

SEC. 131—REAUTHORIZATION OF TRADE ADJUSTMENT FOR FIRMS PROGRAM

Present law

The Trade Adjustment Assistance for Firms program provides technical assistance to qualifying firms. Current Title II, Chapter 3, section 251 of the Trade Act of 1974 provides that a firm is eligible to receive Trade Adjustment Assistance under this program if (1) a significant number or proportion of its workers have become or are threatened to become totally or partially separated; (2) sales or production, or both, have decreased absolutely; and (3) increases of imports of articles like or directly competitive with articles which are produced by such firms contributed importantly to the total or partial separations or threat thereof.

The authorization for the Trade Adjustment Assistance for Firms program expired on September 30, 2001. The TAA for Firms program is currently subject to annual appropriations and is funded as part of the budget of the Economic Development Administration in the Department of Commerce.

House amendment

The House passed amendment included a 2 year reauthorization for Trade Adjustment Assistance for Firms.

Senate amendment

Section 201 of the Senate Amendment reauthorizes the Trade Adjustment Assistance for Firms program for fiscal years 2002 through 2007; expands the definition of qualifying firms to cover shifts in production; and authorizes appropriations to the Department of Commerce in the amount of $16 million annually for fiscal years 2002 through 2007 to carry out the purposes of the Trade Adjustment Assistance for Firms program.

Conference agreement

The House recedes to the Senate on the issue of providing a $16 million authorization for Trade Adjustment Assistance for Firms and reauthorizing the program through September 30, 2007.

Subtitle C—Trade Adjustment Assistance for Farmers and Ranchers

SEC. 141—TRADE ADJUSTMENT ASSISTANCE FOR FARMERS

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 401 of the Senate Amendment adds new sections 292–298 of the Trade Act of 1974 which create a Trade Adjustment Assistance program for farmers and ranchers in the Department of Agriculture. Under this section, a group of agricultural commodity producers may petition the Secretary of Agriculture for Trade Adjustment Assistance. The Secretary must certify the group as eligible for Trade Adjustment Assistance for farmers if it is determined that the national average price in the most recent marketing year for the commodity produced by the group is less than 80 percent of the national average price in the preceding 5 marketing years and that increases in imports of that commodity contributed importantly to the decline in price.

Conference agreement

The House recedes to the Senate with changes. The Conferees agree to include limitations on eligibility based upon adjusted gross income and counter-cyclical payment limitations set forth in the Food Security Act of 1985.

SEC. 142—CONFORMING AMENDMENTS

Present law

No applicable section.

House amendment

No provision.

Senate amendment

The Senate Amendment makes conforming amendments to the Trade Act of 1974 concerning the TAA for Farmers program.

Conference agreement

Conferees agree to make conforming amendments to the Trade Act of 1974.

SEC. 143—TRADE ADJUSTMENT ASSISTANCE FOR FISHERMEN

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 502 of the Senate Amendment adds new sections 299–299(G) which create a Trade Adjustment Assistance program for fishermen in the Department of Commerce. Under this program, a group of fishermen may petition the Secretary of Commerce for Trade Adjustment Assistance. The Secretary must certify the group as eligible for Trade Adjustment Assistance for fishermen if it is determined that the national average price in the most recent marketing year for the fish produced by the group is less than 80 percent of the national average price in the proceeding five marketing years and that increases in imports of that fish contributed importantly to the decline in price.

Conference agreement

Conferees agree to drop Senate Amendment and authorize a study by the Department of Labor to investigate applying TAA to fisherman.

SUBTITLE D—EFFECTIVE DATE

SEC. 151—EFFECTIVE DATE

Present law

No applicable provision.

House amendment

No provision.

Senate amendment

Section 801 of the Senate Amendment provides that except as otherwise specified, the amendments to the TAA program shall be effective 90 days after enactment of the Trace Act of 2002. The Senate Amendment includes transitional provisions governing the period between expiration of the prior authorizations of TAA for workers and firms and the effective date of the amendments/

Conference agreement

The House recedes to the Senate.

TITLE II—CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 201(A) AND 202. CREDIT FOR HEALTH INSURANCE COSTS OF INDIVIDUALS RECEIVING A TRADE READJUSTMENT ALLOWANCE OR A BENEFIT FROM THE PENSION BENEFIT GUARANTY CORPORATION; ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

Present Law

Under present law, the tax treatment of health insurance expenses depends on the individual's circumstances. In general, employer contributions to an accident or health plan are excludable from an employee's gross income (sec. 106).

Self-employed individuals are entitled to deduct a portion of the amount paid for health insurance expenses for the individual and his or her spouse and dependents. The percentage of deductible expenses is 70 percent in 2002 and 100 percent in 2003 and thereafter.

Individuals other than self-employed individuals who purchase their own health insurance and itemize deductions may deduct their expenses to the extent that their total medical expenses exceed 7.5 percent of adjusted gross income.

Present law does not provide a tax credit for the purchase of health insurance.

The health care continuation rules (commonly referred to as ''COBRA'' rules, after the Consolidated Omnibus Budget Reconciliation Act of 1985 in which they were enacted) require that employer-sponsored group health plans of employers with 20 or more employees must offer certain covered employees and their dependents (''qualified beneficiaries'') the option of purchasing continued health coverage in the event of loss of coverage resulting from certain qualifying events. These qualifying events include: termination or reduction in hours of employment, death, divorce or legal separation, enrollment in Medicare, the bankruptcy of the employer, or the end of a child's dependency under a parent's health plan. In general, the maximum period of COBRA coverage is 18 months. An employer is permitted to charge qualified beneficiaries 102 percent of the applicable premium for COBRA coverage.

Under present law, individuals without access to COBRA are able to purchase individual policies on a guaranteed issue basis without exclusion of coverage for pre-existing conditions if they had 18 months of creditable coverage under an employer sponsored group health plan, governmental plan, or a church plan. Those with access to COBRA are required to exhaust their 18 months of COBRA prior to obtaining a policy on a guaranteed issue basis without exclusion of coverage for pre-existing conditions.

House amendment

The House bill provides a refundable tax credit for up to 60 percent of the expenses of an eligible individual for qualified health insurance coverage of the eligible individual and his or her spouse or dependents. Eligible individuals are certain TAA eligible workers and PBGC pension beneficiaries. In the case of TAA eligible workers, no more than 12 months of coverage would be eligible for the credit. The amount of the credit would be phased out for taxpayers with modified adjusted gross income between $20,000 and $40,000 for single taxpayers ($40,000 and $80,000 for married taxpayers filing a joint return). The credit would be available on an advance basis pursuant to a program to be established by the Secretary of the Treasury. Insurance that qualifies for the credit includes certain COBRA coverage and certain individual market options.

Senate amendment

The Senate amendment provides a refundable credit for 70 percent of qualified health insurance expenses. The credit is available with respect to certain TAA eligible workers. The credit is payable on an advance basis pursuant to a program to be established by the Secretary of the Treasury. Insurance that qualifies for the credit includes certain COBRA coverage, certain State-based options, and individual health insurance if certain requirements are satisfied.

Conference agreement

Refundable health insurance credit: in general

In the case of taxpayers who are eligible individuals, the conference agreement provides a refundable tax credit for 65 percent of the taxpayer's expenses for qualified health insurance of the taxpayer and qualifying family members for each eligible coverage month beginning in the taxable year. The credit is available only with respect to amounts paid by the taxpayer.

Qualifying family members are the taxpayer's spouse and any dependent of the taxpayer with respect to whom the taxpayer is entitled to claim a dependency exemption.[1] Any individual who has other specified coverage is not a qualifying family member.

Persons eligible for the credit

Eligibility for the credit is determined on a monthly basis. In general, an eligible coverage month is any month if, as of the first

[1] Present law allows the custodial parent to release the right to claim the dependency exemption for a child to the noncustodial parent. In addition, if certain requirements are met, the parents may decide by ageement that the noncustodial parent is entitled to the dependency exemption with respect to a child. In such cases, the provision would treat the child as the dependent of the custodial parent for purposes of the credit.

day of the month, the taxpayer (1) is an eligible individual, (2) is covered by qualified health insurance, (3) does not have other specified coverage, and (4) is not imprisoned under Federal, State, or local authority. In the case of a joint return, the eligibility requirements are met if at least one spouse satisfies the requirements. An eligible month must begin more than 90 days after the date of enactment.

An eligible individual is (1) an eligible TAA recipient, (2) an eligible alternative TAA recipient, and (3) an eligible PBGC pension recipient.

An individual is an eligible TAA recipient during any month if the individual (1) is receiving for any day of such month a trade adjustment allowance[2] or who would be eligible to receive such an allowance but for the requirement that the individual exhaust unemployment benefits before being eligible to receive an allowance and (2) with respect to such allowance, is covered under a certification issued under subchapter A or D of chapter 2 of title II of the Trade Act of 1974. An individual is treated as an eligible TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient.

An individual is an eligible alternative TAA recipient during any month if the individual (1) is a worker described in section 246(a)(3)(B) of the Trade Act of 1974 who is participating in the program established under section 246(a)(1) of such Act, and (2) is receiving a benefit for such month under section 246(a)(2) of such Act. An individual is treated as an eligible alternative TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient.

An individual is a PBGC pension recipient for any month if he or she (1) is age 55 or over as of the first day of the month, and (2) is receiving a benefit any portion of which is paid by the Pension Benefit Guaranty Corporation (PBGC).

An otherwise eligible taxpayer is not eligible for the credit for a month if, as of the first day of the month the individual has other specified coverage. Specified coverage would be (1) coverage under any insurance which constitutes medical care (expect for insurance substantially all of the coverage of which is for excepted benefits)[3] if at least 50 percent of the cost of the coverage is paid by an employer[4] (or former employer) of the individual or his or her spouse or (2) coverage under certain governmental health programs.[5] A rule aggregating plans of the same employer applies in determining whether the employer pays at least 50 percent of the cost of coverage. A person is not an eligible individual if he or she may be claimed as a dependent on another person's tax return. A special rule applies with respect to alternative TAA recipients.

Qualified health insurance

Qualified health insurance eligible for the credit is: (1) COBRA continuation coverage; (2) State based continuation coverage provided by the State under a State law that requires such coverage; (3) coverage offered through a qualified State high risk pool; (4) coverage under a health insurance program offered to State employees or a comparable program; (5) coverage through an arrangement entered into by the State and a group health plan, an issuer of health insurance coverage, an administrator, or an employer; (6) coverage offered through a State arrangement with a private sector health care coverage purchasing pool; (7) coverage under a State-operated health plan that does not receive any Federal financial participation; (8) coverage under a group health plan that is available through the employment of the eligible individual's spouse; and (9) coverage under individual health insurance if the eligible individual was covered under individual health insurance during the entire 30–day period that ends on the date the individual became separated from the employment which qualified the individual for the TAA allowance, the benefit for an eligible alternative TAA recipient, or a pension benefit from the PBGC, whichever applies.[6]

Qualified health insurance does not include any State-based coverage (i.e., coverage described in (2)-(8) in the preceding paragraph), unless the State has elected to have such coverage treated as qualified health insurance and such coverage meets certain requirements. Such State coverage must provide that each qualifying individual is guaranteed enrollment if the individual pays the premium for enrollment or provides a qualified health insurance costs eligibility certificate and pays the remainder of the premium. In addition, the State-based coverage cannot impose any pre-existing condition limitation with respect to qualifying individuals. State-based coverage cannot require a qualifying individual to pay a premium or contribution that is greater than the premium or contribution for a similarly situated individual who is not a qualified individual. Finally, benefits under the State-based coverage must the same as (or substantially similar to) benefits provided to similarly situated individuals who are not a qualified individuals. A qualifying *individual is an eligible 'individual who seeks to enroll in the State-based coverage and who has aggregate periods of creditable coverage[7] of three months or longer, does not have other specified coverage, and who is not imprisoned. A qualifying individual also includes qualified family members of such an eligible individual.

Qualified health insurance does not include coverage under a flexible spending or similar arrangement or any insurance if substantially all of the coverage is of excepted benefits.

Other rules

Amounts taken into account in determining the credit could not be taken into account in determining the amount allowable under the itemized deduction for medical expenses or the deduction for health insurance expenses of self-employed individuals. Amounts distributed from a medical savings account would not be eligible for the credit. The amount of the credit is reduced by any credit received on an advance basis. Married taxpayers filing separate returns are eligible for the credit; however, if both spouses are eligible individuals and the spouses file a separate return, then the spouse of the taxpayer is not a qualifying family member.

The Secretary of the Treasury is authorized to prescribe such regulations and other guidance as may be necessary or appropriate to carry out the provision.

Advance payment of refundable health insurance credit; reporting requirements

The conference agreement provides for payment of the credit on an advance basis (i.e., prior to the filing of the taxpayer's return) pursuant to a program to be established by the Secretary of the Treasury no later than August 1, 2003. Such program is to provide for making payments on behalf of certified individuals to providers of qualified health insurance. In order to receive the credit on an advance basis, a qualified health insurance costs credit eligibility certificate would have to be in effect for the taxpayer. A qualified health insurance costs credit eligibility certificate is a written statement that an individual is an eligible individual for purposes of the credit, provides such information as the Secretary of the Treasury may require, and is provided by the Secretary of Labor or the PBGC (as appropriate) or such other person or entity designated by the Secretary.

The conference report permits the disclosure of return information of certified individuals to providers of health insurance information to the extent necessary to carry out the advance payment mechanism.

The conference report provides that any person who receives payments during a calendar year for qualified health insurance and claims a reimbursement for an advance credit amount is to file an information return with respect to each individual from whom such payments were received or for whom such a reimbursement is claimed. The return is to be in such form as the Secretary may prescribe and is to contain the name, address, and taxpayer identification number of the individual and any other individual on the same health insurance policy, the aggregate of the advance credit amounts provided, the number of months for which advance credit amounts are provided, and such other information as the Secretary may prescribe. The conference report requires that similar information be provided to the individual no later than January 31 of the year following the year for which the information return is made.

Effective Date

The provision is generally effective with respect to taxable years beginning after December 31, 2001. The provision relating to the advance payment mechanism to be developed by the Secretary would be effective on the date of enactment.

TITLE III—CUSTOMS REAUTHORIZATION

Subtitle A—United States Customs Service

CHAPTER 1—DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL AND COMMERCIAL OPERATIONS

SEC. 301—SHORT TITLE

Present law

No applicable section

[2] Part I of subchapter B, or subchapter D, of chapter 2 of title II of the Trade Act of 1974.

[3] Excepted benefits are: (1) coverage only for accident or disability income or any combination thereof, (2) coverage issued as a supplement to liability insurance; (3) liability insurance, including general liability insurance and automobile liability insurance; (4) worker's compensation or similar insurance; (5) automobile medical payment insurance; (6) credit-only insurance; (7) coverage for on-site medical clinics; (8) other insurance coverage similar to the coverages in (1)-(7) specified in regulations under which benefits for medical care are secondary or incidental to other insurance benefits; (9) limited scope dental or vision benefits; (10) benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof. and (11) other benefits similar to those in (9) and (10) as specified in regulations. (12) coverage only for a specified disease or illness; (13) hospital indemnity or other fixed indemnity insurance; and (14) Medicare supplemental insurance.

[4] An amount would be considered paid by the employer if it is excludable from income. Thus. for example, amounts paid for health coverage on a salary reduction basis under an employer plan are considered paid by the employer.

[5] Specifically, an individual would not be eligible for the credit if, as of the first day of the month, the individual is (1) entitled to benefits under Medicare Part A, enrolled in Medicare Part B, or enrolled in Medicaid or SCHIP, (2) enrolled in a health benefits plan under the Federal Employees Health Benefit Plan, or (3) entitled to receive benefits under chapter 55 of title 10 of the United States Code (relating to military personnel). An individual is not considered to be enrolled in Medicaid solely by reason of receiving immunizations.

[6] For this purpose, ''individual health insurance'' means any insurance which constitutes medical care offered to individuals other than in connection with a group health plan. Such term does not include Federal- or State-based health insurance coverage.

[7] Creditable coverage is determined under the Health Care Portability and Accountability Act (Code sec. 9801 (c)).

House amendment

H.R. 3009 as amended and passed by the House provides that the Act may be cited as, the ''Customs Border Security Act of 2002.''

Senate amendment

The Senate amendment is identical.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment

SEC. 311—AUTHORIZATION OF APPROPRIATIONS FOR NONCOMMERCIAL OPERATIONS, COMMERCIAL OPERATIONS, AND AIR AND MARINE INTERDICTION

Present law

The statutory basis for authorization of appropriations for Customs is section 301 (b)(1) of the Customs Procedural and Simplification Act of 1978 (19 U.S.C. 2075(b)). That law, as amended by section 8102 of the Omnibus Budget Reconciliation Act of 1986 [P.L. 99–509], first outlined separate amounts for non-commercial and commercial operations for the salaries and expenses portion of the Customs authorization. Under 19 U.S.C. 2075, Congress has adopted a two-year authorization process to provide Customs with guidance as it plans its budget, as well as guidance from the Committee for the appropriation process.

The most recent authorization of appropriations for Customs (under section 101 of the Customs and Trade Act of 1990 [P.L. 101 382]) provided $118,238,000 for salaries and expenses and $143,047,000 for air and marine interdiction program for FY 1991, and $1,247,884,000 for salaries and expenses and $150,199,000 for air and marine interdiction program in FY 1992.

House amendment

This provision authorizes $1,365,456,000 for FY 2003 and $1,399,592,400 for FY 2004 for non-commercial operations of the Customs Service. It also authorizes $1,642,602,000 for FY 2003 and $1,683,667,050 for FY 2004 for commercial operations of the Customs Service. Of the amounts authorized for commercial operations, $308,000,000 is authorized for the automated commercial environment computer system for each fiscal year. The provisions require that the Customs Service provide the Committee on Ways and Means and the Committee on Finance of the Senate with a report demonstrating that the computer system is being built in a cost-effective manner. In addition, the provisions authorizes $170,829,000 for FY 2003 and $175,099,725 for FY 2004 for air and marine interdiction operations of the Customs Service. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees.

Senate amendment

This provision authorizes $886,513,000 for FY 2003 and $909,471,000 for FY 2004 for non-commercial operations of the Customs Service. It also authorizes $1,603,482,000 for FY 2003 and $1,645,009,000 for FY 2004 for commercial operations of the Customs Service. Of the amounts authorized for commercial operations, $308,000,000 is authorized for the automated commercial environment computer system for each fiscal year. The provisions require that the Customs Service provide the Committee on Ways and Means and the Committee on Finance of the Senate with a report demonstrating that the computer system is being built in a cost-effective manner. In addition, the provisions authorizes $181,860,000 for FY 2003 and $186,570,000 for FY 2004 for air and marine interdiction operations of the Customs Service. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees.

Conference agreement

The Senate recedes to House.

SEC. 312—ANTITERRORIST AND ILLICIT NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND THE GULF COAST SEAPORTS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require that $90,244,000 of the FY 2003 appropriations be available until expended for acquisition and other expenses associated with implementation and deployment of terrorist and narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf seaports. The equipment would include vehicle and inspection systems. The provision would require that $9,000,000 of the FY 2004 appropriations be used for maintenance of equipment described above. This section would also provide the Commissioner of Customs with flexibility in using these funds and would allow for the acquisition of new updated technology not anticipated when this bill was drafted. Nothing in the language of the bill is intended to prevent the Commissioner of Customs from dedicating resources to specific ports not identified in the bill.

The equipment would include vehicle and container inspection systems, mobile truck x-rays, upgrades to fixed-site truck x-rays, pallet x-rays, busters, contraband detection kits, ultrasonic container inspection units, automated targeting systems, rapid tire deflator systems, portable Treasury Enforcement Communications Systems terminals, remote surveillance camera systems, weigh-in-motion sensors, vehicle counters, spotter camera systems, inbound commercial truck transponders, narcotics vapor and particle detectors, and license plate reader automatic targeting software.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 313—COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require Customs to measure specifically the effectiveness of the resources dedicated in sections 312 as part of its annual performance plan.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference Agreement

The conference agreement follows the House amendment and the Senate amendment.

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

SEC. 321—AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM TO PREVENT CHILD PORNOGRAPHY/CHILD SEXUAL EXPLOITATION

Present law

Customs enforcement responsibilities include enforcement of U.S. laws to prevent border trafficking relating to child pornography, intellectual property rights violations, money laundering, and illegal arms. Funding for these activities has been included in the Customs general account.

House amendment

H.R. 3009 as amended and passed by the House would authorize $10 million for Customs to carry out its program to combat online child sex predators. Of that amount, $375,000 would be dedicated to the National Center for Missing Children for the operation of its child pornography cyber tipline.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

CHAPTER 2—MISCELLANEOUS PROVISIONS

SEC. 331—AIDDITIONAL CUSTOMS SERVICE OFFICERS FOR U.S.-CANADA BORDER

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House earmarks $25 million and 285 new staff hires for Customs to use at the U.S.-Canada border.

Senate amendment

The Senate amendment is the same as the House Amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 332—STUDY AND REPORT RELATING TO PERSONNEL PRACTICES OF THE CUSTOMS SERVICE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House requires Customs to conduct a study of current personnel practices including: performance standards; the effect and impact of the collective bargaining process on Customs drug interdiction efforts; and a comparison of duty rotations policies of Customs and other federal agencies employing similarly situated personnel.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 333—STUDY AND REPORT RELATING TO ACCOUNTING AND AUDITING PROCEDURES OF THE CUSTOMS SERVICE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require Customs to conduct a study to ensure that appropriate training is being provided to personnel who are responsible for financial auditing of importers. Customs would specifically report on how its audit personnel protect the privacy and trade secrets of importers.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 334—ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS

Present law,

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would mandate the imposition of a cost accounting system in order for Customs to effectively explain its expenditures. Such a system would provide compliance with the core financial system requirements of the Joint Financial Management Improvement Program (JFMIP), which is a joint and cooperative undertaking of the U.S. Department of the Treasury, the General Accounting Office, the Office of Management and Budget, and the Office of Personnel Management working in cooperation with each other and other agencies to improve financial management practices in government. That Program has statutory authorization in the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 65).

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 335—STUDY AND REPORT RELATING TO TIMELINESS OF PROSPECTIVE RULINGS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require the Comptroller General to prepare an report to determine whether Customs has improved its timeliness in providing prospective rulings.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 336—STUDY AND REPORT RELATING TO CUSTOMS USER FEES

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require the Comptroller General to prepare a confidential report to determine whether current user fees are appropriately set at a level commensurate with the service provided for the fee. The Comptroller General is authorized to recommend the appropriate level for customs user fees.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 337—FEES FOR CUSTOMS INSPECTIONS AT EXPRESS COURIER FACILITIES

Present law

Current law provides for direct reimbursement by courier facilities of expenses incurred by Customs conducting inspections at those facilities.

House amendment

H.R. 3009 as amended and passed by the House would establish a per item fee of sixty-six cents to cover Customs expenses. This amount could be lowered to more than thirty-five cents or raised to no more than $1.00 by the Secretary of the Treasury after a rulemaking process to reevaluate the expenses incurred by Customs in providing inspectional services.

Senate amendment

No provision.

Conference agreement

The Senate recedes to the House.

SEC. 338—NATIONAL CUSTOMS AUTOMATION PROGRAM

Present law,

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would empower the Secretary to require the electronic submission of any information required to be submitted to the Customs Service.

Senate amendment

No provision.

Conference agreement

The Senate recedes to the House.

SEC. 339—AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS STAFFING

Present law

No applicable section.

House amendment

No provision.

Senate amendment

The Senate Amendment authorizes the appropriation to the Department of Treasury such sums as may be necessary to increase the annual pay of journeyman Customs inspectors and Canine Enforcement Officers who have completed at least one year of service and are being paid at a GS–9 level, from GS–9 to GS–11. The Senate provision also authorizes an increase in pay of support staff.

Conference agreement

The House recedes to the Senate.

CHAPTER 4—ANTITERRORISM PROVISIONS

SEC. 341—IMMUNITY FOR CUSTOMS OFFICERS THAT ACT IN GOOD FAITH

Present law

Currently, Customs officers are entitled to qualified immunity in civil suits brought by persons, who were searched upon arrival in the United States. Qualified immunity protects officers from liability if they can establish that their actions did not violate any clearly established constitutional or statutory rights.

House amendment

H.R. 3009 as amended and passed by the House would protect Customs officers by providing them immunity from lawsuits stemming from personal searches of people entering the country so long as the officers conduct the searches in good faith.

Senate amendment

No provision.

Conference agreement

Senate recedes to the House, but conferees qualify the provision by adding that the means used to effectuate such searches must be reasonable. To be covered by this immunity provision, inspectors must follow Customs Service inspection rules including the rule against profiling against race, religions, or ethnic background.

SEC. 342—EMERGENCY ADJUSTMENTS TO OFFICES, PORTS OF ENTRY, OR STAFFING OF THE CUSTOMS SERVICE

Present law

Present law places numerous restrictions on and, in some instances, precludes the Secretary of the Treasury or Customs from making any adjustments to ports and staff. 19 U.S.C. 1318 requires a Presidential proclamation of an emergency and authorization to the Secretary of the Treasury only to extend the time for performance of legally required acts during an emergency. No other emergency powers statute for Customs exists.

House amendment

H.R. 3009 as amended and passed by the House would permit the Secretary of the Treasury, if the President declares a national emergency or if necessary to address specific threats to human life or national interests, to eliminate, consolidate, or relocate Customs ports and offices and to alter staffing levels, services rendered and hours of operations at those locations. In addition, the amendment would permit the Commissioner of Customs, when necessary to address threats to human life or national interests, to close temporarily any Customs office or port or take any other lesser action necessary to respond to the specific threat. The Secretary or the Commissioner would be required to notify Congress of any action taken under this proposal within 72 hours.

Senate amendment

The Senate amendment is the same as the House Amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 343 & 343A—MANDATORY ADVANCED ELECTRONIC INFORMATION FOR CARGO AND PASSENGERS; SECURE SYSTEMS OF TRANSPORTATION.

Present law

Currently, commercial carriers bringing passengers or cargo into or out of the country have no obligation to provide Customs with such information in advance.

House amendment

H.R. 3009 as amended and passed by the House would require every air, land, or water-based commercial carrier to file an electronic manifest describing all passengers with Customs before entering or leaving the country. There is a similar requirement for cargo entering the country. Specific information required in the advanced manifest system would be developed by Treasury in regulations.

Senate amendment

The Senate Amendment is similar to the House Amendment. However, with respect to cargo, the Senate Amendment applies to outbound as well as in-bound shipments.

Conference agreement

The conferees agree to direct the Secretary of the Treasury to promulgate regulations pertaining to the electronic transmission to the Customs Service of information relevant to aviation, maritime, and surface transportation safety and security prior to a cargo carrier's arrival in or departure from the United States. The agreement sets forth parameters for the Secretary to follow in developing these regulations. For example, the parameters require that the regulations be flexible with respect to the commercial and operational aspects of different modes of transportation. They also require that, in general, the Customs Service seek information from parties most likely to have direct knowledge of the information at issue. The conferees also agree to amendment of the Tariff Act of 1930 to establish requirements concerning proper documentation of ocean-bound cargo prior to a vessel's departure. Finally, the conferees agree to direct the Secretary of the Treasury to establish a task force to evaluate, prototype and certify secure systems of transportation.

SEC. 344—BORDER SEARCH AUTHORITY FOR CERTAIN CONTRABAND IN OUTBOUND MAIL.

Present law

Although Customs currently searches all inbound mail, and although it searches outbound mail sent via private carriers, outbound mail carried by the Postal Service is not subject to search.

House amendment

H.R. 3009 as amended and passed by the House would enable Customs officers to search outbound U.S. mail for unreported monetary instruments, weapons of mass destruction, firearms, and other contraband used by terrorists. However, reading of mail would not be authorized absent Customs officers obtaining a search warrant or consent.

Senate amendment

The Senate Amendment is the same as the House Amendment with respect to mail weighing in excess of 16 ounces. However, under the Senate Amendment, the Customs Service would be required to obtain a warrant in order to search mail weighing 16 ounces or less. The Senate Amendment also requires the Secretary of State to determine whether it is consistent with international law and U.S. treaty obligations for the Customs Service to search mail transiting the United States between two foreign countries. The Customs Service would be authorized to search such mail only after the Secretary of State determined that such measures are consistent with international law and U.S. treaty obligations.

Conference agreement

The House recedes to the Senate.

SEC. 345—AUTHORIZATION OF APPROPRIATIONS FOR REESTABLISHMENT OF CUSTOMS OPERATIONS IN NEW YORK CITY

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House authorizes funds to reestablish those operations.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

CHAPTER 5—TEXTILE TRANSSHIPMENT PROVISIONS

SEC. 351—GAO AUDIT OF TEXTILE TRANSSHIPMENT MONITORING BY CUSTOMS SERVICE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would direct the Comptroller General to conduct an audit of the systems at the Customs Service to monitor and enforce textile transshipment. The Comptroller General would report on recommendations for improvements.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 352—AUTHORIZATION OF APPROPRIATIONS FOR TEXTILE TRANSSHIPMENT ENFORCEMENT OPERATIONS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would authorize $9,500,000 for FY 2002 to the Customs Service for the purpose of enhancing its textile transshipment enforcement operations. This amount would be in addition to Customs Service's base authorization and the authorization to reestablish the destroyed textile monitoring and enforcement operations at the World Trade Center.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The Senate recedes to the House, but the text is clarified to provide that personnel will also conduct education and outreach in addition to enforcement.

SEC. 353—IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would earmark approximately $1.3 million within Customs' budget for selected activities related to providing technical assistance to help sub-Saharan African countries develop and implement effective visa and anti-transshipment systems as required by the African Growth and Opportunity Act (title I of Public Law 106–200).

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

Subtitle B—Office of the United States Trade Representative

SEC. 361—AUTHORIZATION OF APPROPRIATIONS

Present law

The statutory authority for budget authorization for the Office of the United States Trade Representative is section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)). The most recent authorization of appropriations for USTR was under section 101 of the Customs and Trade Act of 1990 [P.L. 101–382]. Under 19 U.S.C. 2171, Congress has adopted a two-year authorization process to provide USTR with guidance as it plans its budget as well as guidance from the Committee for the appropriation process.

House amendment

H.R. 3009 as amended and passed by the House authorizes $32,300,000 for FY 2003 and $31,108,000 for FY 2004. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees. In light of the substantial increase in trade negotiation work to be conducted by USTR and the associated need for consultations with Congress, this provision would authorize the addition of two individuals to assist the office of Congressional Affairs.

Senate amendment

The Senate amendment authorizes $30,000,000 for FY 2003 and $31,000,000 for FY 2004.

Conference agreement

The Senate recedes to the House.

Subtitle C—United States International Trade Commission

SEC. 371—AUTHORIZATION OF APPROPRIATIONS

Present law

The statutory authority for budget authorization for the International Trade Commission is section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)(A)). The most recent authorization of appropriations for the ITC was under section 101 of the Customs and Trade Act of 1990 [P.L. 101–382]. Under 19 U.S.C. 1330, Congress has adopted a two-year authorization process to provide the ITC with guidance as it plans its budget as well as guidance from the Committees for the appropriation process.

House amendment

H.R. 3009 as amended and passed by the House authorizes $54,000,000 for FY 2003 and $57,240,000 for FY 2004. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees.

Senate amendment

The Senate amendment authorizes $51,400,000 for FY 2003 and $53,400,000 for FY 2004.

Conference agreement

The Senate recedes to the House.

Subtitle D—Other Trade Provisions

SEC. 381. INCREASE IN AGGREGATE VALUE OF ARTICLES EXEMPT FROM DUTY ACQUIRED ABROAD BY UNITED STATES RESIDENTS

Present law

The Harmonized Tariff Schedule at subheading 9804.00.65 currently provides a $400 duty exemption for travelers returning from abroad.

House amendment

H.R. 3009 as amended and passed by the House would increased the current $400 duty exemption to $800.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 382—REGULATORY AUDIT PROCEDURES

Present law

Section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) provides the authority for Customs to audit persons making entry of merchandise into the U.S. In the course of such audit, Customs auditors may identify discrepancies, including underpayments of duties. However, if there also are overpayments, there is no requirement that such overpayments be offset against the underpayments if the underlying entry has been liquidated.

House amendment

H.R. 3009 as amended and passed by the House would require that when conducting an audit, Customs must recognize and offset overpayments and overdeclarations of duties, quantities and values against underpayments and underdeclarations. As an example, if during an audit Customs finds that an importer has underpaid duties associated with one entry of merchandise by $100 but has also overpaid duties from another entry of merchandise by $25, then any assessment by Customs must be the difference of $75.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 383—PAYMENT OF DUTIES AND FEES

Present law

Current law at 19 U.S.C. 1505 provides for the collection of duties by the Secretary through regulatory process.

House amendment

H.R. 3009 as amended and passed by the House would require duties to be paid within 10 working days without extension. The bill also provides for the Customs Service to create a monthly billing system upon the building of the Automated Commercial Environment.

Senate amendment

No provision.

Conference agreement

Senate recedes to the House.

DIVISION B—BIPARTISAN TRADE PROMOTION AUTHORITY

TITLE XXI—TRADE PROMOTION AUTHORITY

SEC. 2101—SHORT TITLE AND FINDINGS

Present law

No provision.

House amendment

The short title of the bill is the ''Bipartisan Trade Promotion Authority Act of 2001.'' Section 2101 of the House amendment to H.R. 3009 states that Congress finds the expansion of international trade is vital to U.S. national security and economic growth, as well as U.S. leadership. Section 2101 also states that the recent pattern of decisions by dispute settlement panels and the Appellate Body of the World Trade Organization to impose obligations and restrictions on the use of antidumping and countervailing measures by WTO members has raised concerns, and Congress is concerned that such bodies appropriately apply the standard of review contained in Article 17.6 of the Antidumping Agreement, to provide deference to a permissible interpretation by a WTO member and to the evaluation by a member of the facts where that evaluation is unbiased and objective and the establishment of the facts is proper.

Senate amendment

The short title of the bill is the ''Bipartisan Trade Promotion Authority Act of 2002.'' Section 2101 of the Senate amendment to H.R. 3009 states that Congress finds the expansion of international trade is vital to U.S. national security and economic growth, as well as U.S. leadership. Section 2101 also states that support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. It goes on to note a troubling pattern of cases before WTO dispute settlement panels and the WTO Appellate Body that do precisely that.

Conference agreement

The Senate recedes to the House with modifications. With respect to the findings, the Conferees believe that, as stated in section 2101(b) of the Conference agreement, support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. Therefore, the recent pattern of decisions by dispute settlement panels and the WTO Appellate Body to impose obligations and restrictions on the use of antidumping, countervailing and safeguard measures by WTO members has raised concerns, and Congress is concerned that such bodies appropriately apply the standard of review contained in Article 17.6 of the Antidumping Agreement, to provide deference to a permissible interpretation by a WTO member and to the evaluation by a member of the facts where that evaluation is unbiased and objective and the establishment of the facts is proper.

SEC. 2102—TRADE NEGOTIATING OBJECTIVES

Present/expired law

Section 1101(a) of the Omnibus Trade and Competitiveness Act of 1988 (the 1988 Act) set forth overall negotiating objectives for concluding trade agreements. These objectives were to obtain more open, equitable, and reciprocal market access, the reduction or elimination of barriers and other trade-distorting policies and practices, and a more effective system of international trading disciplines and procedures. Section 1102(b) set forth the following principal trade negotiating objectives: dispute settlement, transparency, developing countries, current account surpluses, trade and monetary coordination, agriculture, unfair trade practices, trade in services, intellectual property, foreign direct investment, safeguards, specific barriers, worker rights, access to high technology, and border taxes.

House amendment

Section 2102 of the House amendment to H.R. 3009 would establish the following overall negotiating objectives: obtaining more open, equitable, and reciprocal market access; obtaining the reduction or elimination of barriers and other trade-distorting policies and practices; further strengthening the system of international trading disciplines and procedures, including dispute settlement; fostering economic growth and full employment in the U.S. and the global economy; ensuring that trade and environmental policies are mutually supportive and seeking to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources; promoting respect for worker rights and the rights of children consistent with International Labor Organization core labor standards, as defined in the bill; and seeking provisions in trade agreements under which parties strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement to trade.

In addition, section 2102 would establish the principal trade negotiating objectives for concluding trade agreements, as follows:

Trade barriers and distortions: expanding competitive market opportunities for U.S. exports and obtaining fairer and more open conditions of trade by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for U.S. exports and distort U.S. trade; and obtaining reciprocal tariff and nontariff barrier elimination agreements, with particular attention to products covered in section 111(b) of the Uruguay Round Agreements Act.

Services: to reduce or eliminate barriers to international trade in services, including regulatory and other barriers, that deny national treatment or unreasonably restrict the establishment or operations of services suppliers.

Foreign investment: to reduce or eliminate artificial or trade-distorting barriers to trade-related foreign investment and, recognizing that U.S. law on the whole provides a high level of protection for investment, consistent with or greater than the level required by international law, to secure for investors important rights comparable to those that would be available under U.S. legal principles and practice, by:

reducing or eliminating exceptions to the principle of national treatment;

freeing the transfer of funds relating to investments;

reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

seeking to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice;

providing meaningful procedures for resolving investment disputes including between an investor and a government;

seeking to improve mechanisms used to resolve disputes between an investor and a government through mechanisms to eliminate frivolous claims and procedures to ensure the efficient selection of arbitrators and the expeditious disposition of claims;

providing an appellate or similar review mechanism to correct manifestly erroneous interpretations of law; and

ensuring the fullest measure of transparency in investment disputes by ensuring that all requests for dispute settlement and all proceedings, submissions, findings, and decisions are promptly made public;

all hearings are open to the public; and

establishing a mechanism for acceptance of amicus curiae submissions.

Intellectual property: including: promoting adequate and effective protection of intellectual property rights through ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights, including strong enforcement;

providing stronger protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property; and

ensuring that standards of protection and enforcement keep pace with technological developments, and in particular ensuring that Tight holders have the legal and technological means to control the use of their works through the internet and other global communication media.

Transparency: to increase public access to information regarding trade issues as well as the activities of international trade institutions; to increase openness in international trade fora, including the WTO, by increasing public access to appropriate meetings, proceedings, and submissions, including with regard to dispute settlement and investment; and to increase timely public access to notifications made by WTO member states and the supporting documents.

Anti-corruption: to obtain high standards and appropriate enforcement mechanisms applicable to persons from all countries participating in a trade agreement that prohibit attempts to influence acts, decisions, or omissions of foreign government; and to ensure that such standards do not place U.S. persons at a competitive disadvantage in international trade.

Improvement of the WTO and multilateral trade agreements: to achieve full implementation and extend the coverage of the WTO and such agreements to products, sectors, and conditions of trade not adequately covered; and to expand country participation in and enhancement of the Information Technology Agreement (ITA) and other trade agreements.

Regulatory practices: to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations; to require that proposed regulations be based on sound science, cost-benefit analysis, risk assessment, or other objective evidence; to establish consultative mechanisms among parties to trade agreements to promote increased transparency in developing guidelines, rules, regulations, and laws for government procurement and other regulatory regimes; and to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products.

Electronic commerce: to ensure that current obligations, rules, disciplines, and commitments under the WTO apply to electronic commerce; to ensure that electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form; and the classification of such goods and services ensures the most liberal trade treatment possible; to ensure that governments refrain from implementing trade-related measures that impede electronic

commerce; where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment; and to extend the moratorium of the WTO on duties on electronic transmissions.

Agriculture: to ensure that the U.S. trade negotiators duly recognize the importance of agricultural issues; to obtain competitive market opportunities for U.S. exports in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in U.S. markets and to achieve fairer and more open conditions of trade; to reduce or eliminate trade distorting subsidies; to impose disciplines on the operations of state-trading enterprises or similar administrative mechanisms; to eliminate unjustified restrictions on products derived from biotechnology; to eliminate sanitary or phytosanitary restrictions that contravene the Uruguay Round Agreement as they are not based on scientific principles and to improve import relief mechanisms to accommodate the unique aspects of perishable and cyclical agriculture.

Labor and the environment: to ensure that a party does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the United States and that party; to recognize that a party to a trade agreement is effectively enforcing its laws if a course of inaction or inaction reflects a reasonable exercise of discretion or results from a bona fide decision regarding allocation of resources and no retaliation may be authorized based on the exercise of these rights or the right to establish domestic labor standards and levels of environmental protection; to strengthen the capacity of U.S. trading partners to promote respect for core labor standards and to protect the environment through the promotion of sustainable development; to reduce or eliminate government practices or policies that unduly threaten sustainable development; to seek market access for U.S. environmental technologies, goods, and services; and to ensure that labor, environmental, health, or safety policies and practices of parties to trade agreements do not arbitrarily or unjustifiably discriminate against U.S. exports or serve as disguised barriers to trade.

Dispute settlement and enforcement: to seek provisions in trade agreements providing for resolution of disputes between governments in an effective, timely, transparent, equitable, and reasoned manner requiring determinations based on facts and the principles of the agreement, with the goal of increasing compliance; seek to strengthen the capacity of the WTO Trade Policy Review Mechanism to review compliance; seek provisions encouraging the early identification and settlement of disputes through consultations; seek provisions encouraging trade-expanding compensation; seek provisions to impose a penalty that encourages compliance, is appropriate to the parties, nature, subject matter, and scope of the violation, and has the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism; and seek provisions that treat U.S. principal negotiating objectives equally with respect to ability to resort to dispute settlement and availability of equivalent procedures and remedies.

Extended WTO negotiations: concerning extended WTO negotiations on financial services, civil aircraft, and rules of origin.

Senate amendment

The Senate Amendment is substantially similar to the House Amendment, with the exception of several key provisions:

Small Business: The Senate Amendment contains an overall negotiating objective ''to ensure that trade agreements afford small businesses equal access to international markets, equitable trade benefits, expanded export market opportunities, and provide for the reduction or elimination of trade barriers that disproportionately impact small businesses.''

Trade in Motor Vehicles and Parts: The Senate Amendment contains a principal negotiating objective on expanding competitive opportunities for exports of U.S. motor vehicles and parts.

Foreign Investment: The Senate Amendment states as an objective of the United States in the context of investor-state dispute settlement ''ensuring that foreign investors in the United States are not accorded greater rights than United States investors in the United States.'' The Senate Amendment's objective with respect to investor-state dispute settlement also differs from the House Amendment in the following respects:

It sets as an objective ''seeking to establish standards for fair and equitable treatment consistent with United States legal principles and practice, including the principle of due process.''

It sets deterrence of the filing of frivolous claims as an objective, in addition to the prompt elimination of frivolous claims.

The Senate Amendment seeks to establish ''procedures to enhance opportunities for public input into the formulation of government positions.''

The Senate Amendment seeks to establish a single appellate body to review decisions by arbitration panels in investor-state dispute settlement cases. Also, unlike the House Amendment, the Senate Amendment does not prescribe a standard of review for an eventual appellate body.

Intellectual Property: The Senate Amendment contains an objective to respect the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001 ''

Trade in Agriculture: The Senate Amendment's negotiating objective on export subsidies differs from the House Amendment, stating that an objective of the United States is ''seeking to eliminate all export subsidies on agricultural commodities while maintaining bona fide food aid and preserving U.S. agriculture development and export credit programs that allow the U.S. to compete with other foreign export promotion efforts.'' The Senate Amendment also provides that it is a negotiating objective of the United States to ''strive to complete a general multilateral round in the WTO by January 1, 2005, and seek the broadest market access possible in multilateral, regional, and bilateral negotiations, recognizing the effect that simultaneous sets of negotiations may have on US import-sensitive commodities (including those subject to tariff-rate quotas).''

Human Rights and Democracy : The Senate Amendment contains a negotiating objective ''to obtain provisions in trade agreements that require parties to those agreements to strive to protect internationally recognized civil, political, and human rights.''

Dispute Settlement: The Senate Amendment contains a negotiating objective absent in the House Amendment ''to seek improved adherence by panels convened under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes and by the WTO Appellate Body to the standard of review applicable under the WTO Agreement involved in the dispute, including greater deference, where appropriate, to the fact finding and technical expertise of national investigating authorities.''

Border Taxes: The Senate Amendment contains an objective absent from the House Amendment on border taxes. The objective seeks ''to obtain a revision of the WTO rules with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes.'' The objective is addressed to a decision by the WTO Dispute Settlement Body holding the foreign sales corporation provisions of the Internal Revenue Code to be inconsistent with WTO rules.

Textiles: The Senate Amendment contains an extensive objective on opening foreign markets to U.S. textile exports. There is no similar provision in the House Amendment.

Worst Forms of Child Labor: The Senate Amendment contains a negotiating objective to prevent distortions in the conduct of international trade caused by the use of the worst forms of child labor and to redress unfair and illegitimate competition based upon the use of the worst forms of child labor.

Conference agreement

The Senate recedes to the House with several modifications. With respect to the overall negotiating objectives, the Conferees agree to the overall negotiating objective regarding small business in section 2101-(a)(8) of the Senate amendment. Second, the Conferees agree to an overall negotiating objective to promote universal compliance with ILO Declaration 182 concerning the worst forms of child labor.

With respect to the principal negotiating objectives, the Conferees agree to expand the negotiating objective on intellectual property to respect the Declaration on the TRIPS Agreement and Public Health, adopted by the WTO at Doha (section 2102(b)(4)(c) of the Senate amendment).

With respect to the principal negotiating objectives regarding foreign investment, the Conferees believe that it is a priority for negotiators to seek agreements protecting the rights of U.S. investors abroad and ensuring the existence of a neutral investor-state dispute settlement mechanism. At the same time, these protections must be balanced so that they do not come at the expense of making Federal, State and local laws and regulations more vulnerable to successful challenges by foreign investors than by similarly situated U.S. investors.

No Greater Rights: The House recedes to the Senate with a technical modification to clarify that foreign investors in the United States are not accorded greater substantive rights with respect to investment protections than United States investors in the United States. That is, the reciprocal obligations regarding investment protections that the United States undertakes in pursuing its goals should not result in foreign investors being entitled to compensation for government actions where a similarly situated U.S. investor would not be entitled to any form of relief, while ensuring that U.S. investors abroad can challenge host government measures which violate the terms of the investment agreement. Thus, this language expresses Congress' direction that the substantive investment protections (e.g., expropriation, fair and equitable treatment, and full protection and security) should be consistent with United States legal principles and practice and not provide greater rights to foreign investors in the United States.

This language applies to substantive protections only and is not applicable to procedural issues, such as access to investor-state dispute settlement. The Conferees recognize that the procedures for resolving disputes between a foreign investor and a government may differ from the procedures for resolving disputes between a domestic investor and a government and may be available at different times during the dispute. Thus, the ''no greater rights'' direction does not, for instance, apply to such issues as the dismissal of frivolous claims, the exhaustion of remedies, access to appellate procedures, or other similar issues.

The Conferees also agree that negotiators should seek to provide for an appellate body or similar mechanism to provide coherence to the interpretations of investment provisions in trade agreements.

With respect to the principal negotiating objective on agriculture, the Conferees agree to section 2102(b)(10)(A)(iii) and (xv) of the House amendment, in lieu of section 2102(b)(10)(A)(iii) of the Senate amendment. The Conferees also accept section 2102(b)(10)(A)(xvi) of the Senate amendment on the timing and sequence of WTO agriculture negotiations relative to other negotiations.

The Conferees agree to section 2102(b)(13)(C) of the Senate amendment, relating to dispute settlement in dumping, subsidy, and safeguard cases, as modified, to seek adherence by WTO panels to the applicable standard of review.

The Conferees recognize the importance of preserving the ability of the United States to enforce rigorously its trade remedy laws, including the antidumping, countervailing duty and safeguard laws. Because this issue is significant to many Members of Congress in both the House and Senate, the Conferees have made this priority a principal negotiating objective. Negotiators must also avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, as well as domestic and international safeguard provisions. In addition, section 2102(b)(14)(B) directs the President to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers.

The Conferees agree to section 2012(b)(14) of the Senate amendment stating that the United States should seek a revision of WTO rules on the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes. The Conferees agree that such a revision of WTO rules is one among other options for the United States, including domestic legislation, to redress such a disadvantage.

The Conferees agree to include as a principal negotiating objective to obtain competitive market opportunities for U.S. exports of textiles substantially equivalent to those for foreign textiles in the United States.

The Conferees agree to a principal negotiating objective concerning the worst forms of child labor, to seek commitments by trade agreement parties to vigorously enforce their own laws prohibiting the worst forms of child labor.

SEC. 2102(C)—PROMOTION OF CERTAIN PRIORITIES

Present/expired law

No provision.

House amendment

Section 2102(c) of the House amendment to H.R. 3009 sets forth certain priorities for the President to address. These provisions include seeking greater cooperation between WTO and the ILO; seeking to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to promote respect for core labor standards, seeking to seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to develop and implement standards for environment and human health based on sound science; conducting environmental reviews of future trade and investment agreements, consistent with Executive Order 13141 and its relevant guidelines; reviewing the impact of future trade agreements on U.S. employment, modeled after Executive Order 13141; taking into account, in negotiating trade agreements, protection of legitimate health or safety, essential security, and consumer interests; requiring the Secretary of Labor to consult with foreign parties to trade negotiations as to their labor laws and providing technical assistance where needed; reporting to Congress on the extent to which parties to an agreement have in effect laws governing exploitative child labor; preserving the ability of the United States to enforce rigorously its trade laws, including antidumping and countervailing duty laws, and avoiding agreements which lessen their effectiveness; ensuring that U.S. exports are not subject to the abusive use of trade laws, including antidumping and countervailing duty laws, by other countries; continuing to promote consideration of Multilateral Environmental Agreements (MEAs) and consulting with parties to such agreements regarding the consistency of any MEA that includes trade measures with existing environmental exceptions under Article XX of the GATT.

In addition, USTR, twelve months after the imposition of a penalty or remedy by the United States permitted by an agreement to which this Act applies, is to report to the Committee on the effectiveness of remedies applied under U.S. law to enforce U.S. rights under trade agreements. USTR shall address whether the remedy was effective in changing the behavior of the targeted party and whether the remedy had any adverse impact on parties or interests not party to the dispute.

Finally, section 2102(c) would direct the President to seek to establish consultative mechanisms among parties to trade agreements to examine the trade consequences of significant and unanticipated currency movements and to scrutinize whether a foreign government engaged in a pattern of manipulating its currency to promote a competitive advantage in international trade.

Senate amendment

With several notable exceptions, the priorities set forth in section 2102(c) of the Senate Amendment are identical to the priorities set forth in the House Amendment. The exceptions are:

With respect to the study that the President must perform on the impact of future trade agreements on employment, the Senate Amendment requires the President to examine particular criteria, as follows: the impact on job security, the level of compensation of new jobs and existing jobs, the displacement of employment, and the regional distribution of employment, utilizing experience from previous trade agreements and alternative models of employment analysis. The Senate Amendment also requires that the report be made available to the public.

The Senate Amendment requires that, in connection with new trade agreement negotiations, the President shall ''submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a meaningful labor rights report of the country, or countries, with respect to which the President is negotiating.''

The Senate Amendment adds to the House Amendment priority on preserving the ability of the United States to enforce vigorously its trade laws, by including U.S. ''safeguards'' law in the list of laws at issue. This is the U.S. law authorizing the President to provide relief to parties seriously injured or threatened with serious injury due to surges of imports. The priority in the Senate Amendment also directs the President to remedy certain market distorting measures that underlie unfair trade practices.

Cconference agreement

The Senate recedes to the House amendment with several modifications. With respect to the worst forms of child labor, the Conferees agree to expand section 2102(c)(2) of the House amendment to include the worst forms of child labor within requirement to seek to establish consultative mechanisms to strengthen the capacity of U.S. trading partners to promote respect for core labor standards.

The Conferees agree to modify section 2105(c)(5) of the House amendment to require the President to report on impact of future trade agreements on US employment, including on labor markets, modeled after E.O. 13141 to the extent appropriate in establishing procedures and criteria, and to make the report public.

With respect to the labor rights report in section 2102(c)(8) of both bills, the Conferees agree to the Senate provision. Furthermore, the Conferees agree to section 2107(b)(2)(E) of the Senate amendment to require that guidelines for the Congressional Oversight Group include the time frame for submitting this report.

SEC. 2102(D)—CONSULTATIONS, ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS

Present/expired law

No provision.

House amendment

Section 2102(d) of the House amendment to H.R. 3009 requires that USTR consult closely and on a timely basis with the Congressional Oversight Group appointed under section 2107. In addition, USTR would be required to consult closely (including immediately before the initialing of an agreement) with the congressional advisers on trade policy and negotiations appointed under section 161 of the Trade Act of 1974, as well as the House Committee on Ways and Means, the Senate Committee on Finance, and the Congressional Oversight Group. With regard to negotiations concerning agriculture trade, USTR would also be required to consult with the House and Senate Committees on Agriculture.

In determining whether to enter into negotiations with a particular country, section 2102(e) would require the President to take into account whether that country has implemented its obligations under the Uruguay Round Agreements.

Senate amendment

Section 2102(d) of the Senate amendment is identical to the House provision in the House amendment to H.R. 3009.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2103—TRADE AGREEMENTS AUTHORITY

Present/expired law

Tariff proclamation authority. Section 1102(a) of the 1988 Act provided authority to the President to proclaim modifications in duties without the need for Congressional approval, subject to certain limitations. Specifically, for rates that exceed 5 percent ad

valorem, the President could not reduce any rate of duty to a rate less than 50 percent of the rate of duty applying on the date of enactment. Rates at or below 5 percent could be reduced to zero. Any duty reduction that exceeded 50 percent of an existing duty higher than 5 percent or any tariff increase had to be approved by Congress.

Staging authority required that duty reductions on any article could not exceed 3 percent per year, or one-tenth of the total reduction, whichever is greater, except that staging was not required if the International Trade Commission determined there was no U.S. production of that article.

Negotiation of bilateral agreements. Section 1102(c) of the 1988 Act set forth three requirements for the negotiation of a bilateral agreement:

The foreign country must request the negotiation of the bilateral agreement;

The agreement must make progress in meeting applicable U.S. trade negotiating objectives; and

The President must provide written notice of the negotiations to the Committee on Ways and Means and the Committee on Finance of the Senate and consult with these committees.

The negotiations could proceed unless either Committee disapproved the negotiations within 60 days prior to the 90 calendar days advance notice required of entry into an agreement (described below).

Negotiation of multilateral non-tariff agreements. With respect to multilateral agreements, section 1102(b) of the 1988 Act provided that whenever the President determines that any barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the U.S. economy, or the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect, he may enter into a trade agreement with the foreign countries involved. The agreement must provide for the reduction or elimination of such barrier or other distortion or prohibit or limit the imposition of such a barrier or distortion.

Provisions qualifying for fast track procedures. Section 1103(b)(1)(A) of the 1988 Act provided that fast track apply to implementing bills submitted with respect to any trade agreements entered into under the statute. Section 151(b)(1) of the Trade Act of 1974 further defined ''implementing bill'' as a bill containing provisions ''necessary or appropriate'' to implement the trade agreement, as well as provisions approving the agreement and the statement of administrative action.

Time period. The authority applied with respect to agreements entered into before June 1, 1991, and until June 1, 1993 unless Congress passed an extension disapproval resolution. The authority was then extended to April 15, 1994, to cover the Uruguay Round of multilateral negotiations under the General Agreement on Tariffs and Trade.

House amendment

Section 2103 of the House amendment provides:

Proclamation authority. Section 2103(a) would provide the President the authority to proclaim, without Congressional approval, certain duty modifications in a manner very similar to the expired provision. Specifically, for rates that exceed 5 percent ad valorem, the President would not be authorized to reduce any rate of duty to a rate less than 50 percent of the rate of duty applying on the date of enactment. Rates at or below 5 percent ad valorem could be reduced to zero. Any duty reduction that exceeded 50 percent of an existing duty higher than 5 percent or any tariff increase would have to be approved by Congress.

In addition, section 2103(a) would not allow the use of tariff proclamation authority on import sensitive agriculture.

Staging authority would require that duty reductions on any article could not exceed 3 percent per year, or one-tenth of the total reduction, whichever is greater, except that staging would not be required if the International Trade Commission determined there is no U.S. production of that article.

These limitations would not apply to reciprocal agreements to eliminate or harmonize duties negotiated under the auspices of the World Trade Organization, such as so-called ''zero-for-zero'' negotiations.

Agreements on tariff and non-tariff barriers. Section 2103(b)(1) would authorize the President to enter into a trade agreement with a foreign country whenever he determined that any duty or other import restriction or any other barrier to or distortion of international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the U.S. economy, or the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect. The agreement must provide for the reduction or elimination of such barrier or other distortion or prohibit or limit the imposition of such a barrier or distortion. No distinction would be made between bilateral and multilateral agreements.

Conditions. Section 2103(b)(2) would provide that the special implementing bills procedures may be used only if the agreement makes progress in meeting the applicable objectives set forth in section 2102(a) and (b) and the President satisfies the consultation requirements set forth in section 2104.

Bills qualifying for trade authorities procedures. Section 2103(b)(3)(A) would provide that bills implementing trade agreements may qualify for trade promotion authority TPA procedures only if those bills consist solely of the following provisions:

Provisions approving the trade agreement and statement of administrative action; and

Provisions necessary or appropriate to implement the trade agreement.

Time period. Sections 2103(a)(1)(A) and 2103(b)(1)(C) would extend trade promotion authority to agreements entered into before June 1, 2005. An extension until June 1, 2007, would be permitted unless Congress passed a disapproval resolution, as described under section 2103(c).

Senate amendment

In most respects, section 2103 of the Senate Amendment is identical to section 2103 of the House Amendment. However, there are several key differences, as follows:

The Senate Amendment limits the President's proclamation authority with respect to ''import sensitive agricultural products,'' a term defined in section 2113(5) of the Senate Amendment. This limitation differs from the limitation in the House Amendment, inasmuch as it includes certain products subject to tariff rate quotas.

The Senate Amendment contains a provision making a trade agreement implementing bill ineligible for ''fast track'' procedures if the bill modifies, amends, or requires modification or amendment to certain trade remedy laws. A bill that does modify, amend or require modification or amendment to those laws is subject to a point of order in the Senate, which may be waived by a majority vote.

The Senate Amendment requires the U.S. International Trade Commission to submit a report to Congress on negotiations during the initial period for which the President is granted trade promotion authority. This report would be made in connection with a request by the President to have such authority extended.

Conference agreement

The Senate recedes to the House amendment with several modifications. The Conferees agree to the new definition of import sensitive agriculture in section 2103(a)(2)(B), 2104(b)(2)(A)(i), and 2113(5) of the Senate amendment to encompass products subject to tariff rate quotas, as well as products subject to the lowest tariff reduction in the Uruguay Round.

The Conferees agree to section 2103(c)(3)(B) of the Senate amendment, which requires the ITC to submit a report to Congress by May 1, 2005 (if the President seeks extension of TPA until June 2, 2007) analyzing the economic impact on the United States of all trade agreements implemented between enactment and the extension request.

SEC. 2104—CONSULTATIONS AND ASSESSMENT

Present/expired law

Section 102 of the Trade Act of 1974 and sections 1102(d) and 1103 of the 1988 Act set forth the fast track requirements. These provisions required the President, before entering into any trade agreement, to consult with Congress as to the nature of the agreement, how and to what extent the agreement will achieve applicable purposes, policies, and objectives, and all matters relating to agreement implementation. In addition, before entering into an agreement, the President was required to give Congress at least 90 calendar days advance notice of his intent. The purpose of this period was to provide the Congressional Committees of jurisdiction an opportunity to review the proposed agreement before it was signed.

Section 135(e) of the Trade Act of 1974 required that the Advisory Committee for Trade Policy and Negotiations meet at the conclusion of negotiations for each trade agreement and provide a report as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principal negotiating objectives of section 1101 of the 1988 Act. The report was due not later than the date on which the President notified Congress of his intent to enter into an agreement. With regard to the Uruguay Round, the report was due 30 days after the date of notification.

House amendment

Section 2104 of the House amendment to H.R. 3009 would establish a number Of requirements that the President consult with Congress. Specifically, section 2104(a)(1) would require the President to provide written notice and consult with the relevant committees at least 90 calendar days prior to entering into negotiations. Section 2104(a)(c) also provides that President shall meet with the Congressional Oversight Group established under section 2107 upon a request of a majority of its members. Trade promotion authority would not apply to an implementing bill if both Houses separately agree to a procedural disapproval resolution within any 60-day period stating that the Administration has failed to notify or consult with Congress.

Section 2104(b)(1) would establish a special consultation requirement for agriculture. Specifically, before initiating negotiations concerning tariff reductions in agriculture, the President is to assess whether U.S. tariffs on agriculture products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In his assessment, the President would also be required to consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than U.S. tariffs and whether the negotiation provides an opportunity to address any such disparity. The

President would be required to consult with the Committees on Ways and Means and Agriculture of the House and the Committees on Finance and Agriculture, Nutrition and Forestry of the Senate concerning the results of this assessment and whether it is appropriate for the United States to agree to further tariff reductions under such circumstances and how all applicable negotiating objectives would be met.

Section 2104(b)(2) provides special consultations on import sensitive agriculture products. Specifically, before initiating negotiations on agriculture and as soon as practicable with respect to the Free Trade Area of the Americas and WTO negotiations, USTR is to identify import sensitive agriculture products and consult with the Committees on Ways & Means and Agriculture of the House and the Committees on Finance and Agriculture, Nutrition, and Forestry in the Senate concerning whether any further tariff reduction should be appropriate, and whether the identified products face unjustified sanitary or phytosanitary barriers. USTR is also to request that the International Trade Commission prepare an assessment of the probable economic effects of any such tariff reduction on the U.S. industry producing the product and on the U.S. economy as a whole. USTR is to then notify the Committees of those products for which it intends to seek tariff liberalization as well as the reasons. If USTR commences negotiations and then identifies additional import sensitive agriculture products, or a party to the negotiations requests tariff reductions on such a product, then USTR shall notify the Committees as soon as practicable of those products and the reasons for seeking tariff reductions.

Section 2104(c) would establish a special consultation requirement for textiles. Specifically, before initiating negotiations concerning tariff reductions in textiles and apparel, the President is to assess whether U.S. tariffs on textile and apparel products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In his assessment, the President would also be required to consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than U.S. tariffs and whether the negotiation provides an opportunity to address any such disparity. The President would be required to consult with the Committee on Ways and Means of the House and the Committee on Finance of the Senate concerning the results of this assessment and whether it is appropriate for the United States to agree to further tariff reductions under such circumstances and how all applicable negotiating objectives would be met.

In addition, section 2104(d) would require the President, before entering into any trade agreement, to consult with the relevant Committees concerning the nature of the agreement, how and to what extent the agreement will achieve the applicable purposes, policies, and objectives set forth in the House amendment to H.R. 3009 and all matters relating to implementation under section 2105, including the general effect of the agreement on U.S. laws.

Section 2104(e) would require that the report of the Advisory Committee for Trade Policy and Negotiations under section 135(e)(1) of the Trade Act of 1974 be provided not later than 30 days after the date on which the President notifies Congress of his intent to enter into the agreement under section 2105(a)(1)(A).

Finally, section 2104(f) would require the President, at least 90 days before entering into a trade agreement, to ask the International Trade Commission to assess the agreement, including the likely impact of the agreement on the U.S. economy as a whole, specific industry sectors, and U.S. consumers. That report would be due 90 days from the date after the President enters into the agreement.

Senate amendment

The Senate Amendment is substantially similar to the House bill, with the following exceptions:

Consultations on export subsidies and distorting policies. Section 2104(b)(2)(A)(ii)(III) requires consultations on whether nations producing identified products maintain export subsidies or distorting policies that distort trade and impact of policies on U.S. producers.

Consultations relating to fishing trade. Section 2104(b)(3) requires that for negotiations relating to fishing trade, the Administration will keep fully apprised and on timely basis consult with the House Resources Committee and the Senate Commerce Committee.

Special reporting requirements on U.S. trade remedy laws. Section 2104(d) provides that the President, at least 90 calendar days before the President enters into a trade agreement, shall notify the House Ways and Means Committee and the Senate Finance Committee in writing any amendments to U.S. antidumping and countervailing duty laws (title VII of the Tariff Act of 1930) or U.S. safeguard provisions (chapter 1 of title II of the Trade Act of 1974) that the President proposes to include in the implementing legislation. On the date that the President transmits the notification, the President must also transmit to the Committees a report explaining his reasons for believing that amendments to these trade remedy laws are necessary to implement the trade agreement and his reasons for believing that such amendments are consistent with the negotiating objective on this issue. Not later than 60 calendar days after the date on which the President transmits notification to the relevant committees, the Chairman and ranking members of the House Ways and Means Committee and the Senate Finance Committees shall issue reports stating whether the proposed amendments described in the President's notification are consistent with the negotiating objectives on trade laws.

Conference agreement

The Senate recedes to the House with several modifications. The Conferees agree to section 2104(b)(2)(A)(11)(III) of the Senate amendment, which requires consultations on whether other nations producing identified products maintain export subsidies or distorting policies that distort trade and impact of policies on U.S. producers. In addition, the Conferees agree to section 2104(b)(3) of the Senate amendment, which requires that for negotiations relating to fishing trade, the Administration will keep fully apprised and on timely basis consult with the House Resources Committee and the Senate Commerce Committee.

Finally, the Conferees agree to include the notification and report on changes to trade remedy laws in sections 2104(d)(3)(A) and (B) in the Senate amendment with modifications. Given the priority that Conferees attach to keeping U.S. trade remedy laws strong and ensuring that they remain fully enforceable, the Conference agreement puts in place a process requiring special scrutiny of any impact that trade agreements may have on these laws. The process requires the President, at least 180 calendar days before the day on which he enters into a trade agreement, to report to the Committees on Ways and Means and the Committee on Finance the range of proposals advanced in trade negotiations and may be in the final agreement that could require amendments to title VII of the Tariff Act of 1930 or to chapter 1 of title II of the Trade Act of 1974; and how these proposals relate to the objectives described in section 2102(b)(14).

The Conference agreement also provides a mechanism for any Member in the House or Senate to introduce at any time after the President's report is issued a nonbinding resolution which states ''that the _____ finds that the proposed changes to U.S. trade remedy laws contained in the report of the President transmitted to the Congress on _____ under section 2104(d)(3) of the Bipartisan Trade Promotion Authority Act of 2002 with respect to _____, are inconsistent with the negotiating objectives described in section 2102(b)(14) of that Act.'', with the first blank space being filled in with either the ''House of Representatives'' or the ''Senate'', as the case may be, the second blank space filled in with the appropriate date of the report, and the third blank space being filled in with the name of the country or countries involved.

The resolution is referred to the Ways and Means and Rules Committees in the House and the Finance Committee in the Senate, and is privileged on the floor if it is reported by the Committees. The Conference agreement allows only one resolution (either a nonbinding resolution or a disapproval resolution) per agreement to be eligible for the trade promotion authority procedures contained in sections 152 (d) and (e) of the Trade Act of 1974. The one resolution quota is satisfied for the House only after the Ways and Means Committee reports a resolution, and for the Senate only after the Finance Committee reports a resolution.

The Conference agreement states that, with respect to agreements entered into with Chile and Singapore, the report referenced in section 2104(d)(3)(A) shall be submitted by the President at least 90 calendar days before the day on which the President enters into a trade agreement with either country.

SEC. 2105—IMPLEMENTATION OF TRADE AGREEMENTS

Present/expired law

Before entering into the draft agreement, the President was required to give Congress 90 days advance notice (120 days for the Uruguay Round) to provide an opportunity for revision before signature. After entering into the agreement, the President was required to submit formally the draft agreement, implementing legislation, and a statement of administrative action. Once the bill was formally introduced, there was no opportunity to amend any portion of the bill—whether on the floor or in committee. Consequently, before the formal introduction took place, the committees of jurisdiction would hold hearings, ''unofficial'' or ''informal'' mark-up sessions and a ''mock conference'' with the Senate committees of jurisdiction in order to develop a draft implementing bill together with the Administration and to make their concerns known to the Administration before it introduced the legislation formally.

After formal introduction of the implementing bill, the House committees of jurisdiction had 45 legislative days to report the bill, and the House was required to vote on the bill within 15 legislative days after the measure was reported or discharged from the committees. Fifteen additional days were provided for Senate committee consideration (assuming the implementing bill was a revenue bill), and the Senate floor action was required within 15 additional days. Accordingly, the maximum period for Congressional consideration of an implementing bill from the date of introduction was 90 legislative days. Amendments to the legislation were not permitted once the bill was introduced; the committee and floor actions consisted of ''up or down'' votes on the bill as introduced.

Finally, section 1103(d) of the 1988 Act specified that the fast track rules were enacted as an exercise of the rulemaking power of the House and the Senate, with the recognition of the right of either House to change the rules at any time.

House amendment

Under Section 2105 of the House amendment to H.R. 3009, the President would be required, at least 90 days before entering into an agreement, to notify Congress of his intent to enter into the agreement. Section 2105(a) also would establish a new requirement that the President, within 60 days of signing an agreement, submit to Congress a preliminary list of existing laws that he considers would be required to bring the United States into compliance with agreement.

Section 2105(b) would provide that trade promotion authority would not apply if both Houses separately agree to a procedural disapproval resolution within any 60–day period stating that the Administration failed to notify or consult with Congress, which is defined as failing or refusing to consult in accordance with section 2104 or 2105, failing to develop or meet guidelines under section 2107(b), failure to meet with the Congressional Oversight Group, or the agreement fails to make progress in achieving the purposes. policies, priorities, and objectives of the Act. In a change from the expired law, such a resolution may be introduced by any Member of the House or Senate. Only one such privileged resolution would be permitted to be considered per trade agreement per Congress.

Most of the remaining provisions are identical to the expired law. Specifically, section 2105(a) would require the President, after entering into agreement, to submit formally the draft agreement, the implementing legislation, and a statement of administrative action to Congress, and there would be no time limit to do so, but with the new requirement that the submission be made on a date on which both Houses are in session. The procedures of section 151 of the Trade Act of 1974 would then apply. Specifically, on the same day as the President formally submits the legislation, the bill would be introduced (by request) by the Majority Leaders of the House and the Senate. After formal introduction of the legislation, the House Committees of jurisdiction would have 45 legislative days to report the bill. The House would be required to vote on the bill within 15 legislative days after the measure was reported or discharged from the Committees. Fifteen additional days would be provided for Senate Committee consideration (assuming the implementing bill was a revenue bill), and Senate floor action would be required within 15 additional days. Accordingly, the maximum period for Congressional consideration of the implementing bill from the date of introduction would be 90 legislative days.

As with the expired provisions, once the bill has been formally introduced, no amendments would be permitted either in Committee or floor action, and a straight ''up or down'' vote would be required. Of course, before formal introduction, the bill could be developed by the Committees of jurisdiction together with the Administration during the informal Committee mark-up process.

Finally, as with the expired provision, section 2105(c) specifies that sections 2105(b) and 3(c) are enacted as an exercise of the rulemaking power of the House and the Senate, with the recognition of the right of either House to change the rules at any time.

Senate amendment

The Senate Amendment is substantially similar to the House Bill, with the following exception:

Reporting requirements. Section 2105(a)(1)(A)(ii) requires the President to transmit to the House Ways and Means Committee and the Senate Finance Committee the notification and report described in section 2104(d)(3)(A) regarding changes to U.S. trade remedy laws.

Disclosure Requirements. Section 2105(a)(4) of the Senate bill specifies that any trade agreement or understanding with a foreign government (oral or written) not disclosed to Congress will not be considered part of trade agreement approved by Congress and shall have no effect under U.S. law or in any dispute settlement body.

Senate Procedures. Section 2105(b)(1)(C)(i)(II) provides that any Member of the Senate may introduce a procedural disapproval resolution, and that that resolution will be referred to the Senate Finance Committee. Section 2105(b)(1)(C)(iv) provides that the Senate may not consider a disapproval resolution that has not been reported by the Senate Finance Committee.

Conference agreement

The Senate recedes to the House amendment with several modifications. The Conferees agree to section 2105(a)(4) of the Senate amendment, which specifies that any trade agreement or understanding with a foreign government (oral or written) not disclosed to Congress will not be considered part of trade agreement approved by Congress and shall have no effect under U.S. law or in any dispute settlement body, the Conferees also agree to sections 2105(b)(1)(C)(i)(II) and (b)(1)(C)(iv) of the Senate amendment, which applies the same procedures for consideration of bills in the Senate as for the House.

Finally, the Conferees agree to section 2105(b)(2) of the Senate amendment with modifications, which requires the Secretary of Commerce, in consultation with the Secretaries of State and Treasury, the Attorney General, and the United States Trade Representative, to transmit to Congress a report setting forth the strategy of the executive branch to address concerns of Congress regarding whether dispute settlement panels and the Appellate Body of the WTO have added to obligations or diminished rights of the United States, as described in section 2101(b)(3). Trade authorities procedures shall not apply to any implementing bill with respect to an agreement negotiated under the auspices of the WTO unless the Secretary of Commerce has issued such report prior to December 31, 2002.

SEC. 2106—TREATMENT OF CERTAIN TRADE AGREEMENTS

Present/expired law

No provision.

House amendment

Section 2106 of the House amendment to H.R. 3009 exempts agreements resulting from ongoing negotiations with Chile or Singapore, an agreement establishing a Free Trade Area of the Americas, and agreements concluded under the auspices of the WTO from prenegotiation consultation requirements of section 2104(a) only. However, upon enactment of H.R. 3009, the Administration is required to consult as to those elements set forth in section 2104(a) as soon as feasible.

Senate amendment

Section 2106 of the Senate amendment is substantially similar to the House bill.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2107—CONGRESSIONAL OVERSIGHT GROUP

Present/expired law

No provision.

House amendment

Section 2107 of the House amendment to H.R. 3009 would require the Chairman of the Committee on Ways and Means and the Chairman of the Committee on Finance to chair and convene, sixty days after the effective date of this Act, the Congressional Oversight Group. The Group would be comprised of the following Members of the House: the Chairman and Ranking Member of the Committee on Ways and Means and three additional members of the Committee (not more than two of whom are from the same party), and the Chairman and Ranking Member of the Committees which would have, under the Rules of the House, jurisdiction over provisions of law affected by a trade negotiation. The Group would be comprised of the following Members of the Senate: the Chairman and Ranking Member of the Committee on Finance and three additional members of the Committee (not more than two of whom are from the same party), and the Chairman and Ranking Member of the Committees which would have, under the Rules of the Senate, jurisdiction over provisions of law affected by a trade negotiation.

Members are to be accredited as official advisors to the U.S. delegation in the negotiations. USTR is to develop guidelines to facilitate the useful and timely exchange of information between USTR and the Group, including regular briefings, access to pertinent documents, and the closest possible coordination at all critical periods during the negotiations, including at negotiation sites.

Finally, section 2107(c) provides that upon the request of a majority of the Congressional Oversight Group, the President shall meet with the Group before initiating negotiations or at any other time concerning the negotiations.

Senate amendment

Section 2107 of the Senate amendment is identical to the House amendment to H.R. 3009.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2108—ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS

Present/expired law

No provision.

House amendment

Section 2108 of the House amendment to H.R. 3009 would require the President to submit to the Congress a plan for implementing and enforcing any trade agreement resulting from this Act. The report is to be submitted simultaneously with the text of the agreement and is to include a review of the Executive Branch personnel needed to enforce the agreement as well as an assessment of any U.S. Customs Service infrastructure improvements required. The range of personnel to be addressed in the report is very comprehensive, including U.S. Customs and Department of Agriculture border inspectors, and monitoring and implementing personnel at USTR, the Departments of Agriculture, Commerce, and the Treasury, and any other agencies as may be required.

Senate amendment

Section 2108 of the Senate amendment is identical to the House amendment to H.R. 3009.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2109—COMMITTEE STAFF

Present/expired law

No provision.

House amendment

Section 2109 of the House amendment to H.R. 3009 states that the grant of trade promotion authority is likely to increase the

activities of the primary committees of jurisdiction and the creation of the Congressional Oversight Group under section 2107 will increase the participation of a broader Members of Congress in the formulation of U.S. trade policy and oversight of the U.S. trade agenda. The provision specifies that the primary committees of jurisdiction should have adequate staff to accommodate these increases in activities.

Senate amendment

Section 2109 of the Senate amendment is identical to the House amendment to H.R. 3009.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2111—REPORT ON THE IMPACT OF TRADE PROMOTION AUTHORITY

Present/expired law

No provision.

House amendment

No provision.

Senate amendment

Section 2111 requires the International Trade Commission, within one year following enactment of this Act, to issue a report regarding the economic impact of the following trade agreements: (1) The U.S.-Israel Free Trade Agreement; (2) the U.S.-Canada Free Trade Agreement; (3) the North American Free Trade Agreement (NAFTA); (4) The Uruguay Round Agreements, which established the World Trade Organization; and (5) The Tokyo Round of Multilateral Trade Negotiations.

Conference agreement

The House recedes to the Senate amendment.

SEC. 2112—SMALL BUSINESS

Present/expired law

No provision.

House amendment

No provision.

Senate amendment

WTO small business advocate. Section 2112(a) provides that the U.S. Trade Representative shall pursue identification of a small business advocate at the World Trade Organization Secretariat to examine the impact of WTO agreements on the interests of small businesses, address the concerns of small businesses, and recommend ways to address those interests in trade negotiations involving the WTO.

Assistant USTR responsible for small businesses. Section 2112(b) provides that the Assistant United States Trade Representative for Industry and Telecommunications shall be responsible for ensuring that the interests of small businesses are considered in trade negotiations.

Conference agreement

The Senate recedes to the House amendment with a modification. The Conferees agree to section 2112(b) of the Senate amendment, which provides that the Assistant USTR for Industry and Telecommunications will be responsible for ensuring that the interests of small business are considered in trade negotiations.

DIVISION C—ANDEAN TRADE PREFERENCE ACT

TITLE XXXI—ANDEAN TRADE PREFERENCE

SEC. 3101—SHORT TITLE

Present law

No provision.

House amendment

Section 3101 of H.R. 3009, as amended, provides that the Act may be cited as the ''Andean Trade Promotion and Drug Eradication Act.''

Senate amendment

Section 3101 provides that the Act may be cited as the ''Andean Trade Preference Expansion Act.''

Conference agreement

The Senate recedes.

SEC. 3102—FINDINGS

Present law

No provision.

House amendment

Section 1302 contains findings of Congress that:

(1) Since the Andean Trade Preference Act was enacted in 1991, it has had a positive impact on United States trade with Bolivia, Colombia, Ecuador, and Peru. Two-way trade has doubled, with the United States serving as the leading source of imports and leading export market for each of the Andean beneficiary countries. This has resulted in increased jobs and expanded export opportunities in both the United States and the Andean region.

(2) The Andean Trade Preference Act has been a key element in the United States counter narcotics strategy in the Andean region, promoting export diversification and broad-based economic development that provide sustainable economic alternatives to drug-crop production, strengthening the legitimate economies of Andean countries and creating viable alternatives to illicit trade in coca.

(3) Notwithstanding the success of the Andean Trade Preference Act, the Andean region remains threatened by political and economic instability and fragility, vulnerable to the consequences of the drug war and fierce global competition for its legitimate trade.

(4) The continuing instability in the Andean region poses a threat to the security interests of the United States and the world. This problem has been partially addressed through foreign aid, such as Plan Colombia, enacted by Congress in 2000. However, foreign aid alone is not sufficient. Enhancement of legitimate trade with the United States provides an alternative means for reviving and stabilizing the economies in the Andean region.

(5) The Andean Trade Preference Act constitutes a tangible commitment by the United States to the promotion of prosperity, stability, and democracy in the beneficiary countries.

(6) Renewal and enhancement of the Andean Trade Preference Act will bolster the confidence of domestic private enterprise and foreign investors in the economic prospects of the region, ensuring that legitimate private enterprise can be the engine of economic development and political stability in the region.

(7) Each of the Andean beneficiary countries is committed to conclude negotiation of a Free Trade Area of the Americas by the year 2005 as a means of enhancing the economic security of the region.

(8) Temporarily enhancing trade benefits for Andean beneficiaries countries will promote the growth of free enterprise and economic opportunity in these countries and serve the security interests of the United States, the region, and the world.

Senate amendment

Section 3101 is identical.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 3103—ARTICLES ELIGIBLE FOR PREFERENTIAL TREATMENT

Articles (Except Apparel) Eligible for Preferential Treatment

Present law

The Andean Trade Preference Act (ATPA), enacted on December 4, 1991 as title II of Public Law 102–182, authorizes preferential trade benefits for the Andean nations of Bolivia, Colombia, Ecuador, and Peru, similar to those benefits granted to beneficiaries under the Caribbean Basin Initiative program. The ATPA authorizes the President to proclaim duty-free treatment for all eligible articles from Bolivia, Colombia, Ecuador, Peru. This authority applies only to normal column 1 rates of duty in the Harmonized Tariff Schedule of the United States (HTS); any additional duties imposed under U.S. unfair trade practice laws, such as the anti-dumping or countervailing duty laws, are not affected by this authority.

The ATPA contains a list of products that are ineligible for duty-free treatment. More specifically, ATPA duty-free treatment does not apply to textile and apparel articles that are subject to textile agreements; petroleum and petroleum products; footwear not eligible for duty-free treatment under the Generalized System of Preferences; certain watches and watch parts; certain leather products; and sugar, syrups and molasses subject to over-quota rates of duty.

House amendment

Section 3103 (a) amends the Andean Trade Preference Act to authorize the President to proclaim duty-free treatment for any of the following articles which were previously excluded from duty-free treatment under the ATPA, if the President determines that the article is not import-sensitive in the context of imports from beneficiary countries:

(1) Footwear not designated at the time of the effective date of this Act as eligible for the purposes of the Generalized System of Preferences under title V of the Trade Act of 1974;

(2) Petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

(3) Watches and watch parts (including cases, bracelets and straps), of whatever type including. but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;

(4) Handbags, luggage, flat goods, work gloves, and leather wearing apparel that—(i) are the product of any beneficiary country; and (ii) were not designated on August 5, 1983, as eligible articles for purposes of the Generalized System of Preferences under title V of the Trade Act of 1974.

Under H.R. 3009, textiles subject to textile agreements; sugar, syrups and molasses subject to over-quota tariffs; and rum and tafia classified in subheading 2208.40.00 of the HTS would continue to be ineligible for duty-free treatment, as would apparel products other than those specifically described below. Imports of tuna, prepared or preserved in any manner, in airtight containers would receive immediate duty-free treatment.

Senate amendment

Section 3102 of the bill replaces the list of excluded products under section 204(b) of the current ATPA with a new provision that extends duty preferences to most of those products. The new preferences take the form of exceptions to the general rule that the excluded products are not eligible for duty-free treatment.

The enhanced preferences are made available to ''ATPEA beneficiary countries.''

Paragraph (5) of section 204(b) of the ATPA as amended by the present bill defines ATPEA beneficiary countries as those countries previously designated by the President as ''beneficiary countries'' (i.e., Bolivia, Colombia, Ecuador, and Peru) which subsequently are designated by the President as ''ATPEA beneficiary countries,'' based on the President's consideration of additional eligibility criteria.

In the event that the President did not designate a current ''beneficiary country'' as an ''ATPEA beneficiary country,'' that country would remain eligible for ATPA benefits under the law as expired on December 4, 2001, but would not be eligible for the enhanced benefits provided under the present bill.

Footwear not eligible for duty-free treatment under GSP receives the same tariff treatment as like products from Mexico, except that duties on articles in particular tariff subheadings are to be reduced by 1/15 per year.

The Senate Amendment provides special treatment for rum and tafia, allowing them to receive the same tariff treatment as like products from Mexico. The bill also allows certain handbags, luggage, flat goods, work gloves, and leather wearing apparel to receive the same tariff treatment as like products from Mexico.

Under the bill, the President is authorized to proclaim duty-free treatment for tuna that is harvested by United States or ATPEA vessels, subject to a quantitative yearly cap of 20 percent of the domestic United States tuna pack in the preceding year.

Conference agreement

Senate recedes on the authority of President to proclaim duty-free treatment for particular articles which were previously excluded from duty-free treatment under the ATPA, if the President determines that the article is not import-sensitive in the context of imports from beneficiary countries.

Textiles subject to textile agreements; sugar, syrups and molasses subject to over-quota tariffs; and rum and tafia classified in subheading 2208.40.00 of the HTS would continue to be ineligible for duty-free treatment, as would apparel products other than those specifically described below.

House recedes on the treatment of tuna with an amendment to: 1) retain U.S. or Andean flagged vessel rule of origin requirement in Senate amendment; 2) authorize the President to grant duty-free treatment for Andean exports of tuna packed in flexible (e.g., foil), airtight containers weighing with their contents not more than 6.8 kg each; and 3) update calculation of current MFN tariff-rate quota to be an amount based on 4.8 percent of apparent domestic consumption of tuna in airtight containers rather than domestic production.

Eligible Apparel Articles

Present law

Under the ATPA, apparel articles are on the list of products excluded from eligibility for duty-free treatment.

House amendment

Under Section 3103, the President may proclaim duty-free and quota-free treatment for apparel articles sewn or otherwise assembled in one or more beneficiary countries exclusively from any one or any combination of the following:

(1) Fabrics or fabric components formed, or components knit-to-shape, in the United States (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States).

(2) Fabrics or fabric components formed, or components knit-to-shape, in one or more beneficiary countries, from yarns formed in one or more beneficiary countries, if such fabrics (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in one or more beneficiary countries) are in chief weight of llama, or alpaca.

(3) Fabrics or yarn not produced in the United States or in the region, to the extent that apparel articles of such fabrics or yarn would be eligible for preferential treatment, without regard to the source of the fabrics or yarn, under Annex 401 of the NAFTA (short supply provisions). Any interested party may request the President to consider such treatment for additional fabrics and yarns on the basis that they cannot be supplied by the domestic industry in commercial quantities in a timely manner, and the President must make a determination within 60 calendar days of receiving the request from the interested party.

(4) Apparel articles sewn or otherwise assembled in one or more beneficiary countries from fabrics or fabric components formed or components knit-to-shape, in one or more beneficiary countries, from yarns formed in the United States or in one or more beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in one or more beneficiary countries), whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape in the United States described in paragraph 1. Imports of apparel made from regional fabric and regional yarn would be capped at 3% of U.S. imports growing to 6% of U.S. imports in 2006, measured in square meter equivalents.

Senate amendment

Paragraph (2) of section 204(b) of the ATPA as amended by section 3102 of the present bill extends duty-free treatment to certain textile and apparel articles from ATPEA beneficiary countries. The provision divides articles eligible for this treatment into several different categories and limits duty-free treatment to a period defined as the transition period.'' The transition period is defined in paragraph (5) of section 204(b) of the ATPA as amended to be the period from enactment of the present bill through the earlier of February 28, 2006 or establishment of a FTAA.

In general, the different categories of textile and apparel articles eligible for duty free treatment are defined according to the origin of the yarn and fabric from which the articles are made. Under the first category, apparel sewn or otherwise assembled in one or more ATPEA beneficiary countries is eligible for duty-free treatment if it is made exclusively from one or a combination of several sub-categories of components, as follows:

(1) United States fabric, fabric components, or knit-to-shape components, made from yarns wholly formed in the United States;

(2) A combination of both United States and ATPEA beneficiary country components knit-to-shape from yarns wholly formed in the United States;

(3) ATPEA beneficiary country fabric, fabric components, or knit-to-shape components, made from yarns wholly formed in one or more ATPEA beneficiary countries, if the constituent fibers are primarily llama or alpaca hair; and

(4) Fabrics or yarns, regardless of origin, if such fabrics or yarns have been deemed, under the North American Free Trade Agreement, not to be widely available in commercial quantities in the United States. A separate provision of section 204(b) of the ATPA as amended by the present bill sets forth a process for interested parties to petition the President for inclusion of additional yarns and fabrics in the ''short supply'' list. This process includes obtaining advice from the United States International Trade Commission and industry advisory groups, and consultation with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

A second category of apparel articles eligible for duty-free treatment is apparel articles knit-to-shape (except socks) in one or more ATPEA beneficiary countries from yarns wholly formed in the United States. To qualify under this category, the entire article must be knit-to-shape—as opposed to being assembled from components that are themselves knit-to-shape.

A third category of apparel articles eligible for duty-free treatment is apparel articles wholly assembled in one or more ATPEA beneficiary countries from fabric or fabric components knit, or components knit-to-shape in one or more ATPEA beneficiary countries from yarns wholly formed in the United States. The quantity of apparel eligible for this benefit is subject to an annual cap. The cap is set at 70 million square meter equivalents for the one-year period beginning March 1, 2002. The cap will increase by 16 percent, compounded annually, in each succeeding one-year period, through February 28, 2006.

Thus, the cap applied to this category in each year following enactment will be as follows:

70 million square meter equivalents (SME) in the year beginning March 1, 2002;

81.2 million SME in the year beginning March 1, 2003;

94.19 million SME in the year beginning March 1, 2004; and

109.26 million SME in the year beginning March 1, 2005.

A separate provision makes clear that goods otherwise qualifying under the latter category will not be disqualified if they happen to contain United States fabric made from United States yarn.

A fourth category of apparel eligible for duty-free treatment under the Senate bill is brassieres that are cut or sewn, or otherwise assembled, in one or more ATPEA beneficiary countries, or in such countries and the United States. This separate category requires that, in the aggregate, brassieres manufactured by a given producer claiming duty-free treatment for such products contain certain quantities of United States fabric.

A fifth category of textile and apparel eligible for duty-free treatment is handloomed, handmade, and folklore articles.

A final category of textile and apparel goods eligible for duty-free treatment is textile luggage assembled in an ATPEA beneficiary country from fabric and yarns formed in the United States.

In addition to the foregoing categories, the bill sets forth special rules for determining whether particular textile and apparel articles qualify for duty-free treatment.

Conference agreement

In general the conferees agreed to follow the House amendment on apparel provisions with the exception that the House receded to the Senate on the treatment of textile luggage. With respect to category 2 in the House bill relating to fabrics or fabric components formed, or components knit-to-shape, in one or more beneficiary countries, from yarns formed in one or more beneficiary countries, if such fabrics are in chief weight of llama, or alpaca, conferees agreed to include vicuna and calculate product eligibility based on chief value instead of chief weight. Also, conferees agreed to cap imports of apparel

made from regional fabric and regional yarn (category 4 in the House bill) at 2% of U.S. imports growing to 5% of U.S. imports in 2006, measured in square meter equivalents.

It is the intention of the conferees that in cases where fabrics or yarns determined by the President to be in short supply impart the essential character to an article, the remaining textile components may be constructed of fabrics or yarns regardless of origin, as in Annex 401 of the NAFTA. In cases where the fabrics or yarns determined by the President to be in short supply do not impart the essential character of the article, the article shall not be ineligible for preferential treatment under this Act because the article contains the short supply fabric or yarn.

Special Origin Rule for Nylon Filament Yarn

House amendment

No provision.

Senate amendment

Articles otherwise eligible for duty-free treatment and quota free treatment under the bill are not ineligible because they contain certain nylon filament yarn (other than elastomeric yarn) from a country that had an FTA with the U.S. in force prior to January 1, 1995.

Conference agreement

House recedes.

Dyeing, Finishing and Printing Requirement

House amendment

New requirement that apparel made of U.S. knit or woven fabric assembled in CBTPA country qualifies for benefits only if the U.S. knit or woven fabric is dyed and finished in the United States. Apparel made of U.S. knit or woven fabric assembled in an Andean beneficiary country qualifies for benefits only if the U.S. knit or woven fabric is dyed and finished in the United States.

Senate Provision

No provision.

Conference agreement

Senate recedes.

Penalties for Transshipment

Present Law

The Tariff Act of 1930, as amended, provides for civil monetary penalties for unlawful transshipment. These include penalties under 19 U.S.C. 1592 for up to a maximum of the domestic value of the imported merchandise or eight times the loss of revenue, as well as denial of entry, redelivery or liquidated damages for failure to redeliver the merchandise determined to be inaccurately represented. In addition, an importer may be liable for criminal penalties, including imprisonment for up to five years, under section 1001 of title 18 of the United States Code for making false statements on import documentation.

Under the North American Free Trade Agreement (NAFTA), Parties to the Agreement must observe Customs procedures and documentation requirements, which are established in Chapter 5 of NAFTA. Requirements regarding Certificates of Origin for imports receiving preferential tariffs are detailed in Article 502.1 of NAFTA.

House amendment

Section 3103 requires that importers comply with requirements similar in all material respects to the requirements regarding Certificates of Origin contained in Article 502.1 of the North American Free Trade Agreement (NAFTA) for a similar importation from Mexico.

In addition, if an exporter is determined under the laws of the United States to have engaged in illegal transshipment of apparel products from an Andean country, then the President shall deny all benefits under the bill to such exporter, and to any successors of such exporter, for a period of two years.

In cases where the President has requested a beneficiary country to take action to prevent transshipment and the country has failed to do so, the President shall reduce the quantities of textile and apparel articles that may be imported into the United States from that country by three times the quantity of articles transshipped, to the extent that such action is consistent with World Trade Organization (WTO) rules.

Senate amendment

In amending section 204(b) of the ATPA, section 3102 of the present bill provides special penalties for transshipment of textile and apparel articles from an ATPEA beneficiary country. Transshipment is defined as claiming duty-free treatment for textile and apparel imports on the basis of materially false information. An exporter found to have engaged in such transshipment (or a successor of such exporter) shall be denied all benefits under the ATPA for a period of two years.

The bill further provides penalties for an ATPEA beneficiary country that fails to cooperate with the United States in efforts to prevent transshipment. Where textile and apparel articles from such country are subject to quotas on importation into the United States consistent with WTO rules, the President must reduce the quantity of such articles that may be imported into the United States by three times the quantity of transshipped articles, to the extent consistent with WTO rules.

Conference agreement

Conference agreement follows House and Senate bill.

Import Relief Actions

Present law

The import relief procedures and authorities under sections 201–204 of the Trade Act of 1974 apply to imports from ATPA beneficiary countries, as they do to imports from other countries. If ATPA imports cause serious injury, or threat of such injury, to the domestic industry producing a like or directly competitive article, section 204(d) of the ATPA authorizes the President to suspend ATPA duty-free treatment and proclaim a rate of duty or other relief measures.

Under NAFTA, the United States may invoke a special safeguard provision at any time during the tariff phase-out period if a NAFTA-origin textile or apparel good is being imported in such increased quantities and under such conditions as to cause ''serious damage, or actual threat thereof,'' to a domestic industry producing a like or directly competitive good. The President is authorized to either suspend further duty reductions or increase the rate of duty to the NTR rate for up to three years.

House amendment

Under Section 3103 normal safeguard authorities under ATPA would apply to imports of all products except textiles and apparel. A NAFTA equivalent safeguard authorities would apply to imports of apparel products from ATPA countries, except that, United States, if it applied a safeguard action, would not be obligated to provide equivalent trade liberalizing compensation to the exporting country.

Senate amendment

The bill establishes similar textile and apparel safeguard provisions based on the NAFTA textile and apparel safeguard provision.

Conference agreement

Conference Agreement follows House and Senate bill.

Designation Criteria

Present law

In determining whether to designate any country as an ATPA beneficiary country, the President must take into account seven mandatory and 12 discretionary criteria, which are listed in section 203 of the ATPA.

Under Section 203 of the ATPA, the President shall not designate any country a ATPA beneficiary country if:

(1) the country is a Communist country;

(2) the country has nationalized, expropriated, imposed taxes or other exactions or otherwise seized ownership or control of U.S. property (including intellectual property), unless he determines that prompt, adequate, and effective compensation has been or is being made, or good faith negotiations to provide such compensation are in progress, or the country is otherwise taking steps to discharge its international obligations, or a dispute over compensation has been submitted to arbitration;

(3) the country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of U.S. citizens;

(4) the country affords ''reverse'' preferences to developed countries and whether such treatment has or is likely to have a significant adverse effect on U.S. commerce;

(5) a government-owned entity in the country engages in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent or the country fails to work toward the provision of adequate and effective intellectual property rights;

(6) the country is not a signatory to an agreement regarding the extradition of U.S. citizens,

(7) if the country has not or is not taking steps to afford internationally recognized worker rights to workers in the country;

In determining whether to designate a country as eligible for ATPA benefits, the President shall take into account (discretionary criteria):

(1) an expression by the country of its desire to be designated;

(2) the economic conditions in the country, its living standards, and any other appropriate economic factors;

(3) the extent to which the country has assured the United States it will provide equitable and reasonable access to its markets and basic commodity resources;

(4) the degree to which the country follows accepted rules of international trade under the World Trade Organization;

(5) the degree to which the country uses export subsidies or imposes export performance or local content requirements which distort international trade;

(6) the degree to which the trade policies of the country are contributing to the revitalization of the region;

(7) the degree to which the country is undertaking self-help measures to protect its own economic development;

(8) whether or not the country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized workers rights;

(9) the extent to which the country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive intellectual property rights;

(10) the extent to which the country prohibits its nationals from engaging in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent;

(11) whether such country has met the narcotics cooperation certification criteria of the Foreign Assistance Act of 1961 for eligibility for U.S. assistance; and

(12) the extent to which the country is prepared to cooperate with the United States in the administration of the Act.

Under the ATPA the President is prohibited from designating a country a beneficiary country if any of criteria (1)–(7) apply to that country, subject to waiver if the President determines that country designation will be in the U.S. national economic or security interest. The waiver does not apply to criteria (4) and (6). Under the ATPA criteria on (7) is included as both mandatory and discretionary.

The President may withdraw or suspend beneficiary country status or duty-free treatment on any article if he determines the country should be barred from designation as a result of changed circumstances. The President must submit a triennial report to the Congress on the operation of the program. The report shall include any evidence that the crop eradication and crop substitution efforts of the beneficiary country are directly related to the effects of the legislation

House amendment

The House amendment provides that the President, in designating a country as eligible for the enhanced ATPDEA benefits, shall take into account the existing eligibility criteria established under ATPA described above, as well as other appropriate criteria, including: whether a country has demonstrated a commitment to undertake its WTO obligations and participate in negotiations toward the completion of the FTAA or comparable trade agreement; the extent to which the country provides intellectual property protection consistent with or greater than that afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights; the extent to which the country provides internationally recognized worker fights; whether the country has implemented its commitments to eliminate the worst forms of child labor; the extent to which a country has taken steps to become a party to and implement the Inter-American Convention Against Corruption; and the extent to which the country applies transparent, nondiscriminatory and competitive procedures in government procurement equivalent to those included in the WTO Agreement on Government Procurement and otherwise contributes to efforts in international fora to develop and implement international rules in transparency in government procurement.

Senate amendment

Section 3102(5) contains identical provisions.

Conference agreement

Conference Agreement follows the House and Senate amendments. In evaluating a potential beneficiary's compliance with its WTO obligations, the conferees expect the President to take into account the extent to which the country follows the rules on customs valuation set forth in the WTO Customs Valuation Agreement. With respect to intellectual property protection, it is the Conferees intent that the President will also take into account the extent to which potential beneficiary countries are providing or taking steps to provide protection of intellectual property rights comparable to the protections provided to the United States in bilateral intellectual property agreements.

Since April 1995, Colombia has applied a variable import duty system, known as the ''price band'' system, on fourteen basic agriculture products such as wheat, corn, and soybean oil. An additional 147 commodities, considered substitutes or related products, are subject to the price band system which establishes ceiling, floor, and reference prices on imports. The Conferees's view is that the price band system is non-transparent and easily manipulated as a protectionist device. In early 2000, the United States reached agreement with Colombia in the WTO that Colombia would delink wet pet food, the only finished product in this system, from the price band system. In implementing the eligibility criteria relating to market access and implementation of WTO commitments, it is the Conferees intent that USTR insist that Colombia implement its WTO commitment to remove pet food from the price band tariff system and to apply the 20% common external tariff to imported pet food.

With respect to whether beneficiary countries are following established WTO rules, the Conferees believe it is important for Andean goveniments to provide transparent and non-discriminatory regulatory procedures. Unfortunately, the Conferees know of instances where regulatory policies in Andean countries are opaque, unpredictable, and arbitrarily applied. As such, it is the Conferees's view that Andean countries that seek trade benefits should adopt, implement, and apply transparent and non-discriminatory regulatory procedures. The development of such procedures would help create regulatory stability in the Andean region and thus provide mere certainty to U.S. companies that would like to invest in these countries.

Determination Regarding Retention of Designation

Present law

Under Section 203(e) of the ATPA, the President may withdraw or suspend a country's beneficiary country designation, or withdraw, suspend, or limit the application of duty-free treatment to particular articles of a beneficiary country, due to changed circumstances.

House amendnient

Section 3102(b) amends section 203(e) of the ATPA to provide that President may withdraw or suspend ATPA designation, or withdraw, suspend or limit benefits if a country's performance under eligibility criteria are no longer satisfactory.

Senate amendment

Identical.

Conference agreement

Conference agreement follows the House amendment and Senate amendment.

Reporting Requirements

Present law

Provides for: 1) an annual report by the International Trade Commission on the economic impact of the bill and; 2) an annual report by the Secretary of Labor on the impact of the bill with respect to U.S. labor. Also under present law, USTR is required to report triannually on operation of the program.

House amendment

Retains current law on reports.

Senate amendment

Senate bill requires same ITC and Labor reports as well as an annual report by the Customs Service on compliance and anti-circumvention on the part of beneficiary countries in the area of textile and apparel trade. It also requires USTR to report biannually on operation of the program.

Conference agreement

House recedes.

Petitions for Review

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 3102(e) of the bill directs the President to promulgate regulations regarding the review of eligibility of articles and countries under the ATPA. Such regulations are to be similar to regulations governing the Generalized System of Preferences petition process.

Conference agreement

House recedes.

SECTION 3104—TERMINATION OF DUTY-FREE TREATMENT

Present law

Duty-free treatment under the ATPA expires on December 4, 2001.

House amendment

Duty-free treatment terminates under the Act on December 31, 2006.

Senate amendment

Section 3103 of the bill amends section 208(b) of the ATPA to provide for a termination date of February 28, 2006. Basic ATPA benefits apply retroactively to December 4, 2001.

Conference agreement

House recedes on retroactivity for basic ATPA benefits; Senate recedes on termination.

SECTION 3106—TRADE BENEFITS UNDER THE CARIBBEAN BASIN TRADE PARTNERSHIP ACT (CBTPA) AND THE AFRICA GROWTH AND OPPORTUNITY ACT (AGOA)

Knit-to-shape Apparel

Present law

Draft regulations issued by Customs to implement P.L. 106–200 stipulate that knit to-shape garments, because technically they do not go through the fabric stage, are not eligible for trade benefits under the act.

House amendment

Sec. 3106 and 3107 of the House bill amends AGOA and CBTPA to clarify that preferential treatment is provided to knit-to-shape apparel articles assembled in beneficiary countries.

Senate amendment

No provision.

Conference agreement

Senate recedes.

Present law

Draft regulations issued by Customs to implement P.L. 106–200 deny preferential access to garments that are cut both in the United States and beneficiary countries, on the rationale that the legislation does not specifically list this variation in processing (the so called ''hybrid cutting problem'').

House amendment

Sec. 3107 of H.R. 3009 adds new rules in CBTPA and AGOA to provide preferential treatment for apparel articles that are cut both in the United States and beneficiary countries.

Senate amendment

No provision.

Conference agreement

Senate recedes

CBI Knit Cap

Present law

P.L. 106–200 extended duty-free benefits to knit apparel made in CBI countries from regional fabric made with U.S. yarn and to knit-to-shape apparel (except socks), up to a cap of 250,000,000 square meter equivalents (SMEs), with a growth rate of 16% per year for first 3 years.

House amendment

Sec. 3106 of H.R. 2009 would raise this cap to the following amounts: 250,000,000 SMEs

for the 1-year period beginning October 1, 2001; 500,000,000 SMEs for the 1-year period beginning on October 1, 2002; 850,000,000 SMEs for the 1-year period beginning on October 1, 2003; 970,000,000 SMEs in each succeeding 1-year period through September 30, 2009.

Senate amendment

No provision.

Conference agreement

Senate recedes.

CBI T-shirt cap

Present law

P.L. 106–200 extends benefits for an additional category of CBI regional knit apparel products (*T-shirts*) up to a cap of 4.2 million dozen, growing 16% per year for the first 3 years.

House amendment

Section 3106 of H.R. 3006 would raise this cap to the following amounts: 4,200,000 dozen during the 1-year period beginning October 1, 2001; 9,000,000 dozen for the 1-year period beginning on October 1, 2002; 10,000,000 dozen for the 1-year period beginning on October 1, 2003; 12,000,000 dozen in each succeeding 1-year period through September 30, 2009.

Senate amendment

No provision.

Conference agreement

Senate recedes.

Present law

Section 112(b)(3) of the AGOA provides preferential treatment for apparel made in beneficiary sub-Saharan African countries from ''regional'' fabric (i.e., fabric formed in one or more beneficiary countries) from yarn originating either in the United States or one or more such countries. Section 112(b)(3)(B) establishes a special rule for lesser developed beneficiary sub-Saharan African countries, which provides preferential treatment, through September 30, 2004, for apparel wholly assembled in one or more such countries regardless of the origin of the fabric used to make the articles. Section 112(b)(3)(A) establishes a quantitative limit or ''cap'' on the amount of apparel that may be imported under section 112(b)(3) or section 112(b)(3)(B). This ''cap'' is 1.5 percent of the aggregate square meter equivalents of all apparel articles imported into the United States for the year that began October 1, 2000, and increases in equal increments to 3.5 percent for the year beginning October 1, 2007.

House amendment

Section 3107 would clarify that apparel wholly assembled in one or more beneficiary sub-Saharan African countries from components knit-to-shape in one or more such countries from U.S. or regional yarn is eligible for preferential treatment under section 112(b)(3) of AGOA. Similarly, Section 5 would clarify that apparel knit-to-shape and wholly assembled in one or more lesser developed beneficiary sub-Saharan African countries is eligible for preferential treatment, regardless of the origin of the yarn used to make such articles. The House amendment also would increase the ''cap'' by changing the applicable percentages from 1.5 percent to 3 percent in the year that began October 1, 2000, and from 3.5 percent to 7 percent in the year beginning October 1, 2007.

Senate amendment

No provision.

Conference agreement

Conference agreement follows House Amendment accept the increase in the cap is limited to apparel products made with regional or U.S. fabric and yarn. No increases in amounts of apparel made of third-country fabric over current law.

Present law

AGOA was supposed to provide duty-free, quota-free treatment to sweaters knit in African beneficiary countries from fine merino wool yarn, regardless of where the yarn was formed. AGOA was supposed to provide duty-free, quota-free treatment to sweaters knit in African beneficiary countries from fine merino wool yarn, regardless of where the yarn was formed. However, due to a drafting problem, the wrong diameter was included, making it impossible to use the provision.

House amendment

Section 3107 corrects the yarn diameter in the AGOA legislation so that sweaters knit to shape from merino wool of a specific diameter are eligible.

Senate amendment

No provision.

Conference agreement

Senate recedes.

AFRICA: NAMIBIA AND BOTSWANA

Present law

The GDBs of Botswana and Namibia exceed the LLDC limit of $1500 and therefore these countries are not eligible to use third country fabric for the transition period under the AGOA regional fabric country cap.

House amendment

Section 5 allows Namibia and Botswana to use third country fabric for the transition period under the AGOA regional fabric country cap.

Senate amendment

No provision.

Conference agreement

Senate recedes.

TITLE XLI—EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES

SEC. 4101— EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES

Expired law

Section 505 of the Trade Act of 1974, as amended, provides that no duty-free treatment under Title V (the Generalized System of Preferences) shall remain in effect after September 30, 2001.

House bill

The House amendment to H.R. 3009 would amend section 505 of the Trade Act of 1974 to authorize an extension through December 31, 2002. It would also provide retroactive relief in that, notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, the entry of any article to which duty-free treatment under Title V of the Trade Act of 1974 would have applied if the entry had been made on September 30. 2001, and was made after September 30, 2001, and before the enactment of this Act, shall be liquidated or reliquidated as free of duty and the Secretary of Treasury shall refund any duty paid, upon proper request filed with the appropriate Customs officer, within 180 days after the date of enactment.

Senate amendment

The Senate amendment authorizes an extension of GSP through December 31, 2006. The extension is retroactive to September 30, 2001, permitting importers to liquidate or reliquidate entries made since that date and to seek a return of duties paid on goods that would have entered the United States free of duty, but for expiration of GSP.

The Senate amendment also amends the definition of ''internationally recognized worker rights'' set forth in the GSP statute (section 507(4) of the Trade Act of 1974). Specifically, it adds to that definition ''a prohibition on discrimination with respect to employment and occupation'' and a ''prohibition of the worst forms of child labor.'' These two prohibitions come from the International Labor Organization's 1998 Declaration on Fundamental Principles and Rights at Work, which defines certain worker rights as ''fundamental.''

The GSP statute identifies certain criteria that the President must take into account in determining whether to designate a country as eligible for GSP benefits. Conversely, a country's lapse in compliance with one or more of these criteria may be grounds for withdrawal, suspension, or limitation of benefits. Whether a country is taking steps to afford its workers internationally recognized worker rights is one of those criteria. The Senate Amendment seeks to make the concept of ''internationally recognized worker rights'' as defined for GSP consistent with the concept as defined by the ILO.

Finally, the Senate Amendment establishes a new eligibility criterion for GSP: ''A country is ineligible for GSP if it has not taken steps to support the efforts of the United States to combat terrorism.''

Conference agreement

The Conference agreement authorizes an extension of GSP through December 31, 2006. Conferees approved the Senate provision to include a prohibition on the worst forms of child labor in the definition of internationally recognized worker rights in Section 507(a) of the Trade Act of 1974. Conferees declined to include the Senate provision on discrimination with respect to employment in the definition of ''international recognized worker rights under Sec. 507 (a) of the Trade Act of 1974. Agreement follows the House and the Senate bill with respect to providing retroactive relief.

DIVISION E—MISCELLANEOUS PROVISIONS

TITLE L—MISCELLANEOUS TRADE BENEFITS

Subtitle A—Wool Provisions

SEC. 5101—WOOL MANUFACTURER PAYMENT CLARIFICATION AND TECHNICAL CORRECTIONS ACT

Present law

Title V of the Trade and Development Act of 2000 (Pub. L. No. 106–200) included certain tariff relief for the domestic tailored clothing and textile industries. The relief was largely aimed at reducing the harmful affects of a ''tariff inversion''—i.e., a tariff structure that levies higher duties on the raw material (such as wool fabric) than on the finished goods (such as mens' suits). A component of the relief to the U.S. tailored clothing and textile industry was a refund of duties paid in calendar year 1999, spread out over calendar years 2000, 2001 and 2002. Pub. L. No. 106–2000, § 505.

House amendment

No provision.

Senate amendment

The Senate bill amends section 505 of the Trade and Development Act of 2000 to simplify the process for refunding to eligible parties duties paid in 1999. Specifically, it creates three special refund pools for each of the affected wool articles (fabric, yarn, and fiber and top). Refunds for importing manufacturers will be distributed in three installments—the first and second on or before the date that is 45 days after the date of enactment of the Wool Manufacturer Payment and Clarification and Technical Corrections Act, and the third on or before April 15, 2003. Refunds for nonimporting manufacturers will be distributed in two installments—the first on or before the date that is 120 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, and the second on or before April 15, 2003.

The provision also streamlines the paperwork process, in light of the destruction of previously filed claims and supporting information in the September 11, 2001 attacks on the World Trade Center in New York, New York. Finally, the provision identifies all persons eligible for the refunds.

Conference agreement

The House recedes to the Senate.

SEC. 5102—DUTY SUSPENSION ON WOOL

Present law

Sections 501(a) and (b) of the Trade and Development Act of 2000 provide temporary duty reductions for certain worsted wool fabrics through 2003.

Section 501(d) limits the aggregate quantity of worsted wool fabrics entered under heading 9902.51.11 from January 1 to December 31 of each year, inclusive, to 2,500,000 square meter equivalents, or such other quantity proclaimed by the President pursuant to section 504(b)(3) of the Trade and Development Act. Further, the section limits the aggregate quantity of worsted wool fabrics entered under heading 9902.51.12 from January 1 to December 31 of each year, inclusive, to 1,500,000 square meter equivalents, or such other quantity proclaimed by the President pursuant to section 504(b)(3) of the Trade and Development Act.

House amendment

No provision.

Senate bill

The Senate bill extends the temporary duty reductions on fabrics of worsted wool from 2003 to 2005. The provision increases the limitation on the quantity of imports of worsted wool fabrics entered under heading 9902.51.11 to 3,500,000 square meter equivalents in calendar year 2002, and 4,500,000 square meter equivalents in calendar year 2003. Imports of worsted wool fabrics entered under heading 9902.51.12 are increased to 2,500,000 square meter equivalents in calendar year 2002, and 3,500,000 square meter equivalents in calendar year 2003.

The bill extends the payments made to manufacturers under section 505 of the Trade and Development Act of 2000 and requires an affidavit that the manufacturer will remain a manufacturer in the United States as of January 1 of the year of payment. The two additional payments will occur as follows: the first to be made after January 1, 2004, but on or before April 15, 2004, and the second after January 1, 2005, but on or before April 15, 2005.

Finally, the bill extends the ''Wool Research Trust Fund'' for two years through 2006.

Conference agreement

The House recedes to the Senate.

Subtitle B—Other Provisions

SEC. 5201—FUND FOR WTO DISPUTE SETTLEMENT

Present law

No applicable section.

House amendment

The provision authorizes a settlement fund within the United States Trade Representative's Office in the amount of $50 million for the use in settling disputes that occur related to the World Trade Organization. The Trade Representative must certify to the Secretary of the Treasury that the settlement is in the best interest of the United States in cases of not more than $10 million. For cases above $10 million, the Trade Representative must make the same certification to the United States Congress.

Senate bill

No provision.

Conference agreement

The Senate recedes to the House.

SEC. 5202—CERTAIN STEAM OR OTHER VAPOR GENERATING BOILERS USED IN NUCLEAR FACILITIES

Present law

Under present law, certain steam or other vapor generating boilers used in nuclear facilities imported into the United States prior to December 31, 2003 are charged a duty rate of 4.9 percent ad valorem. This rate took effect pursuant to section 1268 of Public Law Number 106–476 (''Tariff Suspension and Trade Act of 2000''). Previously, the rate had been 5.2 percent ad valorem.

House amendment

No provision.

Senate amendment

Section 203 of the Senate amendment chances the duty rate on certain steam or other vapor generating boilers used in nuclear facilities to zero for such goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002, and on or before December 31, 2006. The provision was intended to lower the cost of inputs into the operation of nuclear facilities and thereby lower the cost of energy to consumers.

Committee agreement

The House recedes to the Senate.

SEC. 5203—SUGAR TARIFF RATE QUOTA CIRCUMVENTION

Present law

No applicable section.

House amendment

No provision.

Senate amendment

The Senate bill establishes a sugar anti-circumvention program which requires the Secretary of Agriculture to identify imports of articles that are circumventing tariff rate quotas on sugars, syrups, or sugar-containing products imposed under chapters 17, 18, 19, and 21 of the Harmonized Tariff Schedule. The Secretary shall then report to the President articles found to be circumventing such tariff-rate quotas. Upon receiving the Secretary's report, the President shall, by proclamation, include any identified article in the appropriate tariff-rate quota provision of the Harmonized Tariff Schedule.

Conference agreement

Conferees agreed to a provision directing the Secretary of Agriculture and the Commissioner of Customs shall monitor for sugar circumvention and shall report and make recommendations to Congress and the President.

This provision amends the Harmonized Tariff Schedule of the United States (''HTSUS'') to make clear in the statute an important element of the ruling of the Court of Appeals for the Federal Circuit in Heartland By-Products, Inc. v. United States, 264 F. 3rd 1126 (Fed. Cir. 2001), i.e., that molasses is one of the foreign substances that must be excluded when calculating the percentage of soluble non-sugar solids under subheading 1702.90.40.

The provision requires the Secretary of Agriculture and the Commissioner of Customs to establish a monitoring program to identify existing or likely circumvention of the tariff-rate quotas in Chapters 17, 18, 19 and 21 of the HTSUS. The Secretary and the Commissioner shall report the results of their monitoring to Congress and the President every six months, together with data and a description of developments and trends in the composition of trade provided for in such chapters. This report will be made public. The report will discuss any indications that imports of articles not subject to the tariff-rate quotas are being used for commercial extraction of sugar in the United States. Imports of so-called ''high-test molasses'' currently classified under subheading 1703.10.30 will be examined particularly closely for such indications.

Finally, the Secretary and the Commissioner will include in the report their recommendations for ending circumvention, including their recommendations for legislation. The Managers emphasize that rapid action to stop circumvention is the best way to prevent a problem from developing and that quick administrative or legislative action is preferable to protracted procedures and litigation, as occurred in the Heartland case.

DIVISION A—TRADE ADJUSTMENT ASSISTANCE

SEC. 101—SHORT TITLE

Present law

No provision.

House amendment

Section 101 of H.R. 3009 provides that Division A of the Act may be cited as the ''Trade Adjustment Assistance Reform Act of 2002.''

Senate amendment

Section 101 of H.R. 3009 provides that Division A of the Act may be cited as the ''Trade Adjustment Assistance Reform Act of 2002.''

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

TITLE I—TRADE ADJUSTMENT ASSISTANCE PROGRAM

Subtitle A—Trade Adjustment Assistance for Workers

SEC. 111—REAUTHORIZATION OF THE TRADE ADJUSTMENT ASSISTANCE PROGRAM

Present law

Current section 245 authorizes to be appropriated to the Department of Labor such sums as may be necessary to carry out the purposes of the TAA and NAFTA–TAA for workers programs for the period October 1, 1998 through September 30, 2001. Current section 285 provides for termination of all Trade Adjustment Assistance programs on September 30, 2001, but provides that workers, and firms eligible to receive benefits on or before that date shall continue to be eligible to receive such benefits as though the programs were in effect.

House amendment

The House Amendment reauthorized the Trade Adjustment Assistance programs through September 30, 2004.

Senate amendment

Section 111 of the Senate bill creates a new section 248 of the Trade Act of 1974 which authorizes to be appropriated to the Department of Labor such sums as may be necessary to carry out the purposes of the Trade Adjustment Assistance for workers program for the period October 1, 2001, through September 30, 2007. Section 701 of the Senate bill amends current section 285 to provide for termination of all Trade Adjustment Assistance programs on September 30, 2007, but provides that workers, and firms, communities, farmers, and fishermen eligible to receive benefits on or before that date shall continue to be eligible to receive such benefits as though the programs were in effect.

Conference agreement

Conferees agree to extend the authorization of the Trade Adjustment Assistance programs through September 30, 2007, and to consolidate the NAFTA–TAA program with the regular TAA program.

SEC. 112—FILING OF PETITIONS AND PROVISION OF RAPID RESPONSE ASSISTANCE; EXPEDITED REVIEW OF PETITIONS BY SECRETARY OF LABOR

Present law

Current sections 221 and 250 set forth requirements concerning who may file a petition for certification of eligibility to apply for TAA and NAFTA–TAA assistance, respectively. Under both programs, petitions may be filed by a group of workers or by their certified or recognized union or other duly authorized representative. TAA petitions are filed with the Secretary of Labor. NAFTA–TAA petitions are filed with the Governor of the relevant State and forwarded by him to the Secretary of Labor. Under section 223, the Secretary of Labor must rule on eligibility within 60 days after a TAA petition is filed. Under section 250, the Governor must make a preliminary eligibility determination within 10 days after a NAFTA–TAA petition is filed, and the Secretary of Labor must make a final eligibility determination within the next 30 days. Section 221 also sets forth notice and hearing obligations of the Secretary of Labor upon receipt of a TAA petition. Section 250 provides that, in the event of preliminary certification of eligibility to apply for NAFTA–TAA benefits, the Governor immediately provide the affected workers with certain rapid response services.

House amendment

The House Amendment provided for a shortened period for the Secretary of Labor to consider petitions from 60 days to 40 days and for other rapid response assistance to workers.

Senate amendment

Section 111 of the Senate bill creates a new section 231 of the Trade Act of 1974, which consolidates the TAA and NAFTA–TAA programs by establishing a single program with a single set of group eligibility criteria and a single set of procedures and standards for filing and reviewing petitions, certifying eligibility, and terminating certifications of eligibility.

Section 231 expands the list of entities that may file a petition for group certification of eligibility to include employers, one-stop operators or one-stop partners, State employment agencies, and any entity to which notice of a plant closing or mass layoff must be given under section 3 of the Worker Adjustment and Retraining Notification Act. Section 231 also provides that the President, or the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives (by resolution), may direct the Secretary of Labor to initiate a certification process under this chapter to determine the eligibility for Trade Adjustment Assistance of a group of workers.

Section 231 creates a single process for filing and reviewing petitions for Trade Adjustment Assistance for workers, under which all petitions are filed with both the Secretary of Labor and the Governor of the State. Upon filing of the petition, the Governor is required to fulfill the requirements of any agreement entered into with the Department of Labor under section 222, to provide certain rapid response services, and to notify workers on whose behalf a petition has been filed of their potential eligibility for certain existing federal health care, child care, transportation, and other assistance programs. Upon filing the petition, the Secretary of Labor must make his certification determination within 40 days and provide the notice required.

Conference agreement

The Senate recedes to the House with a change providing for simultaneous filing of petitions with the Secretary of Labor and State Governor.

SEC. 113—GROUP ELIGIBILITY REQUIREMENTS

Present law

Current law sections 222 and 250 of Title 11 of the Trade Act of 1974 set forth group eligibility criteria. Under TAA, the Secretary must certify a group of workers as eligible to apply for Trade Adjustment Assistance if he determines (1) that a significant number or proportion of the workers in such workers' firm have become or are threatened to become totally or partially separated; (2) sales or production of such firm have decreased absolutely; and (3) imports of articles like or directly competitive with articles produced by such workers' firm contributed importantly to the total or partial separation or threat thereof, and to the decline in sales or production. Under NAFTA–TAA, group eligibility may be based on the same criteria set forth in section 222, but section 250 also provides for NAFTA–TAA eligibility where there has been a shift in production by the workers' firm to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm. Section 222 also includes special eligibility provisions with respect to oil and natural gas producers.

House amendment

The House Amendment at Section 113 expanded the Trade Adjustment Assistance programs to secondary workers that are suppliers to firms that were certified and which satisfied certain conditions.

Senate amendment

Section 111 of the Senate Amendment creates a new section 231 under which the eligibility criteria are revised. First, workers are eligible for TAA if the value or volume of imports of articles like or directly competitive with articles produced by that firm have increased and the increase in the value or volume of imports contributed importantly to the workers' separation or threat of separation. Second, eligibility is extended to workers who are separated due to shifts in production to any country, rather than only when the shift in production is to Mexico or Canada. Third, eligibility is extended to adversely affected secondary workers. Eligible secondary workers include workers in supplier firms and, with respect to trade with NAFTA countries, downstream firms. Fourth, a new special eligibility provision is added with respect to taconite pellets.

Conference agreement

The Conferees agree to extend coverage of Trade Adjustment Assistance to new categories of workers: 1) secondary workers that supply directly to another firm component parts for articles that were the basis for a certification of eligibility, 2) downstream workers that were affected by trade with Mexico or Canada, and 3) certain workers that have been laid off because their firm has shifted its production to another country that has a free trade agreement with the United States, that has a unilaterally preferential trading arrangement with the United States, or when there has been or is likely to be an increase in imports of the relevant articles.

SEC. 114—QUALIFYING REQUIREMENTS FOR TRADE READJUSTMENT ALLOWANCES

Present law

Current section 231 establishes qualifying requirements that must be met in order for an individual worker within a certified group to receive Trade Adjustment Assistance. In order to receive trade readjustment allowances, a certified worker must have been separated on or after the eligibility date established in the certification but within 2 years of the date of the certification determination; been employed for at least 26 of the 52 weeks preceding the separation at wages of $30 or more a week; be eligible for and have exhausted unemployment insurance benefits; not be disqualified for extended compensation payable under the Federal-State Extended Unemployment Compensation Act of 1970 by reason of the work acceptance and job search requirements in section 202(a)(3) of that Act; and be enrolled in a training program approved by the Secretary of Labor or have received a training waiver.

House amendment

The House Amendment at Section 114 provided for requirements and deadlines for workers to enroll in training.

Senate amendment

Section 111 of the Senate Amendment adds a new section 235 which maintains the individual eligibility requirements in current law, with the exception of revisions to provisions governing bases for granting training waivers.

Conference agreement

The Senate recedes to the House, with a change to adopt a training enrollment deadline of 16 weeks after separation.

SEC. 115—WAIVERS OF TRAINING REQUIREMENTS

Present law

Section 231 sets forth permissible bases for granting a training waiver. Pursuant to section 250(d), training waivers are not available in the NAFTA–TAA program.

House amendment

The House Amendment provides that all workers who are eligible to apply for Trade Adjustment Assistance may be considered for training waivers and codifies several bases on which the Secretary may grant a waiver.

Senate amendment

Section 111 of the Senate Amendment adds a new section 235 which provides that all workers who are eligible to apply for Trade Adjustment Assistance may be considered for training waivers and codifies several bases on which the Secretary may grant a waiver.

Conference agreement

The House receded to the Senate with a change to delete the Senate provision giving the Secretary discretion to grant waivers for ''other'' reasons.

SEC. 116—AMENDMENTS TO LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES

Present law

Current section 233 provides that each certified worker may receive trade readjustment allowances for a maximum of 52 weeks. Current law also provides that, in most circumstances, a worker is treated as participating in training during any week which is part of a break in training that does not exceed 14 days.

House amendment

Section 116 of the House Amendment would add 26 weeks of trade adjustment allowances for those workers who were in training and required the extension of benefits for the purpose of completing training.

Senate amendment

Section 111 of the Senate Amendment adds a new section 237 which increases the maximum time period during which a worker may receive trade adjustment allowances to 78 weeks, extends the permissible duration of a break in training to 30 days, and provides for an additional 26 weeks of income support for workers requiring remedial education. Section 237 also clarifies that the requirement that a worker exhaust unemployment insurance benefits prior to receiving trade adjustment allowances does not apply to any

extension of unemployment insurance by a State using its own funds that extends beyond either the 26 week period mandated by Federal law or any additional period provided for under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

Conference agreement

The Senate recedes to the House.

SEC. 117—ANNUAL TOTAL AMOUNT OF PAYMENTS FOR TRAINING

Present law

Current section 236 establishes the terms and conditions under which training is available to eligible workers; permits the Secretary of Labor to approve certain specified types of training programs and to pay the costs of approved training and certain supplemental costs, including subsistence and transportation costs, for eligible workers; and caps total annual funding for training under the TAA for workers program at $80 million. Section 250 separately caps training expenditures under the NAFTA-TAA program at $30 million annually.

House amendment

The House provided $30 million additional funds for the Trade Adjustment Assistance program. Combined with NAFTA Trade Adjustment Assistance, the total training funds available were $140 million.

Senate amendment

Section 111 of the Senate Amendment adds a new section 240 which sets the total funds available for training expenditures under the unified TAA for workers program to $300 million annually.

Conference agreement

Conferees agreed to a combined training cap of $220 million for Trade Adjustment Assistance training.

SEC. 118—PROVISION OF EMPLOYER-BASED TRAINING

Present law

No applicable section.

House amendment

The House Amendment included provisions related to employer based training including on-the-job training and customized training with partial reimbursements provided to the employer.

Senate amendment

Section 111 of the Senate Amendment adds a new section 240 which revises the list of training programs which the Secretary may approve to include customized training. It also adds a new section 237, which clarifies that the prohibition on payment of trade adjustment allowances to a worker receiving on-the-job training does not apply to a worker receiving on-the-job training does not apply to worker enrolled in a non-paid customized training program.

Conference agreement

The Senate recedes to the House.

SEC. 119—COORDINATION WITH TITLE I OF THE WORKFORCE INVESTMENT ACT OF 1998

Present law

No provision.

House amendment

The House Amendment provided multiple provisions related to coordinating efforts under the Trade Adjustment Assistance programs to provide information and benefits to workers under the Workforce Investment Act.

Senate amendment

No provision.

Conference agreement

Conferees agreed to drop House language with the exception of a provision related to coordinating the delivery of Trade Adjustment Assistance benefits and information at one-stop delivery systems under the Workforce Investment Act.

SEC. 120—EXPENDITURE PERIOD

Present law

No provision.

House amendment

The House amendment provided that certain funds obligated for any fiscal year to carry out activities may be expended by each State in the succeeding two fiscal years.

Senate amendment

No provision.

Conference agreement

The Senate recedes to the House.

SEC. 121—JOB SEARCH ALLOWANCES

Present law

Under current section 237, when the Secretary of Labor determines that local employment is not available, an adversely affected worker certified eligible for TAA benefits may receive reimbursement of 90 percent of the cost of necessary job search expenses up to $800.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 241 which raises the maximum reimbursement for job search expenses to $1250 per worker.

Conference agreement

The House recedes to the Senate.

SEC. 122—RELOCATION ALLOWANCES

Present law

Under current section 238, when the Secretary of Labor determines that local employment is not available, an adversely affected worker certified eligible for TAA benefits may receive a relocation allowance consisting of (1) 90 percent of the reasonable and necessary expenses incurred in transporting a worker and his family, if any, and household effects, and (2) a lump sum equivalent to three times the worker's average weekly wage, up to a maximum payment of $800.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 242 which raises the maximum lump sum portion of the relocation allowance to $1,250.

Conference agreement

The House recedes to the Senate.

SEC. 123—REPEAL OF NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE PROGRAM

Present law

Current law authorizes a Trade Adjustment Assistance Program for workers affected by NAFTA trade.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 231 which combines the TAA and NAFTA–TAA programs, establishing a single program with a single set of group eligibility criteria and a single set of procedures and standards for filing and reviewing petitions, certifying eligibility, and terminating certification of eligibility.

Conference agreement

The House recedes to the Senate to the extent of repealing the NAFTA Trade Adjustment Assistance program and creating a single, unified TAA program for workers.

SEC. 124—DEMONSTRATION PROJECT FOR ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE FOR OLDER WORKERS

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 243 which directs the Secretary of Labor, within one year of enactment, to establish a two-year wage insurance pilot program under which a State uses the funds provided to the State for Trade Adjustment allowances to pay to an adversely affected worker certified under section 231, for a period not to exceed two years, a wage subsidy of up to 50 percent of the difference between the wages received by the adversely affected worker from reemployment and the wages received by the adversely affected worker at the time of separation. An adversely affected worker may be eligible to receive a wage subsidy if the worker obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment, is at least 50 years of age, earns not more than $50,000 a year in wages from reemployment, is employed at least 30 hours a week in the reemployment, and does not return to the employment from which the worker was separated. The wage subsidy available to workers in the wage insurance program is 50 percent of the difference between the amount of the wages received by the worker from reemployment and the amount of the wages received by the worker at the time of separation, if the wages the worker receives from reemployment are less than $40,000 a year. The wage subsidy is 25 percent if the wages received by the worker from reemployment are greater than $40,000 a year but not more than $50,000 a year. Total payments made to an adversely affected worker under the wage insurance program may not exceed $5,000 in each year of the 2-year period. A worker participating in the wage insurance program is not eligible to receive any other Trade Adjustment Assistance benefits, unless the Secretary of Labor determines that the worker has shown circumstances that warrant eligibility for training benefits under section 240.

Conference agreement

The Conferees agree to create a new alternative Trade Adjustment Assistance program for older workers.

SEC. 125—DECLARATIONS OF POLICY; SENSE OF CONGRESS

Present law

No provision.

House amendment

The House passed amendment included a declaration of policy and Sense of the Congress related to the responsibility of the Secretary of Labor to provide information to workers related to benefits available to them under the TAA and other federal programs.

Senate amendment

Although certain supportive services are available to dislocated workers under WIA, current law makes no express linkage between these services and Trade Adjustment Assistance and TAA certified workers may not be able to access them. Section 111 of the Senate Amendment adds a new section 243 which provides that States may apply for and the Secretary of Labor may make available to adversely affected workers certified under the Trade Adjustment Assistance program supportive services available under WIA, including transportation, child care, and dependent care, that are necessary to enable a worker to participate in or complete

training. Section 243 requires the Comptroller General to conduct a study of all assistance provided by the Federal Government for workers facing job loss and economic distress; to submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the study within one year of enactment of this Act; and to distribute the report to all WIA one-stop partners. Section 243 further provides that each State may conduct a study of its assistance programs for workers facing job loss and economic distress. Each State is eligible for a grant from the Secretary of Labor, not to exceed $50,000, to enable it to conduct the study. In the event that a grant is awarded, the State must, within one year of receiving the grant, provide its report to the Committee on Finance and the Committee on Ways and Means and distribute its report to one-stop partners in the State.

Conference agreement

The Senate recedes to the House.

SUBTITLE B—Trade Adjustment Assistance for Firms

SEC. 131—REAUTHORIZATION OF TRADE ADJUSTMENT FOR FIRMS PROGRAM

Present law

The Trade Adjustment Assistance for Firms program provides technical assistance to qualifying firms. Current Title 11, Chapter 3, section 251 of the Trade Act of 1974 provides that a firm is eligible to receive Trade Adjustment Assistance under this program if (1) a significant number or proportion of its workers have become or are threatened to become totally or partially separated; (2) sales or production, or both, have decreased absolutely; and (3) increases of imports of articles like or directly competitive with articles which are produced by such firms contributed importantly to the total or partial separations or threat thereof.

The authorization for the Trade Adjustment Assistance for Finns program expired on September 30, 2001. The TAA for Firms program is currently subject to annual appropnations and is funded as part of the budget of the Economic Development Administration in the Department of Commerce.

House amendment

The House passed amendment included a 2 year reauthorization for Trade Adjustment Assistance for Firms.

Senate amendment

Section 201 of the Senate Amendment reauthorizes the Trade Adjustment Assistance for Firms program for fiscal years 2002 through 2007; expands the definition of qualifying firms to cover shifts in production; and authorizes appropriations to the Department of Commerce in the amount of $16 million annually for fiscal years 2002 through 2007 to carry out the purposes of the Trade Adjustment Assistance for Firms program.

Conference agreement

The House recedes to the Senate on the issue of providing a $16 million authorization for Trade Adjustment Assistance for Firms and reauthorizing the program through September 30, 2007.

SUBTITLE C—Trade Adjustment Assistance for Farmers and Ranchers

SEC. 141—TRADE ADJUSTMENT ASSISTANCE FOR FARMERS

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 401 of the Senate Amendment adds new sections 292–298 of the Trade Act of 1974 which create a Trade Adjustment Assistance program for farmers and ranchers in the Department of Agriculture. Under this section, a group of agricultural commodity producers may petition the Secretary of Agriculture for Trade Adjustment Assistance. The Secretary must certify the group as eligible for Trade Adjustment Assistance for farmers if it is determined that the national average price in the most recent marketing year for the commodity produced by the group is less than 80 percent of the national average price in the preceding 5 marketing years and that increases in imports of that commodity contributed importantly to the decline in price.

Conference agreement

The House recedes to the Senate with changes. The Conferees agree to include limitations on eligibility based upon adjusted gross income and counter-cyclical payment limitations set forth in the Food Security Act of 1985.

SEC. 142—CONFORMING AMENDMENTS

Present law

No applicable section.

House amendment

No provision.

Senate amendment

The Senate Amendment makes conforming amendments to the Trade Act of 1974 concerning the TAA for Farmers program.

Conference agreement

Conferees agree to make conforming amendments to the Trade Act of 1974.

SEC. 143—TRADE ADJUSTMENT ASSISTANCE FOR FISHERMEN

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 502 of the Senate Amendment adds new sections 299–299(G) which create a Trade Adjustment Assistance program for fishermen in the Department of Commerce. Under this program, a group of fishermen may petition the Secretary of Commerce for Trade Adjustment Assistance. The Secretary must certify the group as eligible for Trade Adjustment Assistance for fisherman if it is determined that the national average price in the most recent marketing year for the fish produced by the group is less than 80 percent of the national average price in the proceeding five marketing years and that increases in imports of that fish contributed importantly to the decline in price.

Conference agreement

Conferees agree to drop Senate Amendment and authorize a study by the Department of Labor to investigate applying TAA to fisherman.

Subtitle D—Effective Date

SEC. 151—EFFECTIVE DATE

Present law

No applicable provision.

House amendment

No provision.

Senate amendment

Section 801 of the Senate Amendment provides that except as otherwise specified, the amendments to the TAA program shall be effective 90 days after enactment of the Trace Act of 2002. The Senate Amendment includes transitional provisions governing the period between expiration of the prior authorizations of TAA for workers and firms and the effective date of the amendments.

Conference agreement

The House recedes to the Senate.

TITLE II: CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 201 (A) AND 202.—CREDIT FOR HEALTH INSURANCE COSTS OF INDIVIDUALS RECEIVING A TRADE READJUSTMENT ALLOWANCE OR A BENETFIT FROM THE PENSION BENEFIT GUARANTY CORPORATION; ADVANCE PAYMENT OF CREDIT FOR HEALTH INSRUANCE COSTS OF ELIGIBLE INDIVIUDALS

Present Law

Under present law, the tax treatment of health insurance expenses depends on the individual's circumstances. In general, employer contributions to an accident or health plan are excludable from an employee's gross income (sec. 106).

Self-employed individuals are entitled to deduct a portion of the amount paid for health insurance expenses for the individual and his or her spouse and dependents. The percentage of deductible expenses is 70 percent in 2002 and 100 percent in 2003 and thereafter.

Individuals other than self-employed individuals who purchase their own health insurance and itemize deductions may deduct their expenses to the extent that their total medical expenses exceed 7.5 percent of adjusted gross income.

Present law does not provide a tax credit for the purchase of health insurance.

The health care continuation rules (commonly referred to as ''COBRA'' rules, after the Consolidated Omnibus Budget Reconciliation Act of 1985 in which they were enacted) require that employer-sponsored group health plans of employers with 20 or more employees must offer certain covered employees and their dependents (''qualified beneficiaries'') the option of purchasing continued health coverage in the event of loss of covera-e resulting ftom certain qualifying events. These qualifying events include: termination or reduction in hours of employment, death, divorce or legal separation, enrollment in Medicare, the bankruptcy of the employer, or the end of a child's dependency under a parent's health plan. In general, the maximum period of COBRA coverage is 18 months. An employer is permitted to charge qualified beneficiaries 102 percent of the applicable premium for COBRA coverage.

Under present law, individuals without access to COBRA are able to purchase indl-%idual policies on a guaranteed issue basis without exclusion of coverage for pre-existing conditions if they had 18 months of creditable coverage under an employer sponsored group health plan, governmental plan, or a church plan. Those with access to COBRA are required to exhaust their 18 months of COBRA prior to obtaining a policy on a guaranteed issue basis without exclusion of coverage for pre-existing conditions.

House amendment

The House bill provides a refundable tax credit for up to 60 percent of the expenses of an eligible individual for qualified health insurance coverage of the eligible individual and his or her spouse or dependents. Eligible individuals are certain TAA eligible workers and PBGC pension beneficiaries. In the case of TAA eligible workers, no more than 12 months of coverage would be eligible for the credit. The amount of the credit would be phased out for taxpayers with modified adjusted gross income between $20,000 and $40,000 for single taxpayers ($40,000 and $80,000 for married taxpayers filing a joint return). The credit would be available on an advance basis pursuant to a program to be established by the Secretary of the Treasury. Insurance that qualifies for the credit includes certain COBRA coverage and certain individual market options.

Senate amendment

The Senate amendment provides a refundable credit for 70 percent of qualified health insurance expenses. The credit is available with respect to certain TAA eligible workers. The credit is payable on an advance basis pursuant to a program to be established by the Secretary of the Treasury. Insurance that qualifies for the credit includes certain COBRA coverage, certain State-based options, and individual health insurance if certain requirements are satisfied.

Conference Agreement

Refundable health insurance credit: in general

In the case of taxpayers who are eligible individuals, the conference agreement provides a refundable tax credit for 65 percent of the taxpayer's expenses for qualified health insurance of the taxpayer and qualifying family members for each eligible coverage month beginning in the taxable year. The credit is available only with respect to amounts paid by the taxpayer.

Qualifying family members are the taxpayer's spouse and any dependent of the taxpayer with respect to whom the taxpayer is entitled to claim a dependency exemption.[1] Any individual who has other specified coverage is not a qualifying family member.

Persons eligible for the credit

Eligibility for the credit is determined on a monthly basis. In general, an eligible coverage month is any month if, as of the first day of the month, the taxpayer (1) is an eligible individual, (2) is covered by qualified health insurance, (3) does not have other specified coverage, and (4) is not imprisoned under Federal, State, or local authority. In the case of a joint return, the eligibility requirements are met if at least one spouse satisfies the requirements. An eligible month must begin more than 90 days after the date of enactment.

An eligible individual is (1) an eligible TAA recipient, (2) an eligible alternative TAA recipient, and (3) an eligible PBGC pension recipient.

An individual is an eligible TAA recipient during any month if the individual (1) is receiving for any day of such month a trade adjustment allowance[2] or who would be eligible to receive such an allowance but for the requirement that the individual exhaust unemployment benefits before being eligible to receive an allowance and (2) with respect to such allowance, is covered under a certification issued under subchapter A or D of chapter 2 of title 11 of the Trade Act of 1974. An individual is treated as an eligible TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient.

An individual is an eligible alternative TAA recipient during any month if the individual (1) is a worker described in section 246(a)(3)(B) of the Trade Act of 1974 who is participating in the program established under section 246(a)(1) of such Act, and (2) is receiving a benefit for such month under section 246(a)(2) of such Act. An individual is treated as an eligible alternative TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient.

An individual is a PBGC pension recipient for any month if he or she (1) is age 55 or over as of the first day of the month, and (2) is receiving a benefit any portion of which is paid by the Pension Benefit Guaranty Corporation (''PBGC).

An otherwise eligible taxpayer is not eligible for the credit for a month if, as of the first day of the month the individual has other specified coverage. Specified coverage would be (1) coverage under any insurance which constitutes medical care (expect for insurance substantially all of the coverage of which is for excepted benefits)[3] if at least 50 percent of the cost of the coverage is paid by an employee[4] (or former employer) of the individual or his or her spouse or (2) coverage under certain governmental health programs.[5] A rule aggregating plans of the same employer applies in determining whether the employer pays at least 50 percent of the cost of coverage. A person is not an eligible individual if he or she may be claimed as a dependent on another person's tax return. A special rule applies with respect to alternative TAA recipients.

Qualified health insurance

Qualified health insurance eligible for the credit is: (1) COBRA continuation coverage (2) State based continuation coverage provided by the State under a State law that requires such coverage; (3) coverage offered through a qualified State high risk pool; (4) coverage under a health insurance program offered to State employees or a comparable program; (5) coverage through an arrangement entered into by the State and a group health plan, an issuer of health insurance coverage, an administrator, or an employer; (6) coverage offered through a State arrangement with a private sector health care coverage purchasing pool; (7) coverage under a State-operated health plan that does not receive any Federal financial participation; (8) coverage under a group health plan that is available through the employment of the eligible individual's spouse; and (9) coverage under individual health insurance if the eligible individual was covered under individual health insurance during the entire 30-day period that ends on the date the individual became separated from the employment which qualified the individual for the TAA allowance, the benefit for an eligible alternative TAA recipient, or a pension benefit from the PBGC, whichever applies.[6]

Qualified health insurance does not include any State-based coverage (i.e., coverage described in (2)–(8) in the preceding paragraph), unless the State has elected to have such coverage treated as qualified health insurance and such coverage meets certain requirements. Such State coverage must provide that each qualifying individual is guaranteed enrollment if the individual pays the premium for enrollment or provides a qualified health insurance costs eligibility certificate and pays the remainder of the premium. In addition, the State-based coverage cannot impose any pre-existing condition limitation with respect to qualifying individuals. State-based coverage cannot require a qualifying individual to pay a premium or contribution that is greater than the premium or contribution for a similarly situated individual who is not a qualified individual. Finally, benefits under the State-based coverage must the same as (or substantially similar to) benefits provided to similarly situated individuals who are not qualifying individuals. A qualifvlng individual is an eligible individual who seeks to enroll in the State-based coverage and who has aggregate periods of creditable coverage[7] of three months or longer, does not have other specified coverage, and who is not imprisoned. A ''qualifying, individual'' also includes qualified family members of such an eligible individual.

Qualified health insurance does not include coverage under a flexible spending or similar arrangement or any insurance if substantially all of the coverage is of excepted benefits.

Other rules

Amounts taken into account in determining the credit could not be taken into account in determining the amount allowable under the itemized deduction for medical expenses or the deduction for health insurance expenses of self-employed individuals. Amounts distributed from a medical savings account would not be eligible for the credit. The amount of the credit is reduced by any credit received on an advance basis. Married taxpayers filing separate returns are eligible for the credit; however, if both spouses are eligible individuals and the spouses file a separate return, then the spouse of the taxpayer is not a qualifying family member.

The Secretary of the Treasury is authorized to prescribe such regulations and other guidance as may be necessary or appropriate to carry out the provision.

Advance payment of refundable health insurance credit; reporting requirements

The conference agreement provides for payment of the credit on an advance basis (i.e., prior to the filing of the taxpayer's return) pursuant to a program to be established by the Secretary of the Treasury no later than August 1, 2003. Such program is to provide for making payments on behalf of certified individuals to providers of qualified health insurance. In order to receive the credit on an advance basis, a qualified health insurance costs credit eligibility certificate would have to be in effect for the taxpayer. A qualified health insurance costs credit eligibility certificate is a written statement that an individual is an eligible individual for purposes of the credit, provides such information as the Secretary of the Treasury

[1] Present law allows the custodial parent to release the night to claim the dependency exemption for a child to the noncustodial parent. In addition, if certain requirements are met, the parents may, decide by agreement that the noncustodial parent is entitled to the dependency exemption with respect to a child. In such cases, the provision would treat the child as the dependent of the custodial parent for purposes of the credit.

[2] Part I of subchapter B, or subchapter D. of chapter 2 of title 11 of the Trade Act of 1974.

[3] Excepted benefits are: (1) coverage only for accident or disability income or any combination thereof, (2) coverage issued as a supplement to liability insurance; (3) liability insurance. including general liability insurance and automobile liability insurance; (4) worker's compensation or similar insurance; (5) automobile medical payment insurance; (6) credit-only insurance; (7) coverage for on-site medical clinics; (8) other insurance coverage similar to the coverages in (1)-(7) specified in regulations under which benefits for medical care are secondary or incidental to other insurance benefits; (9) limited scope dental or vision benefits; (10) benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof, and (11) other benefits similar to those in (9) and (10) as specified in regulations; (12) coverage only for a specified disease or illness; (13) hospital indemnity or other fixed indemnity insurance; and (14) Medicare supplemental insurance.

[4] An amount would be considered paid by the employer if it is excludable from income. Thus. for example, amounts paid for health coverage on a salary reduction basis under an employer plan are considered paid by the employer.

[5] Specifically, an individual would not be eligible for the credit if, as of the first day of the month, the individual is (1) entitled to benefits under Medicare Part A, enrolled in Medicare Part B, or enrolled in Medicaid or SCHIP, (2) enrolled in a health benefits plan under the Federal Employees Health Benefit Plan, or (3) entitled to receive benefits under chapter 55 of title 10 of the United States Code (relating to military personnel). An individual is not considered to be enrolled in Medicaid solely by reason of receiving immunizations.

[6] For this purpose, ''individual health insurance'' means any insurance which constitutes medical care offered to individuals other than in connection with a group health plan. Such term does not include Federal- or State-based health insurance coverage.

[7] Creditable coverage is determined under the Health Care Portability and Accountability Act (Code sec. 9801 (c)).

may require, and is provided by the Secretary of Labor or the PBGC (as appropriate) or such other person or entity designated by the Secretary.

The conference report permits the disclosure of return information of certified individuals to providers of health insurance information to the extent necessary to carry out the advance payment mechanism.

The conference report provides that any person who receives payments during a calendar year for qualified health insurance and claims a reimbursement for an advance credit amount is to file an information return with respect to each individual from whom such payments were received or for whom such a reimbursement is claimed. The return is to be in such form as the Secretary may prescribe and is to contain the name, address, and taxpayer identification number of the individual and any other individual on the same health insurance policy, the aggregate of the advance credit amounts provided, the number of months for which advance credit amounts are provided, and such other information as the Secretary may prescribe. The conference report requires that similar information be provided to the individual no later than January 31 of the year following the year for which the information return is made.

Effective Date

The provision is generally effective with respect to taxable years beginning after December 31, 2001. The provision relating to the advance payment mechanism to be developed by the Secretary would be effective on the date of enactment.

TITLE III.—CUSTOMS REAUTHORIZATION

Subtitle A—United States Customs Service

CHAPTER 1—DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL AND COMMERCIAL OPERATIONS

SEC. 301—SHORT TITLE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House provides that the Act may be cited as the ''Customs Border Security Act of 2002.''

Senate amendment

The Senate amendment is identical.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment

SEC. 311—AUTHORIZATION OF APPROPRIATIONS FOR NONCOMMERCIAL OPERATIONS, COMMERCIAL OPERATIONS, AND AIR AND MARINE INTERDICTION

Present law

The statutory basis for authorization of appropriations for Customs is section 301 (b)(1) of the Customs Procedural and Simplification Act of 1978 (19 U.S.C. 2075(b)). That law, as amended by section 8102 of the Omnibus Budget Reconciliation Act of 1986 [P.L. 99–509], first outlined separate amounts for non-commercial and commercial operations for the salaries and expenses portion of the Customs authorization. Under 19 U.S.C. 2075, Congress has adopted a two-year authorization process to provide Customs with guidance as it plans its budget, as well as guidance from the Committee for the appropriation process.

The most recent authorization of appropriations for Customs (under section 101 of the Customs and Trade Act of 1990 [P.L. 101 382]) provided $118,238,000 for salaries and expenses and $143,047,000 for air and marine interdiction program for FY 1991, and $1,247,884,000 for salaries and expenses and $150,199,000 for air and marine interdiction program in FY 1992.

House amendment

This provision authorizes $1,365,456,000 for FY 2003 and $1,399,592,400 for FY 2004 for noncommercial operations of the Customs Service. It also authorizes $1,642,602,000 for FY 2003 and $1,683,667,050 for FY 2004 for commercial operations of the Customs Service. Of the amounts authorized for commercial operations, $308,000,000 is authorized for the automated commercial environment computer system for each fiscal year. The provisions require that the Customs Service provide the Committee on Ways and Means and the Committee on Finance of the Senate with a report demonstrating that the computer system is being built in a cost-effective manner. In addition, the provisions authorizes $170,829,000 for FY 2003 and $175,099,725 for FY 2004 for air and marine interdiction operations of the Customs Service. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees.

Senate amendment

This provision authorizes $886,513,000 for FY 2003 and $909,471,000 for FY 2004 for noncommercial operations of the Customs Service. It also authorizes $1,603,482,000 for FY 2003 and $1,645,009,000 for FY 2004 for commercial operations of the Customs Service. Of the amounts authorized for commercial operations, $308,000,000 is authorized for the automated commercial environment computer system for each fiscal year. The provisions require that the Customs Service provide the Committee on Ways and Means and the Committee on Finance of the Senate with a report demonstrating that the computer system is being built in a cost-effective manner. In addition, the provisions authorizes $181,860,000 for FY 2003 and $186,570,000 for FY 2004 for air and marine interdiction operations of the Customs Service. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees.

Conference agreement

The Senate recedes to House.

SEC. 312—ANTITERRORIST AND ILLICIT NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND THE GULF COAST SEAPORTS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require that $90,244,000 of the FY 2003 appropriations be available until expended for acquisition and other expenses associated with implementation and deployment of terrorist and narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf seaports. The equipment would include vehicle and inspection systems. The provision would require that $9,000,000 of the FY 2004 appropriations be used for maintenance of equipment described above. This section would also provide the Commissioner of Customs with flexibility in using these funds and would allow for the acquisition of new updated technology not anticipated when this bill was drafted. Nothing in the language of the bill is intended to prevent the Commissioner of Customs from dedicating resources to specific ports not identified in the bill.

The equipment would include vehicle and container inspection systems, mobile truck x-rays, upgrades to fixed-site truck x-rays, pallet x-rays, busters, contraband detection kits, ultrasonic container inspection units, automated targeting systems, rapid tire deflator systems, portable Treasury Enforcement Communications Systems terminals, remote surveillance camera systems, weigh-in-motion sensors, vehicle counters, spotter camera systems, inbound commercial truck transponders, narcotics vapor and particle detectors, and license plate reader automatic targeting software.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 313—COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require Customs to measure specifically the effectiveness of the resources dedicated in sections 312 as part of its annual performance plan.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

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

SEC. 321—AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM TO PREVENT CHILD PORNOGRAPHY/CHILD SEXUAL EXPLOITATION

Present law

Customs enforcement responsibilities include enforcement of U.S. laws to prevent border trafficking relating to child pornography, intellectual property rights violations, money laundering, and illegal arms. Funding for these activities has been included in the Customs general account.

House amendment

H.R. 3009 as amended and passed by the House would authorize $10 million for Customs to carry out its program to combat online child sex predators. Of that amount, $375,000 would be dedicated to the National Center for Missing Children for the operation of its child pornography cyber tipline.

Senate amendment

The Senate amendment is the same as the House anendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

CHAPTER 2—MISCELLANEOUS PROVISIONS

SEC. 331—ADDITIONAL CUSTOMS SERVICE OFFICERS FOR U.S.-CANADA BORDER

Present law

No applicable section.

House Amendment

H.R. 3009 as amended and passed by the House earmarks $25 million and 285 new staff hires for Customs to use at the U.S.-Canada border.

Senate amendment

The Senate amendment is the same as the House Amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 332—STUDY AND REPORT RELATING TO PERSONNEL PRACTICES OF THE CUSTOMS SERVICE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House requires Customs to conduct a study of current personnel practices including: performance standards; the effect and impact of the collective bargaining process on Customs drug interdiction efforts; and a comparison of duty rotations policies of Customs and other federal agencies employing similarly situated personnel.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 333—STUDY AND REPORT RELATING TO ACCOUNTING AND AUDITING PROCEDURES OF THE CUSTOMS SERVICE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require Customs to conduct a study to ensure that appropriate training is being provided to personnel who are responsible for financial auditing of importers. Customs would specifically report on how its audit personnel protect the privacy and trade secrets of importers.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 334—ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would mandate the imposition of a cost accounting system in order for Customs to effectively explain its expenditures. Such a system would provide compliance with the core financial system requirements of the Joint Financial Management Improvement Program (JFMIP), which is a joint and cooperative undertaking of the U.S. Department of the Treasury, the General Accounting Office, the Office of Management and Budget, and the Office of Personnel Management working in cooperation with each other and other agencies to improve financial management practices in government. That Program has statutory authorization in the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 65).

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 335—STUDY AND REPORT RELATING TO TIMELINESS OF PROSPECTFVE RULINGS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require the Comptroller General to prepare a report to determine whether Customs has improved its timeliness in providing prospective rulings.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 336—STUDY AND REPORT RELATING TO CUSTOMS USER FEES

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require the Comptroller General to prepare a confidential report to determine whether current user fees are appropriately set at a level commensurate with the service provided for the fee. The Comptroller General is authorized to recommend the appropriate level for customs user fees.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 337—FEES FOR CUSTOMS INSPECTIONS AT EXPRESS COURIER FACILITIES

Present law

Current law provides for direct reimbursement by courier facilities of expenses incurred by Customs conducting inspections at those facilities.

House amendment

H.R. 3009 as amended and passed by the House would establish a per item fee of sixty-six cents to cover Customs expenses. This amount could be lowered to more than thirty-five cents or raised to no more than $1.00 by the Secretary of the Treasury after a rulemaking process to reevaluate the expenses incurred by Customs in providing inspectional services.

Senate amendment

No provision.

Conference agreement

The Senate recedes to the House.

SEC. 338—NATIONAL CUSTOMS AUTOMATION PROGRAM

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would empower the Secretary to require the electronic submission of any information required to be submitted to the Customs Service.

Senate amendment

No provision.

Conference agreement

The Senate recedes to the House.

SEC. 339—AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS STAFFING

Present law

No applicable section.

House amendment

No provision.

Senate amendment

The Senate Amendment authorizes the appropriation to the Department of Treasury such sums as may be necessary to increase the annual pay of journeyman Customs inspectors and Canine Enforcement Officers who have completed at least one year of service and are being paid at a GS–9 level, from GS–9 to GS–11. The Senate provision also authorizes an increase in pay of support staff.

Conference agreement

The House recedes to the Senate.

CHAPTER 4—ANTITERRORISM PROVISIONS

SEC. 341—IMMUNITY FOR CUSTOMS OFFICERS THAT ACT IN GOOD FAITH

Present law

Currently, Customs officers are entitled to qualified immunity in civil suits brought by persons, who were searched upon arrival in the United States. Qualified immunity protects officers from liability if they can establish that their actions did not violate any clearly established constitutional or statutory rights.

House amendment

H.R. 3009 as amended and passed by the House would protect Customs officers by providing them immunity from lawsuits stemming from personal searches of people entering the country so long as the officers conduct the searches in good faith.

Senate amendment

No provision.

Conference agreement

Senate recedes to the House, but conferees qualify the provision by adding that the means used to effectuate such searches must be reasonable. To be covered by this immunity provision, inspectors must follow Customs Service inspection rules including the rule against profiling against race, religions, or ethnic background.

SEC. 342—EMERGENCY ADJUSTMENTS TO OFFICES, PORTS OF ENTRY, OR STAFFING OF THE CUSTOMS SERVICE

Present law

Present law places numerous restrictions on and, in some instances, precludes the Secretary of the Treasury or Customs from making any adjustments to ports and staff. 19 U.S.C. 1318 requires a Presidential proclamation of an emergency and authorization to the Secretary of the Treasury only to extend the time for performance of legally required acts during an emergency. No other emergency powers statute for Customs exists.

House amendment

H.R. 3009 as amended and passed by the House would permit the Secretary of the Treasury, if the President declares a national emergency or if necessary to address specific threats to human life or national interests, to eliminate, consolidate, or relocate Customs ports and offices and to alter staffing levels, services rendered and hours of operations at those locations. In addition, the amendment would permit the Commissioner of Customs, when necessary to address threats to human life or national interests, to close temporarily any Customs office or port or take any other lesser action necessary to respond to the specific threat. The Secretary or the Commissioner would be required to notify Congress of any action taken under this proposal within 72 hours.

Senate amendment

The Senate amendment is the same as the House Amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SECS. 343 & 343A—MANDATORY ADVANCED ELECTRONIC INFORMATION FOR CARGO AND PASSENGERS; SECURE SYSTEMS OF TRANSPORTATION

Present law

Currently, commercial carriers bringing passengers or cargo into or out of the country have no obligation to provide Customs with such information in advance.

House amendment

H.R. 3009 as amended and passed by the House would require every air, land, or water-based commercial carrier to file an electronic manifest describing all passengers with Customs before entering or leaving the country. There is a similar requirement for cargo entering the country. Specific information required in the advanced manifest system would be developed by Treasury in regulations.

Senate amendment

The Senate Amendment is similar to the House Amendment. However, with respect to cargo, the Senate Amendment applies to outbound as well as in-bound shipments.

Conference agreement

The conferees agree to direct the Secretary of the Treasury to promulgate regulations pertaining to the electronic transmission to the Customs Service of information relevant to aviation, maritime, and surface transportation safety and security prior to a cargo carrier's arrival in or departure from the United States. The agreement sets forth parameters for the Secretary to follow in developing these regulations. For example, the parameters require that the regulations be flexible with respect to the commercial and operational aspects of different modes of transportation. They also require that, in general, the Customs Service seek information from parties most likely to have direct knowledge of the information at issue. The conferees also agree to amendment of the Tariff Act of 1930 to establish requirements concerning proper documentation of ocean-bound cargo prior to a vessel's departure. Finally, the conferees agree to direct the Secretary of the Treasury to establish a task force to evaluate, prototype and certify secure systems of transportation.

SEC. 344—BORDER SEARCH AUTHORITY FOR CERTAIN CONTRABAND IN OUTBOUND MAIL

Present law

Although Customs currently searches all inbound mail, and although it searches outbound mail sent via private carriers, outbound mail carried by the Postal Service is not subject to search.

House amendment

H.R. 3009 as amended and passed by the House would enable Customs officers to search outbound U.S. mail for unreported monetary instruments, weapons of mass destruction, firearms, and other contraband used by terrorists. However, reading of mail would not be authorized absent Customs officers obtaining a search warrant or consent.

Senate amendment

The Senate Amendment is the same as the House Amendment with respect to mail weighing in excess of 16 ounces. However, under the Senate Amendment, the Customs Service would be required to obtain a warrant in order to search mail weighing 16 ounces or less. The Senate Amendment also requires the Secretary of State to determine whether it is consistent with international law and U.S. treaty obligations for the Customs Service to search mail transiting the United States between two foreign countries. The Customs Service would be authorized to search such mail only after the Secretary of State determined that such measures are consistent with international law and U.S. treaty obligations.

Conference agreement

The House recedes to the Senate.

SEC. 345—AUTHORIZATION OF APPROPRIATIONS FOR REESTABLISHMENT OF CUSTOMS OPERATIONS IN NEW YORK CITY

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House authorizes funds to reestablish those operations.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

CHAPTER 5—TEXTILE TRANSSHIPMENT PROVISIONS

SEC. 351—GAO AUDIT OF TEXTILE TRANSSHIPMENT MONITORING BY CUSTOMS SERVICE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would direct the Comptroller General to conduct an audit of the systems at the Customs Service to monitor and enforce textile transshipment. The Comptroller General would report on recommendations for improvements.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 352—AUTHORIZATION OF APPROPRIATIONS FOR TEXTILE TRANSSHIPMENT ENFORCEMENT OPERATIONS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would authorize $9,500,000 for FY 2002 to the Customs Service for the purpose of enhancing its textile transshipment enforcement operations. This amount would be in addition to Customs Service's base authorization and the authorization to reestablish the destroyed textile monitoring and enforcement operations at the World Trade Center.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The Senate recedes to the House, but the text is clarified to provide that personnel will also conduct education and outreach in addition to enforcement.

SEC. 353—IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would earmark approximately $1.3 million within Customs' budget for selected activities related to providing technical assistance to help sub-Saharan African countries develop and implement effective visa and anti-transshipment systems as required by the African Growth and Opportunity Act (title I of Public Law 106–200).

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

Subtitle B—Office of the United States Trade Representative

SEC. 361—AUTHORIZATION OF APPROPRIATIONS

Present law

The statutory authority for budget authorization for the Office of the United States Trade Representative is section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171 (a)(1)). The most recent authorization of appropriations for USTR was under section 101 of the Customs and Trade Act of 1990 [P.L. 101–382]. Under 19 U.S.C. 2171, Congress has adopted a two-year authorization process to provide USTR with guidance as it plans its budget as well as guidance from the Committee for the appropriation process.

House amendment

H.R. 3009 as amended and passed by the House authorizes $32,300,000 for FY 2003 and $31,108,000 for FY 2004. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees. In light of the substantial increase in trade negotiation work to be conducted by USTR and the associated need for consultations with Congress, this provision would authorize the addition of two individuals to assist the office of Congressional Affairs.

Senate amendment

The Senate amendment authorizes $30,000,000 for FY 2003 and $31,000,000 for FY 2004.

Conference agreement

The Senate recedes to the House.

Subtitle C—United States International Trade Commission

SEC. 371.—AUTHORIZATION OF APPROPRIATIONS

Present law

The statutory authority for budget authorization for the International Trade Commission is section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)(A)). The most recent authorization of appropriations for the ITC was under section 101 of the Customs and Trade Act of 1990 [P.L. 101–382]. Under 19 U.S.C. 1330, Congress has adopted a two-year authorization process to provide the ITC with guidance as it plans its budget as well as guidance from the Committees for the appropriation process.

House amendment

H.R. 3009 as amended and passed by the House authorizes $54,000,000 for FY 2003 and $57,240,000 for FY 2004. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees.

Senate amendment

The Senate amendment authorizes $51,400,000 for FY 2003 and $53,400,000 for FY 2004.

Conference agreement

The Senate recedes to the House.

Subtitle D—Other Trade Provisions

SEC. 381.—INCREASE IN AGGREGATE VALUE OF ARTICLES EXEMPT FROM DUTY ACQUIRED ABROAD BY UNITED STATES RESIDENTS

Present law,

The Harmonized Tariff Schedule at subheading 9804.00.65 currently provides a $400 duty exemption for travelers returning from abroad.

House amendment

H.R. 3009 as amended and passed by the House would increased the current $400 duty exemption to $800.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 382.—REGULATORY AUDIT PROCEDURES

Present law

Section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) provides the authority for Customs to audit persons making entry of merchandise into the U.S. In the course of such audit, Customs auditors may identify discrepancies, including underpayments of duties. However, if there also are overpayments, there is no requirement that such overpayments be offset against the underpayments if the underlying entry has been liquidated.

House amendment

H.R. 3009 as amended and passed by the House would require that when conducting an audit, Customs must recognize and offset overpayments and overdeclarations of duties, quantities and values against underpayments and underdeclarations. As an example, if during an audit Customs finds that an importer has underpaid duties associated with one entry of merchandise by $100 but has also overpaid duties from another entry of merchandise by $25, then any assessment by Customs must be the difference of $75.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 383.—PAYMENT OF DUTIES AND FEES

Present law

Current law at 19 U.S.C. 1505 provides for the collection of duties by the Secretary through regulatory process.

House amendment

H.R. 3009 as amended and passed by the House would require duties to be paid within 10 working days without extension. The bill also provides for the Customs Service to create a monthly billing system upon the building of the Automated Commercial Environment.

Senate amendment

No provision.

Conference agreement

Senate recedes to the House.

DIVISION B—BIPARTISAN TRADE PROMOTION AUTHORITY

TITLE XXI—TRADE PROMOTION AUTHORITY

SEC. 2101.—SHORT TITLE AND FINDINGS

Present law

No provision.

House amendment

The short title of the bill is the ''Bipartisan Trade Promotion Authority Act of 2001.'' Section 2101 of the House amendment to H.R. 3009 states that Congress finds the expansion of international trade is vital to U.S. national security and economic growth, as well as U.S. leadership. Section 2101 also states that the recent pattern of decisions by dispute settlement panels and the Appellate Body of the World Trade Organization to impose obligations and restrictions on the use of antidumping and countervailing measures by WTO members has raised concerns, and Congress is concerned that such bodies appropriately apply the standard of review contained in Article 17.6 of the Antidumping Agreement, to provide deference to a permissible interpretation by a WTO member and to the evaluation by a member of the facts where that evaluation is unbiased and objective and the establishment of the facts is proper.

Senate amendment

The short title of the bill is the ''Bipartisan Trade Promotion Authority Act of 2002.'' Section 2101 of the Senate amendment to H.R. 3009 states that Congress finds the expansion of international trade is vital to U.S. national security and economic growth, as well as U.S. leadership. Section 2101 also states that support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. It goes on to note a troubling pattern of cases before WTO dispute settlement panels and the WTO Appellate Body that do precisely that.

Conference agreement

The Senate recedes to the House with modifications. With respect to the findings, the Conferees believe that, as stated in section 2101(b) of the Conference agreement, support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. Therefore, the recent pattern of decisions by dispute settlement panels and the WTO Appellate Body to impose obligations and restrictions on the use of antidumping, countervailing and safeguard measures by WTO members has raised concerns, and Congress is concerned that such bodies appropriately apply the standard of review contained in Article 17.6 of the Antidumping Agreement, to provide deference to a permissible interpretation by a WTO member and to the evaluation by a member of the facts where that evaluation is unbiased and objective and the establishment of the facts is proper.

SEC. 2102—TRADE NEGOTIATING OBJECTIVES

Present/expired law

Section 1101(a) of the Omnibus Trade and Competitiveness Act of 1988 (the 1988 Act) set forth overall negotiating objectives for concluding trade agreements. These objectives were to obtain more open, equitable, and reciprocal market access, the reduction or elimination of barriers and other trade-distorting policies and practices, and a more effective system of international trading disciplines and procedures. Section 1102(b) set forth the following principal trade negotiating objectives: dispute settlement, transparency, developing countries, current account surpluses, trade and monetary coordination, agriculture, unfair trade practices, trade in services, intellectual property, foreign direct investment, safeguards, specific barriers, worker rights, access to high technology, and border taxes.

House amendment

Section 2102 of the House amendment to H.R. 3009 would establish the following overall negotiating objectives: obtaining more open, equitable, and reciprocal market access; obtaining the reduction or elimination of barriers and other trade-distorting policies and practices; further strengthening the system of international trading disciplines and procedures, including dispute settlement; fostering economic growth and full employment in the U.S. and the global economy; ensuring that trade and environmental policies are mutually supportive and seeking to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources; promoting respect for worker rights and the rights of children consistent with International Labor Organization core labor standards, as defined in the bill; and seeking provisions in trade agreements under which parties strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement to trade.

In addition, section 2102 would establish the principal trade negotiating objectives for concluding trade agreements, as follows:

Trade barriers and distortions: expanding competitive market opportunities for U.S. exports and obtaining fairer and more open conditions of trade by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for U.S. exports and distort U.S. trade; and obtaining reciprocal tariff and nontariff barrier elimination agreements, with particular attention to products covered in section 111(b) of the Uruguay Round Agreements Act.

Services: to reduce or eliminate barriers to international trade in services, including regulatory and other barriers, that deny national treatment or unreasonably restrict the establishment or operations of services suppliers.

Foreign investment: to reduce or eliminate artificial or trade-distorting barriers to trade-related foreign investment and, recognizing that U.S. law on the whole provides a high level of protection for investment, consistent with or greater than the level required by international law, to secure for investors important rights comparable to those that would be available under U.S. legal principles and practice, by:

reducing or eliminating exceptions to the principle of national treatment; freeing the transfer of funds relating to investments; reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

seeking to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice;

providing meaningful procedures for resolving investment disputes including between an investor and a government;

seeking to improve mechanisms used to resolve disputes between an investor and a government through mechanisms to eliminate frivolous claims and procedures to ensure the efficient selection of arbitrators and the expeditious disposition of claims;

providing an appellate or similar review mechanism to correct manifestly erroneous interpretations of law; and

ensuring the fullest measure of transparency in investment disputes by ensuring that all requests for dispute settlement and all proceedings, submissions, findings, and decisions are promptly made public; all hearings are open to the public; and establishing a mechanism for acceptance of amicus curiae submissions.

Intellectual property: including: promoting adequate and effective protection of intellectual property rights through ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights, including strong enforcement; providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property; and ensuring that standards of protection and enforcement keep pace with technological developments, and in particular ensuring that right holders have the legal and technological means to control the use of their works through the internet and other global communication media.

Transparency: to increase public access to information regarding trade issues as well as the activities of international trade institutions; to increase openness in international trade fora, including the WTO, by increasing public access to appropriate meetings, proceedings, and submissions, including with regard to dispute settlement and investment; and to increase timely public access to notifications made by WT0 member states and the supporting documents.

Anti-corruption: to obtain high standards and appropriate enforcement mechanisms applicable to persons from all countries participating in a trade agreement that prohibit attempts to influence acts, decisions, or omissions of foreign government; and to ensure that such standards do not place U.S. persons at a competitive disadvantage in international trade.

Improvement of the WTO and multilateral trade agreements: to achieve full implementation and extend the coverage of the WTO and such agreements to products, sectors, and conditions of trade not adequately covered; and to expand country participation in and enhancement of the Information Technology Agreement (ITA) and other trade agreements.

Regulatory practices: to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations; to require that proposed regulations be based on sound science, cost-benefit analysis, risk assessment, or other objective evidence; to establish consultative mechanisms among parties to trade agreements to promote increased transparency in developing guidelines, rules, regulations, and laws for government procurement and other regulatory regimes; and to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products.

Electronic commerce: to ensure that current obligations, rules, disciplines, and commitments under the WTO apply to electronic commerce; to ensure that electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form; and the classification of such goods and services ensures the most liberal trade treatment possible; to ensure that governments refrain from implementing trade-related measures that impede electronic commerce; where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment, and to extend the moratorium of the WTO on duties on electronic transmissions.

Agriculture: to ensure that the U.S. trade negotiators duly recognize the importance of agricultural issues; to obtain competitive market opportunities for U.S. exports in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in U.S. markets and to achieve fairer and more open conditions of trade; to reduce or eliminate trade distorting subsidies; to impose disciplines on the operations of state-trading enterprises or similar administrative mechanisms; to eliminate unjustified restrictions on products derived from biotechnology; to eliminate sanitary or phytosanitary restrictions that contravene the Uruguay Round Agreement as they are not based on scientific principles and to improve import relief mechanisms to accommodate the unique aspects of perishable and cyclical agriculture.

Labor and the environment: to ensure that a party does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or Inaction, in a manner affecting trade between the United States and that party; to recognize that a party to a trade agreement is effectively enforcing its laws if a course of inaction or inaction reflects a reasonable exercise of discretion or results from a bona fide decision regarding allocation of resources and no retaliation may be authorized based on the exercise of these rights or the right to establish domestic labor standards and levels of environmental protection; to strengthen the capacity of U.S. trading partners to promote respect for core labor standards and to protect the environment through the promotion of sustainable development; to reduce or eliminate government practices or policies that unduly threaten sustainable development; to seek market access for U.S. environmental technologies, goods, and services; and to ensure that labor, environmental, health, or safety policies and practices of parties to trade agreements do not arbitrarily or unjustifiably discriminate against U.S. exports or serve as disguised barriers to trade.

Dispute settlement and enforcement: to seek provisions in trade agreements providing for resolution of disputes between governments in an effective, timely, transparent, equitable, and reasoned manner requiring determinations based on facts and the principles of the agreement, with the goal of increasing compliance; seek to strengthen the capacity of the WTO Trade Policy Review Mechanism to review compliance; seek provisions encouraging the early identification and settlement of disputes through consultations; seek provisions encouraging trade-expanding compensation; seek provisions to impose a penalty that encourages compliance, is appropriate to the parties, nature, subject matter, and scope of the violation, and has the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism; and seek provisions that treat U.S. principal negotiating objectives equally with respect to ability to resort to dispute settlement and availability of equivalent procedures and remedies.

Extended WTO negotiations: concerning extended WTO negotiations on financial services, civil aircraft, and rules of origin.

Senate amendment

The Senate Amendment is substantially similar to the House Amendment, with the exception of several key provisions:

Small Business: The Senate Amendment contains an overall negotiating objective ''to ensure that trade agreements afford small businesses equal access to international markets, equitable trade benefits, expanded export market opportunities, and provide for the reduction or elimination of trade barriers that disproportionately impact small businesses.''

Trade in Motor Vehicles and Parts: The Senate Amendment contains a principal negotiating objective on expanding competitive opportunities for exports of U.S. motor vehicles and parts.

Foreign Investment: The Senate Amendment states as an objective of the United States in the context of investor-state dispute settlement ''ensuring that foreign investors in the United States are not accorded greater rights than United States investors in the United States.'' The Senate Amendment's objective with respect to investor-state dispute settlement also differs from the House Amendment in the following respects:

It sets as an objective'' seeking to establish standards for fair and equitable treatment consistent with United States legal principles and practice, including the principle of due process.''

It sets deterrence of the filing of frivolous claims as an objective, ''in addition to the prompt elimination of frivolous claims.

The Senate Amendment seeks to establish ''procedures to enhance opportunities for public input into the formulation of government positions.''

The Senate Amendment seeks to establish a single appellate body to review decisions by arbitration panels 'in investor-state dispute settlement cases. Also, unlike the House Amendment, the Senate Amendment does not prescribe a standard of review for an eventual appellate body.

Intellectual Property: The Senate Amendment contains an objective to respect the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001.''

Trade in Agriculture: The Senate Amendment's negotiating objective on export subsidies differs from the House Amendment, stating that an objective of the United States is ''seeking to eliminate all export subsidies on agricultural commodities while maintaining bona fide food aid and preserving U.S. agriculture development and export credit programs that allow the U.S. to compete with other foreign export promotion efforts.'' The Senate Amendment also provides that it is a negotiating objective of the United States to ''strive to complete a general multilateral round in the WTO by January 1, 2005, and seek the broadest market access possible in multilateral, regional, and bilateral negotiations, recognizing the effect that simultaneous sets of negotiations may have on US import-sensitive commodities (including those subject to tariff-rate quotas).''

Human Rights and Democracy: The Senate Amendment contains a negotiating objective ''to obtain provisions in trade agreements that require parties to those agreements to strive to protect internationally recognized civil, political, and human rights.''

Dispute Settlement: The Senate Amendment contains a negotiating objective absent in the House Amendment ''to seek improved adherence by panels convened under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes and by the WTO Appellate Body to the standard of review applicable under the WTO Agreement involved in the dispute, including greater deference, where appropriate, to the fact finding and technical expertise of national investigating authorities.''

Border Taxes: The Senate Amendment contains an objective absent from the House Amendment on border taxes. The objective seeks ''to obtain a revision of the WTO rules with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes.'' The objective is addressed to a decision by the WTO Dispute Settlement Body holding the foreign sales corporation provisions of the Internal Revenue Code to be inconsistent with WTO rules.

Textiles: The Senate Amendment contains an extensive objective on opening foreign markets to U.S. textile exports. There is no similar provision in the House Amendment.

Worst Forms of Child Labor: The Senate Amendment contains a negotiating objective to prevent distortions in the conduct of international trade caused by the use of the worst forms of child labor and to redress unfair and illegitimate competition based upon the use of the worst forms of child labor.

Conference agreement

The Senate recedes to the House with several modifications. With respect to the overall negotiating objectives, the Conferees agree to the overall negotiating objective regarding small business in section 2102(a)(8) of the Senate amendment. Second, the Conferees agree to an overall negotiating objective to promote universal compliance with ILO Declaration 182 concerning the worst forms of child labor.

With respect to the principal negotiating objectives, the Conferees agree to expand the negotiating objective on intellectual property to respect the Declaration on the TRIPS Agreement and Public Health, adopted by the WTO at Doha (section 2102(b)(4)(c) of the Senate amendment).

With respect to the principal negotiating objectives regarding foreign investment, the Conferees believe that it is a priority for negotiators to seek agreements protecting the rights of U.S. investors abroad and ensuring the existence of a neutral investor-state dispute settlement mechanism. At the same time, these protections must be balanced so that they do not come at the expense of making Federal, State and local laws and regulations more vulnerable to successful challenges by foreign investors than by similarly situated U.S. investors.

No Greater Rights: The House recedes to the Senate with a technical modification to clarify that foreign investors in the United States are not accorded greater substantive rights with respect to investment protections than United States investors in the United States. That is, the reciprocal obligations regarding investment protections that the United States undertakes in pursuing its goals should not result in foreign investors being entitled to compensation for government actions where a similarly situated U.S. investor would not be entitled to any form of relief, while ensuring that U.S. investors abroad can challenge host government measures which violate the terms of the investment agreement. Thus, this language expresses Congress' direction that the substantive investment protections (e.g., expropriation, fair and equitable treatment, and full protection and security) should be consistent with United States legal principles and practice and not provide greater rights to foreign investors in the United States.

This language applies to substantive protections only and is not applicable to procedural issues, such as access to investor-state dispute settlement. The Conferees recognize that the procedures for resolving disputes between a foreign investor and a government may differ from the procedures for resolving disputes between a domestic investor and a government and may be available at different times during the dispute. Thus, the ''no greater rights'' direction does not, for instance, apply to such issues as the dismissal of frivolous claims, the exhaustion of remedies, access to appellate procedures, or other similar issues.

The Conferees also agree that negotiators should seek to provide for an appellate body, or similar mechanism to provide coherence to the interpretations of investment provisions in trade agreements.

With respect to the principal negotiating objective on agriculture, the Conferees agree to section 2102(b)(10)(A)(iii) and (xv) of the House amendment, in lieu of section 2102(b)(10)(A)(iii) of the Senate amendment. The Conferees also accept section 2102(b)(10)(A)(xvi) of the Senate amendment on the timing and sequence of WTO agriculture negotiations relative to other negotiations.

The Conferees agree to section 2102(b)(13)(C) of the Senate amendment, relating to dispute settlement in dumping, subsidy, and safeguard cases, as modified, to seek adherence by WTO panels to the applicable standard of review.

The Conferees recognize the importance of preserving the ability of the United States to enforce rigorously its trade remedy laws, including the antidumping, countervailing duty and safeguard laws. Because this issue is significant to many Members of Congress in both the House and Senate, the Conferees have made this priority a principal negotiating objective. Negotiators must also avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, as well as domestic and international safeguard provisions. In addition, section 2102(b)(14)(B) directs the President to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers.

The Conferees agree to section 2012(b)(14) of the Senate amendment stating that the United States should seek a revision of WTO rules on the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes. The Conferees agree that such a revision of WTO rules is one among other options for the United States, including domestic legislation, to redress such a disadvantage.

The Conferees agree to include as a principal negotiating objective to obtain competitive market opportunities for U.S. exports of textiles substantially equivalent to those for foreign textiles in the United States.

The Conferees agree to a principal negotiating objective concerning the worst forms of child labor, to seek commitments by trade agreement parties to vigorously enforce their own laws prohibiting the worst forms of child labor.

SEC. 2102(C)—PROMOTION OF CERTAIN PRIORITIES

Present/expired law

No provision.

House amendment

Section 2102(c) of the House amendment to H.R. 3009 sets forth certain priorities for the President to address. These provisions include seeking greater cooperation between WTO and the ILO; seeking to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to promote respect for core labor standards; seeking to seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to develop and implement standards for environment and human health based on sound science; conducting environmental reviews of future trade and investment agreements, consistent with Executive Order 13141 and its relevant guidelines; reviewing the impact of future trade agreements on U.S. employment, modeled after Executive Order 13141; taking into account, in negotiating trade agreements, protection of legitimate health or safety, essential security, and consumer interests; requiring the Secretary of Labor to consult with foreign parties to trade negotiations as to their labor laws and providing technical assistance where needed; reporting to Congress on the extent to which parties to an agreement have in effect laws governing exploitative child labor; preserving the ability of the United States to enforce rigorously its trade laws, including antidumping and countervailing duty laws, and avoiding agreements which lessen their effectiveness; ensuring that U.S. exports are not subject to the abusive use of trade laws, including antidumping and countervailing duty laws, by other counties; continuing to promote consideration of Multilateral Environmental Agreements (MEAS) and consulting with parties to such agreements regarding the consistency of any MEA that includes trade measures with existing environmental exceptions under Article XX of the GATT.

In addition, USTR, twelve months after the imposition of a penalty or remedy by the United States permitted by an agreement to which this Act applies, is to report to the Committee on the effectiveness of remedies applied under U.S. law to enforce U.S. rights under trade agreements. USTR shall address whether the remedy was effective in changing the behavior of the targeted party and whether the remedy had any adverse impact on parties or interests not party to the dispute.

Finally, section 2102(c) would direct the President to seek to establish consultative mechanisms among parties to trade agreements to examine the trade consequences of significant and unanticipated currency movements and to scutinize whether a foreign government engaged in a pattern of manipulating its currency to promote a competitive advantage in international trade.

Senate amendment

With several notable exceptions, the priorities set forth in section 2102(c) of the Senate Amendment are identical to the priorities set forth in the House Amendment. The exceptions are:

With respect to the study that the President must perform on the impact of future trade agreements on employment, the Senate Amendment requires the President to examine particular criteria, as follows: the impact on job security, the level of compensation of new jobs and existing jobs, the displacement of employment, and the regional distribution of employment, utilizing experience from previous trade agreements and alternative models of employment analysis. The Senate Amendment also requires that the report be made available to the public.

The Senate Amendment requires that, in connection with new trade agreement negotiations, the President shall ''submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a meaningful labor rights report of the country, or countries, with respect to which the President is negotiating.''

The Senate Amendment adds to the House Amendment priority on preserving the ability of the United States to enforce vigorously its trade laws, by including U.S. ''safeguards'' law in the list of laws at issue. This is the U.S. law authorizing the President to provide relief to parties seriously injured or threatened with serious injury due to surges of imports. The priority in the Senate Amendment also directs the President to remedy certain market distorting measures that underlie unfair trade practices.

Conference agreement

The Senate recedes to the House amendment with several modifications. With respect to the worst forms of child labor, the Conferees agree to expand section 2102(c)(2) of the House amendment to include the worst forms of child labor within requirement to seek to establish consultative mechanisms to strengthen the capacity of U.S. trading partners to promote respect for core labor standards.

The Conferees agree to modify section 2105(c)(5) of the House amendment to require the President to report on impact of future trade agreements on US employment, including on labor markets, modeled after E.O. 13141 to the extent appropriate in establishing procedures and criteria, and to make the report public.

With respect to the labor rights report in section 2102(c)(8) of both bills, the Conferees agree to the Senate provision. Furthermore, the Conferees agree to section 2107(b)(2)(E) of the Senate amendment to require that guidelines for the Congressional Oversight Group include the time frame for submitting this report.

SEC. 2102(D)—CONSULTATIONS, ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS

Present/expired law

No provision.

Housc amendment

Section 2102(d) of the House amendment to H.R. 3009 requires that USTR consult closely, and on a timely basis with the Congressional Oversight Group appointed under section 2107. In addition, USTR would be required to consult closely (including immediately before the initialing of an agreement) with the congressional advisers on trade policy and negotiations appointed under section 161 of the Trade Act of 1974, as well as the House Committee on Ways and Means, the Senate Committee on Finance, and the Congressional Oversight Group. With regard to negotiations concerning agriculture trade, USTR would also be required to consult with the House and Senate Committees on Agriculture.

In determining whether to enter into negotiations with a particular country, section 2102(e) would require the President to take into account whether that country has implemented its obligations under the Uruguay Round Agreements.

Senate amendment

Section 2102(d) of the Senate amendment is identical to the House provision in the House amendment to H.R. 3009.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2103—TRADE AGREEMENTS AUTHORITY

Present/expired law

Tariff proclamation authority. Section 1102(a) of the 1988 Act provided authority to the President to proclaim modifications in duties without the need for Congressional approval, subject to certain limitations. Specifically, for rates that exceed 5 percent ad valorem, the President could not reduce any rate of duty to a rate less than 50 percent of the rate of duty applying on the date of enactment. Rates at or below 5 percent could be reduced to zero. Any duty reduction that exceeded 50 percent of an existing duty higher than 5 percent or any tariff increase had to be approved by Congress.

Staging, authority required that duty reductions on any article could not exceed 3 percent per year, or one-tenth of the total reduction, whichever is greater, except that staging was not required if the International Trade Commission determined there was no U.S. production of that article.

Negotiation of bilateral agreements. Section 1102(c) of the 1988 Act set forth three requirements for the negotiation of a bilateral agreement:

The foreign country must request the negotiation of the bilateral agreement;

The agreement must make progress in meeting applicable U.S. trade negotiating objectives; and

The President must provide written notice of the negotiations to the Committee on Ways and Means and the Committee on Finance of the Senate and consult with these committees.

The negotiations could proceed unless either Committee disapproved the negotiations within 60 days prior to the 90 calendar days advance notice required of entry into an agreement (described below).

Negotiation of multilateral non-tariff agreements. With respect to multilateral agreements, section 1102(b) of the 1988 Act provided that whenever the President determines that any barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the U.S. economy, or the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect, he may enter into a trade agreement with the foreign countries involved. The agreement must provide for the reduction or elimination of such barrier or other distortion or prohibit or limit the imposition of such a barrier or distortion.

Provisions qualifying for fast track procedures. Section 1103(b)(1)(A) of the 1988 Act provided that fast track apply to implementing bills submitted with respect to any trade agreements entered into under the statute. Section 151(b)(1) of the Trade Act of 1974 further defined ''implementing bill'' as a bill containing provisions ''necessary or appropriate'' to implement the trade agreement, as well as provisions approving the agreement and the statement of administrative action.

Time period. The authority applied with respect to agreements entered into before June 1, 1991, and until June 1, 1993 unless Congress passed an extension disapproval resolution. The authority was then extended to April 15, 1994, to cover the Uruguay Round of multilateral negotiations under the General Agreement on Tariffs and Trade.

House amendment

Section 2103 of the House amendment provides:

Proclamation authority. Section 2103(a) would provide the President the authority to proclaim, without Congressional approval, certain duty modifications in a manner very similar to the expired provision. Specifically, for rates that exceed 5 percent ad valorem, the President would not be authorized to reduce any rate of duty to a rate less than 50 percent of the rate of duty applying on the date of enactment. Rates at or below 5 percent ad valorem could be reduced to zero. Any duty reduction that exceeded 50 percent of an existing duty higher than 5 percent or any tariff increase would have to be approved by Congress.

In addition, section 2103(a) would not allow the use of tariff proclamation authority on import sensitive agriculture.

Staging authority would require that duty reductions on any article could not exceed 3 percent per year, or one-tenth of the total reduction, whichever is greater, except that staging would not be required if the International Trade Commission determined there is no U.S. production of that article.

These limitations would not apply to reciprocal agreements to eliminate or harmonize duties negotiated under the auspices of the World Trade Organization, such as so-called ''zero-for-zero'' negotiations.

Agreements on tariff and non-tariff barriers. Section 2103(b)(1) would authorize the President to enter into a trade agreement with a foreign country whenever he determined that any duty or other import restriction or any other barrier to or distortion of international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the U.S. economy, or the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect. The agreement must provide for the reduction or elimination of such barrier or other distortion or prohibit or limit the imposition of such a barrier or distortion. No distinction would be made between bilateral and multilateral agreements.

Conditions. Section 2103(b)(2) would provide that the special implementing bills procedures may be used only if the agreement makes progress in meeting the applicable objectives set forth in section 2102(a) and (b) and the President satisfies the consultation requirements set forth in section 2104.

Bills qualifying for trade authorities procedures. Section 2103(b)(3)(A) would provide that bills implementing trade agreements may qualify for trade promotion authority TPA procedures only if those bills consist solely of the following provisions:

Provisions approving the trade agreement and statement of administrative action; and

Provisions necessary or appropriate to implement the trade agreement.

Time period. Sections 2103(a)(1)(A) and 2103(b)(1)(C) would extend trade promotion authority to agreements entered into before June 1, 2005. An extension until June 1, 2007, would be permitted unless Congress passed a disapproval resolution, as described under section 2103(c).

Senate amendment

In most respects, section 2103 of the Senate Amendment is identical to section 2103 of the House Amendment. However, there are several key differences, as follows:

The Senate Amendment limits the President's proclamation authority with respect to ''import sensitive agricultural products,'' a term defined in section 2113(5) of the Senate Amendment. This limitation differs from the limitation in the House Amendment, inasmuch as it includes certain products subject to tariff rate quotas.

The Senate Amendment contains a provision making a trade agreement implementing bill ineligible for ''fast track'' procedures if the bill modifies, amends, or requires modification or amendment to certain trade remedy laws. A bill that does modify, amend or require modification or amendment to those laws is subject to a point of order in the Senate, which may be waived by a majority vote.

The Senate Amendment requires the U.S. International Trade Commission to submit a report to Congress on negotiations during the initial period for which the President is granted trade promotion authority. This report would be made in connection with a request by the President to have such authority extended.

Conference agreement

The Senate recedes to the House amendment with several modifications. The Conferees agree to the new definition of import sensitive agriculture in section 2103(a)(2)(B), 2104(b)(2)(A)(i), and 2113(5) of the Senate amendment to encompass products subject to tariff rate quotas, as well as products subject to the lowest tariff reduction in the Uruguay Round.

The Conferees agree to section 2103(c)(3)(B) of the Senate amendment, which requires the ITC to submit a report to Congress by May 1, 2005 (if the President seeks extension of TPA until June 2, 2007) analyzing the economic impact on the United States of all trade agreements implemented between enactment and the extension request.

SEC. 2104—CONSULTATIONS AND ASSESSMENT

Present/expired law

Section 102 of the Trade Act of 1974 and sections 1102(d) and 1103 of the 1988 Act set forth the fast track requirements. These provisions required the President, before entering into any trade agreement, to consult with Congress as to the nature of the agreement, how and to what extent the agreement will achieve applicable purposes, policies, and objectives, and all matters relating to agreement implementation. In addition, before entering into an agreement, the President was required to give Congress at least

90 calendar days advance notice of his intent. The purpose of this period was to provide the Congressional Committees of jurisdiction an opportunity to review the proposed agreement before it was signed.

Section 135(e) of the Trade Act of 1974 required that the Advisory Committee for Trade Policy and Negotiations meet at the conclusion of negotiations for each trade agreement and provide a report as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principal negotiating objectives of section 1101 of the 1988 Act. The report was due not later than the date on which the President notified Congress of his intent to enter into an agreement. With regard to the Uruguay Round, the report was due 30 days after the date of notification.

House amendment

Section 2104 of the House amendment to H.R. 3009 would establish a number of requirements that the President consult with Congress. Specifically, section 2104(a)(1) would require the President to provide written notice and consult with the relevant committees at least 90 calendar days prior to entering into negotiations. Section 2104(a)(c) also provides that President shall meet with the Congressional Oversight Group established under section 2107 upon a request of a majority of its members. Trade promotion authority would not apply to an implementing bill if both Houses separately agree to a procedural disapproval resolution within any 60-day period stating that the Administration has failed to notify or consult with Congress.

Section 2104(b)(1) would establish a special consultation requirement for agriculture. Specifically, before initiating negotiations concerning tariff reductions in agriculture, the President is to assess whether U.S. tariffs on agriculture products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In his assessment, the President would also be required to consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than U.S. tariffs and whether the negotiation provides an opportunity to address any such disparity. The President would be required to consult with the Committees on Ways and Means and Agriculture of the House and the Committees on Finance and Agriculture, Nutrition and Forestry of the Senate concerning the results of this assessment and whether it is appropriate for the United States to agree to further tariff reductions under such circumstances and how all applicable negotiating objectives would be met.

Section 2104(b)(2) provides special consultations on import sensitive agriculture products. Specifically, before initiating negotiations on agriculture and as soon as practicable with respect to the Free Trade Area of the Americas and WTO negotiations, USTR is to identify import sensitive agriculture products and consult with the Committees on Ways and Means and Agriculture of the House and the Committees on Finance and Agriculture, Nutrition, and Forestry in the Senate concerning whether any further tariff reduction should be appropriate, and whether the identified products face unjustified sanitary or phytosanitary barriers. USTR is also to request that the International Trade Commission prepare an assessment of the probable economic effects of any such tariff reduction on the U.S. industry producing the product and on the U.S. economy as a whole. USTR is to then notify the Committees of those products for which it intends to seek tariff liberalization as well as the reasons. If USTR commences negotiations and then identifies additional import sensitive agriculture products, or a party to the negotiations requests tariff reductions on such a product, then USTR shall notify the Committees as soon as practicable of those products and the reasons for seeking tariff reductions.

Section 2104(c) would establish a special consultation requirement for textiles. Specifically, before initiating negotiations concerning tariff reductions in textiles and apparel, the President is to assess whether U.S. tariffs on textile and apparel products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In his assessment, the President would also be required to consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than U.S. tariffs and whether the negotiation provides an opportunity to address any such disparity. The President would be required to consult with the Committee on Ways and Means of the House and the Committee on Finance of the Senate concerning the results of this assessment and whether it is appropriate for the United States to agree to further tariff reductions under such circumstances and how all applicable negotiating objectives would be met.

In addition, section 2104(d) would require the President, before entering into any trade agreement, to consult with the relevant Committees concerning the nature of the agreement, how and to what extent the agreement will achieve the applicable purposes, policies, and objectives set forth in the House amendment to H.R. 3009 and all matters relating, to implementation under section 2105, including the general effect of the agreement on U.S. laws.

Section 2104(e) would require that the report of the Advisory Committee for Trade Policy and Negotiations under section 135(e)(1) of the Trade Act of 1974 be provided not later than 30 days after the date on which the President notifies Congress of his intent to enter into the agreement under section 2105(a)(1)(A).

Finally, section 2104(f) would require the President, at least 90 days before entering into a trade agreement, to ask the International Trade Commission to assess the agreement, including the likely impact of the agreement on the U.S. economy as a whole, specific industry sectors, and U.S. consumers. That report would be due 90 days from the date after the President enters into the agreement.

Senate amendment

The Senate Amendment is substantially similar to the House bill, with the following exceptions:

Consultations on export subsidies and distorting policies. Section 2104(b)(2)(A)(ii)(III) requires consultations on whether nations producing identified products maintain export subsidies or distorting policies that distort trade and impact of policies on U.S. producers.

Consultations relating to fishing trade. Section 2104(b)(3) requires that for negotiations relating to fishing trade, the Administration will keep fully apprised and on timely basis consult with the House Resources Committee and the Senate Commerce Committee.

Special reporting requirements on U.S. trade remedy laws. Section 2104(d) provides that the President, at least 90 calendar days before the President enters into a trade agreement, shall notify the House Ways and Means Committee and the Senate Finance Committee in writing any amendments to U.S. antidumping and countervailing duty laws (title VII of the Tariff Act of 1930) or U.S. safeguard provisions (chapter 1 of title II of the Trade Act of 1974) that the President proposes to include in the implementing legislation. On the date that the President transmits the notification, the President must also transmit to the Committees a report explaining his reasons for believing that amendments to these trade remedy laws are necessary to implement the trade agreement and his reasons for believing that such amendments are consistent with the negotiating objective on this issue. Not later than 60 calendar days after the date on which the President transmits notification to the relevant committees, the Chairman and ranking members of the House Ways and Means Committee and the Senate Finance Committees shall issue reports stating whether the proposed amendments described in the President's notification are consistent with the negotiating objectives on trade laws.

Conference agreement

The Senate recedes to the House with several modifications. The Conferees agree to section 2104(b)(2)(A)(ii)(III) of the Senate amendment, which requires consultations on whether other nations producing identified products maintain export subsidies or distorting policies that distort trade and impact of policies on U.S. producers. In addition, the Conferees agree to section 2104(b)(3) of the Senate amendment, which requires that for negotiations relating to fishing trade, the Administration will keep fully apprised and on timely basis consult with the House Resources Committee and the Senate Commerce Committee.

Finally, the Conferees agree to include the notification and report on changes to trade remedy laws in sections 2104(d)(3)(A) and (B) in the Senate amendment with modifications. Given the priority that Conferees attach to keeping U.S. trade remedy laws strong and ensuring that they remain fully enforceable, the Conference agreement puts in place a process requiring special scrutiny of any impact that trade agreements may have on these laws. The process requires the President, at least 180 calendar days before the day on which he enters into a trade agreement, to report to the Committees on Ways and Means and the Committee on Finance the range of proposals advanced in trade negotiations and may be in the final agreement that could require amendments to title VII of the Tariff Act of 1930 or to chapter 1 of title II of the Trade Act of 1974; and how these proposals relate to the objectives described in section 2102(b)(14).

The Conference agreement also provides a mechanism for any Member in the House or Senate to introduce at any time after the President's report is issued a nonbinding resolution which states ''that the _____ finds that the proposed changes to U.S. trade remedy laws contained in the report of the President transmitted to the Congress on _____ under section 2104(d)(3) of the Bipartisan Trade Promotion Authority Act of 2002 with respect to _____, are inconsistent with the negotiating objectives described in section 2102(b)(14) of that Act.'', with the first blank space being filled in with either the ''House of Representatives'' or the ''Senate'', as the case may be, the second blank space filled in with the appropriate date of the report, and the third blank space being filled in with the name of the country or countries involved.

The resolution is referred to the Ways and Means and Rules Committees in the House and the Finance Committee in the Senate, and is privileged on the floor if it is reported by the Committees. The Conference agreement allows only one resolution (either a nonbinding resolution or a disapproval resolution) per agreement to be eligible for the

trade promotion authority procedures contained in sections 152 (d) and (e) of the Trade Act of 1974. The one resolution quota is satisfied for the House only after the Ways and Means Committee reports a resolution, and for the Senate only after the Finance Committee reports a resolution.

The Conference agreement states that, with respect to agreements entered into with Chile and Singapore, the report referenced in section 2104(d)(3)(A) shall be submitted by the President at least 90 calendar days before the day on which the President enters into a trade agreement with either country.

SEC. 2105—IMPLEMENTATION OF TRADE AGREEMENTS

Present/expired law

Before entering into the draft agreement, the President was required to give Congress 90 days advance notice (120 days for the Uruguay Round) to provide an opportunity for revision before signature. After entering into the agreement, the President was required to submit formally the draft agreement, implementing legislation, and a statement of administrative action. Once the bill was formally introduced, there was no opportunity to amend any portion of the bill—whether on the floor or in committee. Consequently, before the formal introduction took place, the committees of jurisdiction would hold hearings, ''unofficial'' or ''informal'' mark-up sessions and a ''mock conference'' with the Senate committees of jurisdiction in order to develop a draft implementing bill together with the Administration and to make their concerns known to the Administration before it introduced the legislation formally.

After formal introduction of the implementing bill, the House committees of jurisdiction had 45 legislative days to report the bill, and the House was required to vote on the bill within 15 legislative days after the measure was reported or discharged from the committees. Fifteen additional days were provided for Senate committee consideration (assuming the implementing bill was a revenue bill), and the Senate floor action was required within 15 additional days. Accordingly, the maximum period for Congressional consideration of an implementing bill from the date of introduction was 90 legislative days. Amendments to the legislation were not permitted once the bill was introduced; the committee and floor actions consisted of ''up or down'' votes on the bill as introduced.

Finally, section 1103(d) of the 1988 Act specified that the fast track rules were enacted as an exercise of the rulemaking power of the House and the Senate, with the recognition of the right of either House to change the rules at any time.

House amendment

Under Section 2105 of the House amendment to H.R. 3009, the President would be required, at least 90 days before entering into an agreement, to notify Congress of his intent to enter into the agreement. Section 2105(a) also would establish a new requirement that the President, within 60 days of signing an agreement, submit to Congress a preliminary list of existing laws that he considers would be required to bring the United States into compliance with agreement.

Section 2105(b) would provide that trade promotion authority would not apply if both Houses separately agree to a procedural disapproval resolution within any 60-day period stating that the Administration failed to notify or consult with Congress, which is defined as failing or refusing to consult in accordance with section 2104 or 2105, failing to develop or meet guidelines under section 2107(b), failure to meet with the Congressional Oversight Group, or the agreement fails to make progress in achieving the purposes. policies, priorities, and objectives of the Act. In a change from the expired law, such a resolution may be introduced by any Member of the House or Senate. Only one such privileged resolution would be permitted to be considered per trade agreement per Congress.

Most of the remaining provisions are identical to the expired law. Specifically, section 2105(a) would require the President, after entering into agreement, to submit formally the draft agreement, the implementing legislation, and a statement of administrative action to Congress, and there would be no time limit to do so, but with the new requirement that the submission be made on a date on which both Houses are in session, The procedures of section 151 of the Trade Act of 1974 would then apply. Specifically, on the same day as the President formally submits the legislation, the bill would be introduced (by request) by the Majority Leaders of the House and the Senate. After formal introduction of the legislation, the House Committees of jurisdiction would have 45 legislative days to report the bill. The House would be required to vote on the bill within 15 legislative days after the measure was reported or discharged from the Committees. Fifteen additional days would be provided for Senate Committee consideration (assuming the implementing bill was a revenue bill), and Senate floor action would be required within 15 additional days. Accordingly, the maximum period for Congressional consideration of the implementing bill from the date of introduction would be 90 legislative days.

As with the expired provisions, once the bill has been formally introduced, no amendments would be permitted either in Committee or floor action, and a straight ''up or down'' vote would be required. Of course, before formal introduction, the bill could be developed by the Committees of jurisdiction together with the Administration during the informal Committee mark-up process.

Finally, as with the expired provision, section 2105(c) specifies that sections 2105(b) and 3(c) are enacted as an exercise of the rulemaking power of the House and the Senate, with the recognition of the right of either House to change the rules at any time.

Senate amendment

The Senate Amendment is substantially similar to the House Bill, with the following exception:

Reporting requirements. Section 2105(a)(1)(A)(ii) requires the President to transmit to the House Ways and Means Committee and the Senate Finance Committee the notification and report described in section 2104(d)(3)(A) regarding changes to U.S. trade remedy laws.

Disclosure Requirements. Section 2105(a)(4) of the Senate bill specifies that any trade agreement or understanding with a foreign government (oral or written) not disclosed to Congress will not be considered part of trade agreement approved by Congress and shall have no effect under U.S. law or in any dispute settlement body.

Senate Procedures. Section 2105(b)(1)(C)(i)(11) provides that any Member of the Senate may introduce a procedural disapproval resolution, and that that resolution will be referred to the Senate Finance Committee. Section 2105(b)(1)(C)(iv) provides that the Senate may not consider a disapproval resolution that has not been reported by the Senate Finance Committee.

Conference agreement

The Senate recedes to the House amendment with several modifications. The Conferees agree to section 2105(a)(4) of the Senate amendment, which specifies that any trade agreement or understanding with a foreign government (oral or written) not disclosed to Congress will not be considered part of trade agreement approved by Con—2ress and shall have no effect under U.S. law or in any dispute settlement body. The Conferees also agree to sections 2105(b)(1)(C)(i)(11) and (b)(1)(C)(Iv) of the Senate amendment, which applies the same procedures for consideration of bills in the Senate as for the House.

Finally, the Conferees agree to section 2105(b)(2) of the Senate amendment with modifications, which requires the Secretary of Commerce, in consultation with the Secretaries of State and Treasury, the Attorney General, and the United States Trade Representative, to transmit to Congress a report setting forth the strategy of the executive branch to address concerns of Congress regarding whether dispute settlement panels and the Appellate Body of the WTO have added to obligations or diminished rights of the United States, as described in section 2101 (b)(3). Trade authorities procedures shall not apply to any implementing bill with respect to an agreement negotiated under the auspices of the WTO unless the Secretary of Commerce has issued such report prior to December 31, 2002.

SEC. 2106—TREATMENT OF CERTAIN TRADE AGREEMENTS

Present/expired law

No provision.

House amendment

Section 2106 of the House amendment to H.R. 3009 exempts agreements resulting from ongoing negotiations with Chile or Singapore, an agreement establishing a Free Trade Area of the Americas, and agreements concluded under the auspices of the WTO from prenegotiation consultation requirements of section 2104(a) only. However, upon enactment of H.R. 3009, the Administration is required to consult as to those elements set forth in section 2104(a) as soon as feasible.

Senate Amendment

Section 2106 of the Senate amendment is substantially similar to the House bill.

Conference Agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2107—CONGRESSIONAL OVERSIGHT GROUP

Present/expired law

No provision.

House amendment

Section 2107 of the House amendment to H.R. 3009 would require the Chairman of the Committee on Ways and Means and the Chairman of the Committee on Finance to chair and convene, sixty days after the effective date of this Act, the Congressional Oversight Group. The Group would be comprised of the following Members of the House: the Chairman and Ranking Member of the Committee on Ways and Means and three additional members of the Committee (not more than two of whom are from the same party), and the Chairman and Ranking Member of the Committees which would have, under the Rules of the House, jurisdiction over provisions of law affected by a trade negotiation. The Group would be comprised of the following Members of the Senate: the Chairman and Ranking Member of the Committee on Finance and three additional members of the Committee (not more than two of whom are from the same party), and the Chairman and Ranking Member of the Committees which would have, under the Rules of the Senate, jurisdiction over provisions of law affected by a trade negotiation.

Members are to be accredited as official advisors to the U.S. delegation in the negotiations. USTR is to develop guidelines to facilitate the useful and timely exchange of information between USTR and the Group, including regular briefings, access to pertinent

documents, and the closest possible coordination at all critical periods during the negotiations, including at negotiation sites.

Finally, section 2107(c) provides that upon the request of a majority of the Congressional Oversight Group, the President shall meet with the Group before initiating negotiations or any other time concerning the negotiations.

Senate amendment

Section 2107 of the Senate amendment is identical to the House amendment to H.R. 3009.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2108—ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS

Present/expired law

No provision.

House amendment

Section 2108 of the House amendment to H.R. 3009 would require the President to submit to the Congress a plan for implementing and enforcing any trade agreement resulting from this Act. The report is to be submitted simultaneously with the text of the agreement and is to include a review of the Executive Branch personnel needed to enforce the agreement as well as an assessment of any U.S. Customs Service infrastructure improvements required. The range of personnel to be addressed in the report is very comprehensive, including U.S. Customs and Department of Agriculture border inspectors, and monitoring and implementing personnel at USTF, the Departments of Agriculture, Commerce, and the Treasury, and any other agencies as may be required.

Senate amendment

Section 2108 of the Senate amendment is identical to the House amendment to H.R. 3009.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2109—COMMITTEE STAFF

Present/expired law

No provision.

House amendment

Section 2109 of the House amendment to H.R. 3009 states that the grant of trade promotion authority is likely to increase the activities of the primary committees of jurisdiction and the creation of the Congressional Oversight Group under section 2107 will increase the participation of a broader Members of Congress in the formulation of U.S. trade policy and oversight of the U.S. trade agenda. The provision specifies that the primary committees of jurisdiction should have adequate staff to accommodate these increases in activities.

Senate amendment

Section 2109 of the Senate amendment is identical to the House amendment to H.R. 3009.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2111—REPORT ON THE IMPACT OF TRADE PROMOTION AUTHORITY

Present/expired law

No provision.

House Amendment

No provision.

Senate Amendment

Section 2111 requires the International Trade Commission, within one year following enactment of this Act, to issue a report regarding the economic impact of the following trade agreements: (1) The U.S.-Israel Free Trade Agreement; (2) the U.S.-Canada Free Trade Agreement; (3) the North American Free Trade Agreement (NAFTA); (4) The Uruguay Round Agreements, which established the World Trade Organization; and (5) The Tokyo Round of Multilateral Trade Negotiations.

Conference agreement

The House recedes to the Senate amendment.

SEC. 2112—SMALL BUSINESS

Present/expired law

No provision.

House amendment

No provision.

Senate amendment

WTO small business advocate. Section 2112(a) provides that the U.S. Trade Representative shall pursue identification of a small business advocate at the World Trade Organization Secretariat to examine the impact of WTO agreements on the interests of small businesses, address the concerns of small businesses, and recommend ways to address those interests in trade negotiations involving the WTO.

Assistant USTR responsible for small businesses. Section 2112(b) provides that the Assistant United States Trade Representative for Industry and Telecommunications shall be responsible for ensuring that the interests of small businesses are considered in trade negotiations.

Conference agreement

The Senate recedes to the House amendment with a modification. The Conferees agree to section 2112(b) of the Senate amendment, which provides that the Assistant USTR for Industry and Telecommunications will be responsible for ensuring that the interests of small business are considered in trade negotiations.

DIVISION C—ANDEAN TRADE PREFERENCE ACT

TITLE XXXI—ANDEAN TRADE PREFERENCE

SEC. 3101—SHORT TITLE

Present law

No provision.

House amendment

Section 3101 of H.R. 3009, as amended, provides that the Act may be cited as the ''Andean Trade Promotion and Drug Eradication Act.''

Senate amendment

Section 3101 provides that the Act may be cited as the ''Andean Trade Preference Expansion Act.''

Conference agreement

The Senate recedes.

SEC. 3102—FINDINGS

Present law

No provision.

House amendment

Section 1302 contains findings of Congress that:

(1) Since the Andean Trade Preference Act was enacted in 1991, it has had a positive impact on United States trade with Bolivia, Colombia, Ecuador, and Peru. Two-way trade has doubled, with the United States serving as the leading source of imports and leading export market for each of the Andean beneficiary countries. This has resulted in increased jobs and expanded export opportunities in both the United States and the Andean region.

(2) The Andean Trade Preference Act has been a key element in the United States counter narcotics strategy in the Andean region, promoting export diversification and broad-based economic development that provide sustainable economic alternatives to drug-crop production, strengthening the legitimate economies of Andean countries and creating viable alternatives to illicit trade in coca.

(3) Notwithstanding the success of the Andean Trade Preference Act, the Andean region remains threatened by political and economic instability and fragility, vulnerable to the consequences of the drug war and fierce global competition for its legitimate trade.

(4) The continuing instability in the Andean region poses a threat to the security interests of the United States and the world. This problem has been partially addressed through foreign aid, such as Plan Colombia, enacted by Congress in 2000. However, foreign aid alone is not sufficient. Enhancement of legitimate trade with the United States provides an alternative means for reviving and stabilizing the economies in the Andean region.

(5) The Andean Trade Preference Act constitutes a tangible commitment by the United States to the promotion of prosperity, stability, and democracy in the beneficiary countries.

(6) Renewal and enhancement of the Andean Trade Preference Act will bolster the confidence of domestic private enterprise and foreign investors in the economic prospects of the region, ensuring that legitimate private enterprise can be the engine of economic development and political stability in the region.

(7) Each of the Andean beneficiary countries is committed to conclude negotiation of a Free Trade Area of the Americas by the year 2005 as a means of enhancing the economic security of the region.

(8) Temporarily enhancing trade benefits for Andean beneficiaries countries will promote the growth of free enterprise and economic opportunity in these countries and serve the security interests of the United States, the region, and the world.

Senate amendment

Section 3101 is identical.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 3103—ARTICLES ELIGIBLE FOR PREFERENTIAL TREATMENT

Articles (Except Apparel) Eligible for Preferential Treatment

Present law

The Andean Trade Preference Act (ATPA), enacted on December 4, 1991 as title II of Public Law 102–182, authorizes preferential trade benefits for the Andean nations of Bolivia, Colombia, Ecuador, and Peru, similar to those benefits granted to beneficiaries under the Caribbean Basin Initiative program. The ATPA authorizes the President to proclaim duty-free treatment for all eligible articles from Bolivia, Colombia, Ecuador, Peru. This authority applies only to normal column I rates of duty in the Harmonized Tariff Schedule of the United States (HTS); any additional duties imposed under U.S. unfair trade practice laws, such as the anti-dumping or countervailing duty laws, are not affected by this authority.

The ATPA contains a list of products that are ineligible for duty-free treatment. More specifically, ATPA duty-free treatment does not apply to textile and apparel articles that are subject to textile agreements; petroleum and petroleum products; footwear not eligible for duty-free treatment under the Generalized System of Preferences; certain watches and watch parts; certain leather products;

and sugar, syrups and molasses subject to over-quota rates of duty.

House amendment

Section 3103 (a) amends the Andean Trade Preference Act to authorize the President to proclaim duty-free treatment for any of the following articles which were previously excluded from duty-free treatment under the ATPA, if the President determines that the article is not import-sensitive in the context of imports from beneficiary countries:

(1) Footwear not designated at the time of the effective date of this Act as eligible for the purposes of the Generalized System of Preferences under title V of the Trade Act of 1974;

(2) Petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

(3) Watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;

(4) Handbags, luggage, flat goods, work gloves, and leather wearing apparel that—(i) are the product of any beneficiary country; and (ii) were not designated on August 5, 1983, as eligible articles for purposes of the Generalized System of Preferences under title V of the Trade Act of 1974.

Under H.R. 3009, textiles subject to textile agreements; sugar, syrups and molasses subject to over-quota tariffs; and rum and tafia classified in subheading 2208.40.00 of the HTS would continue to be ineligible for duty-free treatment, as would apparel products other than those specifically described below. Imports of tuna, prepared or preserved in any manner, in airtight containers would receive immediate duty-free treatment.

Senate amendment

Section 3102 of the bill replaces the list of excluded products under section 204(b) of the current ATPA with a new provision that extends duty preferences to most of those products. The new preferences take the form of exceptions to the general rule that the excluded products are not eligible for duty-free treatment.

The enhanced preferences are made available to ''ATPEA beneficiary countries.'' Paragraph (5) of section 204(b) of the ATPA as amended by the present bill defines ATPEA beneficiary countries as those countries previously designated by the President as ''beneficiary countries'' (i.e., Bolivia, Colombia, Ecuador, and Peru) which subsequently are designated by the President as ''ATPEA beneficiary countries,'' based on the President's consideration of additional eligibility criteria.

In the event that the President did not designate a current ''beneficiary country'' as an ''ATPEA beneficiary country,'' that country would remain eligible for ATPA benefits under the law as expired on December 4, 2001, but would not be eligible for the enhanced benefits provided under the present bill.

Footwear not eligible for duty-free treatment under GSP receives the same tariff treatment as like products from Mexico, except that duties on articles in particular tariff subheadings are to be reduced by 1/15 per year.

The Senate Amendment provides special treatment for rum and tafia, allowing them to receive the same tariff treatment as like products from Mexico. The bill also allows certain handbags, luggage, flat goods, work gloves, and leather wearing apparel to receive the same tariff treatment as like products from Mexico.

Under the bill, the President is authorized to proclaim duty-free treatment for tuna that is harvested by United States or ATPEA vessels, subject to a quantitative yearly cap of 20 percent of the domestic United States tuna pack in the preceding year.

Conference agreement

Senate recedes on the authority of President to proclaim duty-free treatment for particular articles which were previously excluded from duty-free treatment under the ATPA, if the President determines that the article is not import-sensitive in the context of imports from beneficiary countries.

Textiles subject to textile agreements; sugar, syrups and molasses subject to over-quota tariffs; and rum and tafia classified in subheading 2208.40.00 of the HTS would continue to be ineligible for duty-free treatment, as would apparel products other than those specifically described below.

House recedes on the treatment of tuna with an amendment to: 1) retain U.S. or Andean flagged vessel rule of origin requirement in Senate amendment; 2) authorize the President to grant duty-free treatment for Andean exports of tuna packed in flexible (e.g., foil), airtight containers weighing with their contents not more than 6.8 kg each; and 3) update calculation of current MFN tariff-rate quota to be an amount based on 4.8 percent of apparent domestic consumption of tuna in airtight containers rather than domestic production.

Eligible Apparel Articles

Present law

Under the ATPA, apparel articles are on the list of products excluded from eligibility for duty-free treatment.

House amendment

Under Section 3103, the President may proclaim duty-free and quota-free treatment for apparel articles sewn or otherwise assembled in one or more beneficiary countries exclusively from any one or any combination of the following:

(1) Fabrics or fabric components formed, or components knit-to-shape, in the United States (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States).

(2) Fabrics or fabric components formed, or components knit-to-shape, in one or more beneficiary countries, from yarns formed in one or more beneficiary countries, if such fabrics (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in one or more beneficiary countries) are in chief weight of llama, or alpaca.

(3) Fabrics or yarn not produced in the United States or in the region, to the extent that apparel articles of such fabrics or yarn would be eligible for preferential treatment, without regard to the source of the fabrics or yarn, under Annex 401 of the NAFTA (short supply provisions). Any interested party may request the President to consider such treatment for additional fabrics and yarns on the basis that they cannot be supplied by the domestic industry in commercial quantities in a timely manner, and the President must make a determination within 60 calendar days of receiving the request from the interested party.

(4) Apparel articles sewn or otherwise assembled in one or more beneficiary countries from fabrics or fabric components formed or components knit-to-shape, in one or more beneficiary countries, from yarns formed in the United States or in one or more beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in one or more beneficiary countries), whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape in the United States described in paragraph 1. Imports of apparel made from regional fabric and regional yarn would be capped at 3% of U.S. imports growing to 6% of U.S. imports in 2006, measured in square meter equivalents.

Senate amendment

Paragraph (2) of section 204(b) of the ATPA as amended by section 3102 of the present bill extends duty-free treatment to certain textile and apparel articles from ATPEA beneficiary countries. The provision divides articles eligible for this treatment into several different categories and limits duty-free treatment to a period defined as the ''transition period.'' The transition period is defined in paragraph (5) of section 204(b) of the ATPA as amended to be the period from enactment of the present bill through the earlier of February 28, 2006 or establishment of a FTAA.

In general, the different categories of textile and apparel articles eligible for duty-free treatment are defined according to the origin of the yarn and fabric from which the articles are made. Under the first category, apparel sewn or otherwise assembled in one or more ATPEA beneficiary countries is eligible for duty-free treatment if it is made exclusively from one or a combination of several sub-categories of components, as follows:

(1) United States fabric, fabric components, or knit-to-shape components, made from yarns wholly formed in the United States;

(2) A combination of both United States and ATPEA beneficiary country components knit-to-shape from yarns wholly formed in the United States;

(3) ATPEA beneficiary country fabric, fabric components, or knit-to-shape components, made from yarns wholly formed in one or more ATPEA beneficiary countries, if the constituent fibers are primarily llama or alpaca hair; and

(4) Fabrics or yarns, regardless of origin, if such fabrics or yarns have been deemed, under the North American Free Trade Agreement, not to be widely available in commercial quantities in the United States. A separate provision of section 204(b) of the ATPA as amended by the present bill sets forth a process for interested parties to petition the President for inclusion of additional yarns and fabrics in the ''short supply'' list. This process includes obtaining advice from the United States International Trade Commission and industry advisory groups, and consultation with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

A second category of apparel articles eligible for duty-free treatment is apparel articles knit-to-shape (except socks) in one or more ATPEA beneficiary countries from yarns wholly formed in the United States. To qualify under this category, the entire article must be knit-to-shape—as opposed to being assembled from components that are themselves knit-to-shape.

A third category of apparel articles eligible for duty-free treatment is apparel articles wholly assembled in one or more ATPEA beneficiary countries from fabric or fabric components knit, or components knit-to-shape in one or more ATPEA beneficiary countries from yarns wholly formed in the United States. The quantity of apparel eligible for this benefit is subject to an annual cap. The cap is set at 70 million square meter equivalents for the one-year period beginning March 1, 2002. The cap will increase by 16 percent, compounded annually, in each succeeding one-year period, through February 28, 2006.

Thus, the cap applied to this category in each year following enactment will be as follows:

70 million square meter equivalents (SME) in the year beginning March 1, 2002;

81.2 million SME in the year beginning March 1, 2003;

94.19 million SME in the year beginning March 1, 2004; and

109.26 million SME in the year beginning March 1, 2005.

A separate provision makes clear that goods otherwise qualifying under the latter category will not be disqualified if they happen to contain United States fabric made from United States yarn.

A fourth category of apparel eligible for duty-free treatment under the Senate bill is brassieres that are cut or sewn, or otherwise assembled, in one or more ATPEA beneficiary countries, or in such countries and the United States. This separate category requires that, in the aggregate, brassieres manufactured by a given producer claiming duty-free treatment for such products contain certain quantities of United States fabric.

A fifth category of textile and apparel eligible for duty-free treatment is handloomed, handmade, and folklore articles.

A final category of textile and apparel goods eligible for duty-free treatment is textile luggage assembled in an ATPEA beneficiary country from fabric and yarns formed in the United States.

In addition to the foregoing categories, the bill sets forth special rules for determining whether particular textile and apparel articles qualify for duty-free treatment.

Conference agreement

In general the conferees agreed to follow the House amendment on apparel provisions with the exception that the House receded to the Senate on the treatment of textile luggage. With respect to category 2 in the House bill relating to fabrics or fabric components formed, or components knit-to-shape, in one or more beneficiary countries, from yarns formed in one or more beneficiary countries, if such fabrics are in chief weight of llama, or alpaca, conferees agreed to include vicuna and calculate product eligibility based on chief value instead of chief weight. Also, conferees agreed to cap imports of apparel made from regional fabric and regional yarn (category 4 in the House bill) at 2% of U.S. imports growing to 5% of U.S. imports in 2006, measured in square meter equivalents.

It is the intention of the conferees that in cases where fabrics or yarns determined by the President to be in short supply impart the essential character to an article, the remaining textile components may be constructed of fabrics or yarns regardless of origin, as in Annex 401 of the NAFTA. In cases where the fabrics or yarns determined by the President to be in short supply do not impart the essential character of the article, the article shall not be ineligible for preferential treatment under this Act because the article contains the short supply fabric or yarn.

Special Origin Rule for Nylon Filament Yarn

House amendment

No provision.

Senate amendment

Articles otherwise eligible for duty-free treatment and quota free treatment under the bill are not ineligible because they contain certain nylon filament yarn (other than elastomeric yarn) from a country that had an FTA with the U.S. in force prior to January 1, 1995.

Conference agreement

House recedes.

Dyeing, Finishing and Printing Requirement

House amendment

New requirement that apparel made of U.S. knit or woven fabric assembled in CBTPA country qualifies for benefits only if the U.S. knit or woven fabric is dyed and finished in the United States. Apparel made of U.S. knit or woven fabric assembled in an Andean beneficiary country qualifies for benefits only if the U.S. knit or woven fabric is dyed and finished in the United States.

Senate provision

No provision.

Conference agreement

Senate recedes.

Penalties for Transshipment

Present law

The Tariff Act of 1930, as amended, provides for civil monetary penalties for unlawful transshipment. These include penalties under 19 U.S.C. 1592 for up to a maximum of the domestic value of the imported merchandise or eight times the loss of revenue, as well as denial of entry, redelivery or liquidated damages for failure to redeliver the merchandise determined to be inaccurately represented. In addition, an importer may be liable for criminal penalties, including imprisonment for up to five years, under section 1001 of title 18 of the United States Code for making false statements on import documentation.

Under the North American Free Trade Agreement (NAFTA), Parties to the Agreement must observe Customs procedures and documentation requirements, which are established in Chapter 5 of NAFTA. Requirements regarding Certificates of Origin for imports receiving preferential tariffs are detailed in Article 502.1 of NAFTA.

House amendment

Section 3103 requires that importers comply with requirements similar in all material respects to the requirements regarding Certificates of Origin contained in Article 502.1 of the North American Free Trade Agreement (NAFTA) for a similar importation from Mexico.

In addition, if an exporter is determined under the laws of the United States to have engaged in illegal transshipment of apparel products from an Andean country, then the President shall deny all benefits under the bill to such exporter, and to any successors of such exporter, for a period of two years.

In cases where the President has requested a beneficiary country to take action to prevent transshipment and the country has failed to do so, the President shall reduce the quantities of textile and apparel articles that may be imported into the United States from that country by three times the quantity of articles transshipped, to the extent that such action is consistent with World Trade Organization (WTO) rules.

Senate amendment

In amending, section 204(b) of the ATPA, section 3102 of the present bill provides special penalties for transshipment of textile and apparel articles from an ATPEA beneficiary country. Transshipment is defined as claiming duty-free treatment for textile and apparel imports on the basis of materially false information. An exporter found to have engaged in such transshipment (or a successor of such exporter) shall be denied all benefits under the ATPA for a period of two years.

The bill further provides penalties for an ATPEA beneficiary country that fails to cooperate with the United States in efforts to prevent transshipment. Where textile and apparel articles from such country are subject to quotas on importation into the United States consistent with WTO rules, the President must reduce the quantity of such articles that may be imported into the United States by three times the quantity of transshipped articles, to the extent consistent with WTO rules.

Conference agreement

Conference agreement follows House and Senate bill.

Import Relief Actions

Present law

The import relief procedures and authorities under sections 201–204 of the Trade Act of 1974 apply to imports from ATPA beneficiary countries, as they do to imports from other countries. If ATPA imports cause serious injury, or threat of such injury, to the domestic industry producing a like or directly competitive article, section 204(d) of the ATPA authorizes the President to suspend ATPA duty-free treatment and proclaim a rate of duty or other relief measures.

Under NAFTA, the United States may invoke a special safeguard provision at any time during the tariff phase-out period if a NAFTA-origin textile or apparel good is being imported in such increased quantities and under such conditions as to cause ''serious damage, or actual threat thereof,'' to a domestic industry producing a like or directly competitive good. The President is authorized to either suspend further duty reductions or increase the rate of duty to the NTR rate for up to three years.

House amendment

Under Section 3103 normal safeguard authorities under ATPA would apply to imports of all products except textiles and apparel. A NAFTA equivalent safeguard authorities would apply to imports of apparel products from ATPA countries, except that, United States, if it applied a safeguard action, would not be obligated to provide equivalent trade liberalizing compensation to the exporting country.

Senate amendment

The bill establishes similar textile and apparel safeguard provisions based on the NAFTA textile and apparel safeguard provision.

Conference agreement

Conference Agreement follows House and Senate bill.

Designation Criteria

Present law

In determining whether to designate any country as an ATPA beneficiary country, the President must take into account seven mandatory and 12 discretionary criteria, which are listed in section 203 of the ATPA.

Under Section 203 of the ATPA, the President shall not designate any country a ATPA beneficiary country if:

(1) The country is a Communist country;

(2) The country has nationalized, expropriated, imposed taxes or other exactions or otherwise seized ownership or control of U.S. property (including intellectual property), unless he determines that prompt, adequate, and effective compensation has been or is being made, or good faith negotiations to provide such compensation are in progress, or the country is otherwise taking steps to discharge its international obligations, or a dispute over compensation has been submitted to arbitration;

(3) The country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of U.S. citizens;

(4) The country affords ''reverse'' preferences to developed countries and whether such treatment has or is likely to have a significant adverse effect on U.S. commerce;

(5) A government-owned entity in the country engages in the broadcast of copyrighted material belonging to U.S. copyright

owners without their express consent or the country fails to work toward the provision of adequate and effective intellectual property rights;

(6) The country is not a signatory to an agreement regarding the extradition of U.S. citizens;

(7) If the country has not or is not taking steps to afford internationally recognized worker rights to workers in the country;

In determining whether to designate a country as eligible for ATPA benefits, the President shall take into account (discretionary criteria):

(1) An expression by the country of its desire to be designated;

(2) The economic conditions in the country, its living standards, and any other appropriate economic factors;

(3) The extent to which the country has assured the United States it will provide equitable and reasonable access to its markets and basic commodity resources;

(4) The degree to which the country follows accepted rules of international trade under the World Trade Organization;

(5) The degree to which the country uses export subsidies or imposes export performance or local content requirements which distort international trade;

(6) The degree to which the trade policies of the country are contributing to the revitalization of the region;

(7) The degree to which the country is undertaking self-help measures to protect its own economic development;

(8) Whether or not the country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized workers rights;

(9) The extent to which the country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive intellectual property rights;

(10) The extent to which the country prohibits its nationals from engaging in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent;

(11) Whether such country has met the narcotics cooperation certification criteria of the Foreign Assistance Act of 1961 for eligibility for U.S. assistance; and

(12) The extent to which the country is prepared to cooperate with the United States in the administration of the Act.

Under the ATPA the President is prohibited from designating a country a beneficiary country if any of criteria (1)–(7) apply to that country, subject to waiver if the President determines that country designation will be in the U.S. national economic or security interest. The waiver does not apply to criteria (4) and (6). Under the ATPA criteria on (7) is included as both mandatory and discretionary.

The President may withdraw or suspend beneficiary country status or duty-free treatment on any article if he determines the country should be barred from designation as a result of changed circumstances. The President must submit a triennial report to the Congress on the operation of the program. The report shall include any evidence that the crop eradication and crop substitution efforts of the beneficiary country are directly related to the effects of the legislation.

House amendment

The House amendment provides that the President, in designating a country as eligible for the enhanced ATPDEA benefits, shall take into account the existing eligibility criteria established under ATPA described above, as well as other appropriate criteria, including: whether a country has demonstrated a commitment to undertake its WTO obligations and participate in negotiations toward the completion of the FTAA or comparable trade agreement; the extent to which the country provides intellectual property protection consistent with or greater than that afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights; the extent to which the country provides internationally recognized worker rights; whether the country has implemented its commitments to eliminate the worst forms of child labor; the extent to which a country has taken steps to become a party to and implement the Inter-American Convention Against Corruption; and the extent to which the country applies transparent, nondiscriminatory and competitive procedures in government procurement equivalent to those included in the WTO Agreement on Government Procurement and otherwise contributes to efforts in international fora to develop and implement international rules in transparency in government procurement.

Senate amendment

Section 3102(5) contains identical provisions.

Conference agreement

Conference Agreement follows the House and Senate amendments. In evaluating a potential beneficiary's compliance with its Yv7O obligations, the conferees expect the President to take into account the extent to which the country follows the rules on customs valuation set forth in the WTO Customs Valuation Agreement. With respect to intellectual property protection, it is the Conferees intent that the President will also take into account the extent to which potential beneficiary countries are providing or taking steps to pro,ride protection of intellectual property rights comparable to the protections provided to the United States in bilateral intellectual property agreements.

Since April 1995, Colombia has applied a variable import duty system, known as the ''price band'' system, on fourteen basic agriculture products such as wheat, corn, and soybean oil. An additional 147 commodities, considered substitutes or related products, are subject to the price band system which establishes ceiling, floor, and reference prices on imports. The Conferees's view is that the price band system is non-transparent and easily manipulated as a protectionist device. In early 2000, the United States reached agreement with Colombia in the WTO that Colombia would delink wet pet food, the only finished product in this system, from the price band system. In implementing the eligibility criteria relating to market access and implementation of WTO commitments, it is the Conferees intent that USTR insist that Colombia implement its WTO commitment to remove pet food from the price band tariff system and to apply the 20% common external tariff to imported pet food.

With respect to whether beneficiary countries are following established WTO rules, the Conferees believe it is important for Andean governments to provide transparent and non-discriminatory regulatory procedures. Unfortunately, the Conferees know of instances where regulatory policies in Andean countries are opaque, unpredictable, and arbitrarily applied. As such, it is the Conferees's view that Andean countries that seek trade benefits should adopt, implement, and apply transparent and non-discriminatory regulatory procedures. The development of such procedures would help create regulatory stability in the Andean region and thus provide mere certainty to U.S. companies that would like to invest in these countries.

Determination regarding retention of designation

Present law

Under Section 203(e) of the ATPA, the President may withdraw or suspend a country's beneficiary country designation, or withdraw, suspend, or limit the application of duty-free treatment to particular articles of a beneficiary country, due to changed circumstances.

House amendment

Section 3102(b) amends section 203(e) of the ATPA to provide that President may withdraw or suspend ATPA designation, or withdraw, suspend or limit benefits is a country's performance under eligibility criteria are no longer satisfactory.

Senate amendment

Identical.

Conference agreement

Conference agreement follows the House amendment and Senate amendment.

Reporting Requirements

Present law

Provides for: (1) an annual report by the International Trade Commission on the economic impact of the bill and; (2) an annual report by the Secretary of Labor on the impact of the bill with respect to U.S. labor. Also under present law, USTR is required to report triannually on operation of the program.

House amendment

Retains current law on reports.

Senate amendment

Senate bill requires same ITC and Labor reports as well as an annual report by the Customs Service on compliance and anti-circumvention on the part of beneficiary countries in the area of textile and apparel trade. It also requires USTR to report biannually on operation of the program.

Conference agreement

House recedes.

Petitions for Review

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 3102(e) of the bill directs the President to promulgate regulations regarding the review of eligibility of articles and countries under the ATPA. Such regulations are to be similar to regulations governing the Generalized System of Preferences petition process.

Conference agreement

House recedes.

SEC. 3104—TERMINATION OF DUTY-FREE TREATMENT

Present law

Duty-free treatment under the ATPA expires on December 4, 2001.

House amendment

Duty-free treatment terminates under the Act on December 31, 2006.

Senate amendment

Section 3103 of the bill amends section 208(b) of the ATPA to provide for a termination date of February 28, 2006. Basic ATPA benefits apply retroactively to December 4, 2001.

Conference agreement

House recedes on retroactivity for basic ATPA benefits; Senate recedes on termination.

SEC. 3106—TRADE BENEFITS UNDER THE CARIBBEAN BASIN TRADE PARTNERSHIP ACT (CBTPA) AND THE AFRICA GROWTH AND OPPORTUNITY ACT (AGOA)

Knit-to-shape Apparel

Present law

Draft regulations issued by Customs to implement P.L. 106–200 stipulate that knit to-shape garments, because technically they do not go through the fabric stage, are not eligible for trade benefits under the act.

House amendment

Sec. 3106 and 3107 of the House bill amends AGOA and CBTPA to clarify that preferential treatment is provided to knit-to-shape apparel articles assembled in beneficiary countries.

Senate amendment

No provision.

Conference agreement

Senate recedes.

Present law

Draft regulations issued by Customs to implement P.L. 106–200 deny preferential access to garments that are cut both in the United States and beneficiary countries, on the rationale that the legislation does not specifically list this variation in processing (the so-called ''hybrid cutting problem'').

House amendment

Sec. 3107 of H.R. 3009 adds new rules in CBTPA and AGOA to provide preferential treatment for apparel articles that are cut both in the United States and beneficiary countries.

Senate amendment

No provision.

Conference agreement

Senate recedes

CBI Knit Cap

Present law

P.L. 106–200 extended duty-free benefits to knit apparel made in CBI] countries from regional fabric made with U.S. yarn and to knit-to-shape apparel (except socks), up to a cap of 250,000,000 square meter equivalents (SMEs), with a growth rate of 16% per year for first 3 years.

House amendment

Sec. 3106 of H.R. 2009 would raise this cap to the following amounts: 250.000,000 SMEs for the 1-year period beginning October 1, 2001; 500,000,000 SMEs for the 1-year period beginning on October 1, 2002; 850,000,000 SMEs for the 1-year period beginning, on October 1, 2003; 970,000,000 SMEs in each succeeding 1-year period through September 30, 2009.

Senate amendment

No provision.

Conference agreement

Senate recedes.

CBI T-shirt cap

Present law

P.L. 106–200 extends benefits for an additional category of CBI regional knit apparel products (T-shirts) up to a cap of 4.2 million dozen, growing 16% per year for the first 3 years.

House amendment

Section 3106 of H.R 3006 would raise this cap to the following amounts: 4,200,000 dozen during the 1-year period beginning October 1, 2001; 9,000,000 dozen for the 1-year period beginning on October 1, 2002; 10,000,00 dozen for the 1-year period beginning on October 1, 2003; 12,000,000 dozen in each succeeding 1-year period through September 30, 2009.

Senate amendment

No provision.

Conference agreement

Senate recedes

Present law

Section 112(b)(3) of the AGOA provides preferential treatment for apparel made in beneficiary sub-Saharan African countries from ''regional'' fabric (i.e., fabric formed in one or more beneficiary countries) from yarn originating either in the United States or one or more such countries. Section 112(b)(3)(B) establishes a special rule for lesser developed beneficiary sub-Saharan African countries, which provides preferential treatment, through September 30, 2004, for apparel wholly assembled in one or more such countries regardless of the origin of the fabric used to make the articles. Section 112(b)(3)(A) establishes a quantitative limit or ''cap'' on the amount of apparel that may be imported under section 112(b)(3) or section 112(b)(3)(B). This ''cap'' is 1.5 percent of the aggregate square meter equivalents of all apparel articles imported into the United States for the year that began October 1, 2000, and increases in equal increments to 3.5 percent for the year beginning October 1, 2007.

House amendment

Section 3107 would clarify that apparel wholly assembled in one or more beneficiary, sub-Saharan African countries from components knit-to-shape in one or more such countries from U.S. or regional yarn is eligible for preferential treatment under section 112(b)(3) of AGOA. Similarly, Section 5 would clarify that apparel knit-to-shape and wholly assembled in one or more lesser developed beneficiary sub-Saharan African countries is eligible for preferential treatment, regardless of the origin of the yarn used to make such articles. The House amendment also would increase the ''cap'' by changing the applicable percentages from 1.5 percent to 3 percent in the year that began October 1, 2000, and from 3.5 percent to 7 percent in the year beginning October 1, 2007.

Senate amendment

No provision.

Conference agreement

Conference agreement follows House Amendment accept the increase in the cap is limited to apparel products made with regional or U.S. fabric and yarn. No increases in amounts of apparel made of third-country fabric over current law.

Present Law

AGOA was supposed to provide duty-free, quota-free treatment to sweaters knit in African beneficiary countries from fine merino wool yarn, regardless of where the yarn was formed. AGOA was supposed to provide duty-free, quota-free treatment to sweaters knit in African beneficiary countries from fine merino wool yarn, regardless of where the yarn was formed. However, due to a drafting problem, the wrong diameter was included, making it impossible to use the provision.

House amendment

Section 3107 corrects the yarn diameter in the AGOA legislation so that sweaters knit to shape from merino wool of a specific diameter are eligible.

Senate amendment

No provision.

Conference agreement

Senate recedes.

Africa: Namibia and Botswana

Present law

The GDBs of Botswana and Namibia exceed the LLDC limit of $1500 and therefore these countries are not eligible to use third country fabric for the transition period under the AGOA regional fabric country cap.

House amendment

Section 5 allows Namibia and Botswana to use third country fabric for the transition period under the AGOA regional fabric country cap.

Senate amendment

No provision.

Conference agreement

Senate recedes.

TITLE XLI—EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES

SEC. 4101—EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES

Expired law

Section 505 of the Trade Act of 1974, as amended, provides that no duty-free treatment under Title V (the Generalized System of Preferences) shall remain in effect after September 30, 2001.

House bill

The House amendment to H.R. 3009 would amend section 505 of the Trade Act of 1974 to authorize an extension through December 31, 2002. It would also provide retroactive relief in that, notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, the entry of any article to which duty-free treatment under Title V of the Trade Act of 1974 would have applied if the entry had been made on September 30, 2001, and was made after September 30, 2001, and before the enactment of this Act, shall be liquidated or reliquidated as free of duty and the Secretary of Treasury shall refund any duty paid, upon proper request filed with the appropriate Customs officer, within 180 days after the date of enactment.

Senate amendment

The Senate amendment authorizes an extension of GSP through December 31, 2006. The extension is retroactive to September 30, 2001, permitting importers to liquidate or reliquidate entries made since that date and to seek a return of duties paid on goods that would have entered the United States free of duty, but for expiration of GSP.

The Senate Amendment also amends the definition of ''internationally recognized worker rights'' set forth in the GSP statute (section 507(4) of the Trade Act of 1974). Specifically, it adds to that definition ''a prohibition on discrimination with respect to employment and occupation'' and a ''prohibition of the worst forms of child labor.'' These two prohibitions come from the International Labor Organization's 1998 Declaration on Fundamental Principles and Rights at Work, which defines certain worker rights as ''fundamental.''

The GSP statute identifies certain criteria that the President must take into account in determining whether to designate a country as eligible for GSP benefits. Conversely, a country's lapse in compliance with one or more of these criteria may be grounds for withdrawal, suspension, or limitation of benefits. Whether a country is taking steps to afford its workers internationally recognized worker rights is one of those criteria. The Senate Amendment seeks to make the concept of ''internationally recognized worker rights'' as defined for GSP consistent with the concept as defined by the ILO.

Finally, the Senate Amendment establishes a new eligibility criterion for GSP: ''A country is ineligible for GSP if it has not taken steps to support the efforts of the United States to combat terrorism.''

Conference agreement

The Conference agreement authorizes an extension of GSP through December 3 1, 2006. Conferees approved the Senate provision to include a prohibition on the worst forms of child labor in the definition of internationally recognized worker rights in Section

507(a) of the Trade Act of 1974. Conferees declined to include the Senate provision on discrimination with respect to employment in the definition of ''international recognized worker rights under Sec. 507 (a) of the Trade Act of 1974. Agreement follows the House and the Senate bill with respect to providing retroactive relief.

DIVISION E—MISCELLANEOUS PROVISIONS

TITLE L—MISCELLANEOUS TRADE BENEFITS

Subtitle A—Wool Provisions

SEC. 5101—WOOL MANUFACTURER PAYMENT CLARIFICATION AND TECHNICAL CORRECTIONS ACT

Present law

Title V of the Trade and Development Act of 2000 (Pub. L. No. 106–200) included certain tariff relief for the domestic tailored clothing and textile industries. The relief was largely aimed at reducing the harmful affects of a ''tariff inversion''—i.e., a tariff structure that levies higher duties on the raw material (such as wool fabric) than on the finished goods (such as mens' suits). A component of the relief to the U.S. tailored clothing and textile industry was a refund of duties paid in calendar year 1999, spread out over calendar years 2000, 2001 and 2002. Pub. L. No. 106–2000, § 505.

House amendment

No provision.

Senate amendment

The Senate bill amends section 505 of the Trade and Development Act of 2000 to simplify the process for refunding to eligible parties duties paid in 1999. Specifically, it creates three special refund pools for each of the affected wool articles (fabric, yarn, and fiber and top). Refunds for importing manufacturers will be distributed in three installments—the first and second on or before the date that is 45 days after the date of enactment of the Wool Manufacturer Payment and Clarification and Technical Corrections Act, and the third on or before April 15, 2003. Refunds for nonimporting manufacturers will be distributed in two installments—the first on or before the date that is 120 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, and the second on or before April 15, 2003.

The provision also streamlines the paperwork process, in light of the destruction of previously filed claims and supporting information in the September 11, 2001 attacks on the World Trade Center in New York, New York. Finally, the provision identifies all persons eligible for the refunds.

Conference agreement

The House recedes to the Senate.

SEC. 5102—DUTY SUSPENSION ON WOOL

Present law

Sections 501(a) and (b) of the Trade and Development Act of 2000 provide temporary duty reductions for certain worsted wool fabrics through 2003.

Section 501(d) limits the aggregate quantity of worsted wool fabrics entered under heading 9902.51.11 from January 1 to December 31 of each year, inclusive, to 2,500,000 square meter equivalents, or such other quantity proclaimed by the President pursuant to section 504(b)(3) of the Trade and Development Act. Further, the section limits the aggregate quantity of worsted wool fabrics entered under heading 9902.51.12 from January 1 to December 31 of each year, inclusive, to 1,500,000 square meter equivalents, or such other quantity proclaimed by the President pursuant to section 504(b)(3) of the Trade and Development Act.

House amendment

No provision.

Senate bill

The Senate bill extends the temporary duty reductions on fabrics of worsted wool from 2003 to 2005. The provision increases the limitation on the quantity of imports of worsted wool fabrics entered under heading 9902.51.11 to 3,500,000 square meter equivalents in calendar year 2002, and 4,500,000 square meter equivalents in calendar year 2003. Imports of worsted wool fabrics entered under heading 9902.51.12 are increased to 2,500,000 square meter equivalents in calendar year 2002, and 3,500,000 square meter equivalents in calendar year 2003.

The bill extends the payments made to manufacturers under section 505 of the Trade and Development Act of 2000 and requires an affidavit that the manufacturer will remain a manufacturer in the United States as of January 1 of the year of payment. The two additional payments will occur as follows: the first to be made after January 1, 2004, but on or before April 15, 2004, and the second after January 1, 2005, but on or before April 15, 2005.

Finally, the bill extends the ''Wool Research Trust Fund'' for two years through 2006.

Conference agreement

The House recedes to the Senate.

SUBTITLE B—OTHER PROVISIONS

SEC. 5201—FUND FOR WTO DISPUTE SETTLEMENT

Present law

No applicable section.

House amendment

The provision authorizes a settlement fund within the United States Trade Representative's Office in the amount of $50 million for the use in settling disputes that occur related to the World Trade Organization. The Trade Representative must certify to the Secretary of the Treasury that the settlement is in the best interest of the United States in cases of not more than $10 million. For cases above $10 million, the Trade Representative must make the same certification to the United States Congress.

Senate bill

No provision.

Conference agreement

The Senate recedes to the House.

SEC. 5202—CERTAIN STEAM OR OTHER VAPOR GENERATING BOILERS USED IN NUCLEAR FACILITIES

Present law

Under present law, certain steam or other vapor generating boilers used in nuclear facilities imported into the United States prior to December 31, 2003 are charged a duty rate of 4.9 percent ad valorem. This rate took effect pursuant to section 1268 of Public Law Number 106–476 (''Tariff Suspension and Trade Act of 2000''). Previously, the rate had been 5.2 percent ad valorem.

House amendment

No provision.

Senate amendment

Section 203 of the Senate amendment changes the duty rate on certain steam or other vapor generating boilers used in nuclear facilities to zero for such goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002, and on or before December 31, 2006. The provision was intended to lower the cost of inputs into the operation of nuclear facilities and thereby lower the cost of energy to consumers.

Committee agreement

The House recedes to the Senate.

SEC. 5203—SUGAR TARIFF RATE QUOTA CIRCUMVENTION

Present law

No applicable section.

House amendment

No provision.

Senate amendment

The Senate bill establishes a sugar anti-circumvention program which requires the Secretary of Agriculture to identify imports of articles that are circumventing tariff-rate quotas on sugars, syrups, or sugar-containing products imposed under chapters 17, 18, 19, and 21 of the Harmonized Tariff Schedule. The Secretary shall then report to the President articles found to be circumventing such tariff-rate quotas. Upon receiving the Secretary's report, the President shall, by proclamation, include any identified article in the appropriate tariff-rate quota provision of the Harmonized Tariff Schedule.

Conference agreement

Conferees agreed to a provision directing the Secretary of Agriculture and the Commissioner of Customs shall monitor for sugar circumvention and shall report and make recommendations to Congress and the President.

This provision amends the Harmonized Tariff Schedule of the United States (''HTSUS'') to make clear in the statute an important element of the ruling of the Court of Appeals for the Federal Circuit in Heartland By-Products, Inc. v. United States, 264 F. 3rd 1126 (Fed. Cir. 2001), i.e., that molasses is one of the foreign substances that must be excluded when calculating the percentage of soluble non-sugar solids under subheading 1702.90.40.

The provision requires the Secretary of Agriculture and the Commissioner of Customs to establish a monitoring program to identify existing or likely circumvention of the tariff-rate quotas in Chapters 17, 18, 19 and 21 of the HTSUS. The Secretary and the Commissioner shall report the results of their monitoring to Congress and the President every six months, together with data and a description of developments and trends in the composition of trade provided for in such chapters. This report will be made public. The report will discuss any indications that imports of articles not subject to the tariff-rate quotas are being used for commercial extraction of sugar in the United States. Imports of so-called ''high-test molasses'' currently classified under subheading 1703.10.30 will be examined particularly closely for such indications.

Finally, the Secretary and the Commissioner will include in the report their recommendations for ending circumvention, including their recommendations for legislation. The Managers emphasize that rapid action to stop circumvention is the best way to prevent a problem from developing and that quick administrative or legislative action is preferable to protracted procedures and litigation, as occurred in the Heartland case.

From the Committee on Ways and Means, for consideration of the House amendment and the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS,
PHILLIP M. CRANE,

From the Committee on Education and the Workforce, for consideration of sec. 603 of the Senate amendment, and modifications committed to conference:

JOHN BOEHNER,
SAM JOHNSON,

From the Committee on Energy and Commerce, for consideration of sec. 603 of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
MICHAEL BILIRAKIS,

From the Committee on Government Reform, for consideration of sec. 344 of the House amendment, and sec. 1143 of the Senate amendment, and modifications committed to conference:

DAN BURTON,
BOB BARR,

From the Committee on the Judiciary, for consideration of secs. 111, 601, and 701 of the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER,
HOWARD COBLE,

From the Committee on Rules, for consideration of secs. 2103, 2105, and 2106 of the House amendment and secs. 2103, 2105, and 2106 of the Senate amendment, and modifications committed to conference:

DAVID DREIER,
JOHN LINDER,
Manager on the Part of the House.

MAX BAUCUS,
JOHN BREAUX,
CHUCK GRASSLEY,
ORRIN HATCH,
Managers on the Part of the Senate.

H. RES. 507

Resolved, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of Friday, July 26, 2002, providing for consideration or disposition of any of the following measures:

(1) A conference report to accompany the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under the Act, and for other purposes.

(2) A conference report to accompany the bill (H.R. 3295) to establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections, and for other purposes.

(3) A conference report to accompany the bill (H.R. 333) to amend title 11, United States Code, and for other purposes.

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

Mr. REYNOLDS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my colleague, the gentleman from Texas (Mr. FROST), the ranking member of the Committee on Rules, 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. REYNOLDS asked and was given permission to revise and extend his remarks.)

Mr. REYNOLDS. Mr. Speaker, House Resolution 507 waives clause 6(a) of rule XIII requiring a two-thirds vote to consider a rule on the same day it is reported from the Committee on Rules.

The rule applies the waiver to a special rule reported on the legislative day of Friday, July 26, 2002, providing for consideration or disposition of the conference report to accompany the following bill: H.R. 3009, the Trade Act of 2002.

The rule will allow this body to consider the conference agreement on the important topic of trade promotion authority. The rule moves the process forward so this body can work its will on a long overdue piece of legislation.

Mr. Speaker, there are only a few months remaining in the 107th Congress. In the past 2 years, we have had many accomplishments, but success in the area of expanding trade and opening markets is yet to be realized. But the power to change that is within our reach. I ask my colleagues to join me in taking the first step in the final leg of our efforts to bring to fruition this critical piece of legislation.

I strongly urge my colleagues to support this rule so that we will be able to bring up this important issue.

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

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

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

Mr. FROST. Mr. Speaker, Democrats strongly support free and fair trade that grows the economy and benefits American workers. At the same time, we insist on fulfilling our responsibility to ensure a level playing field for American businesses, farmers, and workers; and we insist on ensuring that Americans who lose their jobs because of trade are given the assistance and opportunity they need to adapt to the new economy.

Unfortunately, this trade promotion authority conference agreement fails to accomplish these goals, and therefore, risks future trade agreements negotiated under it. That much we know about the conference report, Mr. Speaker.

But since the conference report has not been filed, and since the Committee on Rules has not reported out the rule for consideration of the conference report, we have no way of knowing what is in this conference report that we are now clearing the parliamentary way for.

That is a major problem for this House of Representatives because Republican leaders now want to pass this martial law, thereby waiving the House rule that gives every Member 1 day to review legislation before it comes to the floor. If that occurs, then the overwhelming majority of the Members of this House will have absolutely no way of knowing what is in this conference report.

Now, we would like to be able to trust what the Republican leadership says is in the bill, but they have been caught red-handed on too many occasions when they tried to sneak controversial provisions into big pieces of legislation like this.

As I understand it, they have even put such controversial provisions in this agreement that committee chairmen are objecting to it in the strongest possible terms, this after the Republican leadership snuck into the homeland security bill provisions that were objectionable to many Members of this body, but who did not know they were there until the bill was on the floor.

So the Republican leadership has lost the credibility to come to the House floor and say, trust us. For that reason, I urge my colleagues to defeat this martial law rule. That is the only way Members will be able to figure out what is really in this conference report.

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

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

Mr. Speaker, first of all, both Republicans and Democrats have told me that the Committee on Ways and Means conference report has been on its Web site since this afternoon.

Two, as is always customary in the Committee on Rules, there will be notice to, first, the Committee on Rules itself, which will have an ample time to see the legislation, and then we will hold a hearing and move forward on the decision of granting a rule on the legislation.

To my knowledge, in the time I have been here, that provides not only the Web site access to the entire membership, but also close scrutiny by both the Committee on Rules staff and the entire majority and minority staffs that choose to look at it and have comments, both in the Committee on Rules and then, finally, as we had that debate on the floor.

Certainly there is no secret that we have been in a long journey looking to have an opportunity to have trade legislation passed here in the House. We now have a conference report that has brought a consensus not only of a Republican majority here in the House, but Republican and Democrats who supports free trade in this body and in the other body.

So we will have plenty of opportunity for our colleagues, both the majority and the minority, to review the legislation. Some have already done so as they have gone to the Committee on Ways and Means Web site. Others will have the opportunity through the process this evening.

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

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

Mr. Speaker, I would make a couple of observations. First of all, the gentleman has just stated that, well, the conference report is on the Web site. I would ask, is that the conference report that is going to be signed by the conferees? And if so, why has it not been signed earlier in the evening?

Apparently someone on the gentleman's side had some reservations about what was posted on the Web site and was not sure that that was going to be the final product.

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

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

Mr. DREIER. I thank my friend for yielding to me, Mr. Speaker.

Let me say that, in fact, all of the conferees have signed that report, and the gentleman is correct that it has yet to be filed; but at 4 o'clock this afternoon a hard copy was delivered to the minority members of the Committee on Rules; and as has been said by the gentleman from New York (Mr. REYNOLDS), it has been made available on the Web site.

That is the report that will in fact be filed. This is the report that was agreed to by both the Members of the House and Senate in the conference.

Mr. FROST. Mr. Speaker, reclaiming my time, I would point out that the gentleman from Florida is a member of the conference committee and has not signed the conference report.

Mr. HASTINGS of Florida. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from Florida.

Mr. HASTINGS of Florida. Mr. Speaker, I would say to the chairman that my office was called earlier and I said that I would be happy to consider signing it, and they told me they would get back to me. In fact, I still have not signed it. My staff said if we saw it, we would sign it. So, Mr. Speaker, I have not signed the conference report, and I am a member of the conference committee on trade promotion authority.

Mr. DREIER. If the gentleman would further yield, when I said everyone has signed, I know that my friend was raising the concern about majority Members signing the issue. That was what I meant, all of the majority Members of the House who were conferees have in fact signed.

Mr. FROST. Reclaiming my time, everyone on that side of the aisle. When the gentleman says everyone, he means everyone on that side of the aisle.

Mr. DREIER. If the gentleman will yield, what I will say is that when the gentleman said there was a particular concern about a signature and was looking to this side of the aisle, I inferred from the way he said it that he was concerned about a signature from this side of the aisle.

The fact of the matter is the majority Members have signed the conference report. Does that answer the question that the gentleman posed? I thank my friend for yielding to me.

Mr. FROST. Mr. Speaker, reclaiming my time, it is curious that this document has been somewhere in cyberspace since 4 o'clock and yet has not been made available to the House, apparently because someone was thinking about making a change in that document. Otherwise, it would have been made available to the House.

I would point out that one of the earlier speakers said, well, the Committee on Rules members will have plenty of time to review this document. Actually, we will have 15 minutes. We have been given 15 minutes from the time we get the document until the Committee on Rules will be meeting.

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

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

Mr. Speaker, I think it is important that we review again that we are not going to do anything other than the possibility of having a late decision of debate, but on this day, since 4 p.m., the minority staff of the Committee on Rules has been given a hard copy of the conference report. We also know that it has been on the Web site. We also know that some Members have started this and reviewed it early, and very thoroughly; other Members may not have had an opportunity to open their Web site to garner the information.

We are moving here methodically. The methodical aspect is first of all having the debate on the same-day rule, which the Committee on Rules granted this morning. We now bring that to the body as a whole for their consideration. We will then schedule a Committee on Rules meeting, of which there will be a hearing to consider a conference report that has been made available since this afternoon to the entire body and has a majority of signatures, as the chairman of the Committee on Rules has indicated, from what he is aware of, and that the minority of the Committee on Rules has had documentation, hard copy, written, before them since 4 p.m. today.

So as we move forward, my hope is that the Congress, this body, can make a decision of whether we will continue on a same-day rule to take up the trade promotion authority and have the opportunity to move forward with consideration of what has been a long journey, a process that has had the House deliberate, the other body deliberate, a conference report negotiated off and on throughout weeks, and now an opportunity for the House to consider an up-or-down on that conference report that has been put together not by just the majority of the House or the other body, but by a consensus of those who support free trade.

The votes, as they have been in the past in this instance, have been of those who support free trade, both Republican and Democrat, and those who are opposed to free trade.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Chairman DREIER), from the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding time to me.

I would like to take a few minutes to describe how we got to where we are.

□ 2330

We passed the North American Free Trade Agreement 9 years ago and so we are rapidly approaching the tenth anniversary of the passage of the North American Free Trade Agreement. And, clearly, the implementation of NAFTA has been one of the greatest things that has happened in the relationship for this hemisphere. We have been able to take tremendous strides in enhancing the economic relationship among Canada, the United States, and Mexico with the North American Free Trade Agreement. We have seen free trade between the United States and Mexico more than double in the period of time that we have put NAFTA into place. And I think one of the most important products has been the successful implementation of full democratization in Mexico. We all know that they had 71 years of one-party rule and bringing about the economic liberalization that came under the leadership of President Miguel de la Madrid and Carlos Salinas went a long way towards encouraging democratization. We saw political liberalization follow economic liberalization. And we know that while there are still very serious problems, we have migration problems, we have water problems, other issues that exist between the United States and Mexico, clearly the election of President Fox is something that was heralded in that country and here in the United States and throughout the hemisphere and, for that matter, throughout the world.

The reason I point to that is it is very clear that expanding trade is one of the most important vehicles toward expanding democratization. And that is really what this is all about.

We are here right now having spent nearly a decade because we saw the authority, what was known as Fast Track, what we now describe as Trade Promotion Authority, expire shortly after implementation of the North American Free Trade Agreement. And during that period of time, I am very proud of the fact that through the Clinton presidency, I worked closely with President Clinton, with his U.S. Trade Representative Mickey Cantor and then Charlene Barshefski to try to grant President Clinton the authority to proceed with NAFTA-like agreements so that we could establish what our goal is here, and that is a free trade area of the Americas. And we know that there are very serious problems that exist in South America, in Venezuela, in Argentina and other countries. And virtually everyone agrees that if we were to have the chance to expand this NAFTA concept to a free trade area of the Americas, we would be able to more effectively address the political problems and economic problems that exist in those countries and, similarly, in other parts of the world, we have those challenges and, of course, the national security question for us.

We have just successfully passed a bill establishing a Department of Homeland Security, and that is very important in dealing with our security here. But we know that economic liberalization and democratization are very important to encourage in other parts of the world where, in fact, terrorist threats have begun.

And so I think that the vote that we are going to cast granting this same-

day rule will allow us to bring up and consider the bill that grants President Bush trade promotion authority.

Now, Mr. Speaker, I underscored the fact I, as a Republican, I am a very proud Republican and no one has ever questioned my Republican credentials. Some did when I worked so hard to try to grant President Clinton trade promotion authority, but I believed was the right thing to do. And that is why I like to think that Democrats who join and understand of the very important benefits to economic liberalization and the expansion of freedom and democracy will join with us in bringing us support in a bipartisan way, which trade has traditionally been. But we are right now at 11:34 in the evening still working at this, trying to address some concerns that are out there because we, as conferees, went through a laborious process trying to address concerns and, of course, we have a Democratic United States Senate and we had to work closely with the senators to come to an agreement. And I believe that the agreement that has been struck is deserving of wide bipartisan support, and so we have taken this step to establish same-day consideration.

We are on what we certainly hope is the last day of this type in the Congress before we go into our summer break, and I hope that Members will join in providing support for this same-day consideration of the rule and support for this very important trade promotion authority bill that we hope to be considering in the not too distant future.

Mr. FROST. Mr. Speaker, I yield 9 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for yielding me time, albeit reluctantly. I am sure everybody wants to go home. And this is probably not the greatest time to rise to speak on the floor of the House because everybody does want to go home.

I should say at the outset that I have not been a supporter of fast track legislation, either giving that authority to a Democratic president or giving it to a Republican president, so for me this is not a partisan issue. But I presume that that part of this will be debated during the debate on the bill itself. I am not here to address the merit or lack of merits of fast track authority.

What I am here to address is the martial law rule that we are being called upon to vote upon this evening, because I object vigorously to martial law. And quite often when we are in the last days of a session and the majority is trying to get martial law, I go out of my way to come to the floor to speak on this concept of martial law.

Mr. Speaker, I practiced law for 22 years and there was nothing that I hated more in the practice of law than to start the trial of a case on a Monday or a Tuesday and have that case wind through the course of the week and get to Friday midday or Friday midafternoon and have that case still going on. Because what I realized was that whether it was somebody's property that was involved or whether it was somebody's liberty that was involved, everybody was tired, and the court and the judge and the lawyers wanted to start taking short-cuts. And when the case went to the jury, the jury was going to want to go home. And despite the importance of the matter before that court, you simply could not get justice late on a Friday afternoon.

So here we are at 11:30 on a Friday night, and my colleagues come out on the floor and say we want to declare martial law which is to say we want you to give us the authority to consider a bill tonight that nobody has had a chance to read.

Now they say they have posted it on a web site sometime this afternoon, but I am sure people who have been following this debate and session on C-SPAN have realized that this Congress has been in session right here on the floor of the House all afternoon debating a very, very important bill. And I would grant you, I would bet you that there is not a person in this body that has looked at this bill that we are getting ready to consider under martial law, same-day consideration. The whole rationale of the rule that says you will not consider a bill the same day that it is filed is to allow democracy to work, to allow the deliberative process to work, to allow the very thing that I objected to when I was practicing law, a compromise of justice, a compromise of democracy, to keep that from taking place.

That is why we have the rules of the House. And despite that fact, here we are, my colleagues. They took an hour and a half recess before they even brought this to the floor because they did not know what was in the bill themselves.

I know I am getting on everybody's nerves, but this is about democracy and this is about the ability to read and understand what we are being called upon to vote. Just like when I was practicing law for 22 years, it was about somebody's property or somebody's liberty, this is about our democracy. That is what this is about. So heaven forbid that they give me 2 more minutes to tell you what this is about.

This is about the quality of our democracy, and whether my colleagues can go home tomorrow or today, actually, we are going home tomorrow regardless of what happens here; maybe it is just later tomorrow, and so it would not make a whole heck of a lot of difference.

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

Mr. WATT of North Carolina. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding, and I appreciate many of the points he has raised. I have prided myself to being strongly committed in minority rights, having served 14 years on the minority.

Mr. WATT of North Carolina. This is not about minority rights. This is about democracy and the rights of every Member of this House.

Mr. DREIER. Absolutely. Do not get me wrong. I am also concerned about majority rights, too, especially when I am a member of the majority, too. But I am also sensitive to the minority rights. But, again, at 4:00 this afternoon the gentleman's office received by e-mail a copy of this conference report which we are prepared to file now. The gentleman from California (Mr. THOMAS) is here, who is chairman of the conference, and he is prepared to file this report, and I hope that we will be able to move ahead with its consideration. It has been 10 hours.

Mr. WATT of North Carolina. Reclaiming my time, I presume what that means is that what the gentleman is saying is what we are about to vote on. I appreciate him clarifying it. I had thought the gentleman just said that this thing was just put up on a web site at 3:00 this afternoon. Now I am being told that he is getting ready to file it so we can read about it while we are debating it on the floor of the House.

This is about the quality of our democracy and whether we have the time to read a bill that we were getting right now. There is important stuff we are doing here. Certainly no less, no less important than the things that were being deliberated in the courtroom. And all I am asking is for my colleagues to realize that and to take the time and to give us the time to read what it is we are being asked to vote on.

And with that, I do not know how I can be more basic than that, but I am sure it will not make any difference to my colleagues.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, I am pleased to announce that this is an additional step in a commitment this Congress made some time ago to try to move to a paperless Congress. More than 8 hours ago Members received in each of their offices an electronic copy of the document that was just delivered. If Members were concerned about the content of this particular report, they could have been reading it for 8 hours.

□ 2345

And in fact that is one of the things that this Congress can do in the 21st century, and that is instead of dealing with massive amounts of paper, 6 pounds delivered to each office, which is not read anyway, we have provided an electronic forum in which it is easily disseminated among staff and Members and that it is a far better way to deal with these issues. In addition to that, it allows Members for more than 8 hours to consult the bill in which we are now bringing up the rule to allow us to consider. That is the way this

Congress should be operating in the 21st century.

If someone believes they should be lugging around 6 pounds of paper when it has been in their office for 8 hours, I would urge Members to acquaint themselves with the computer operators and with the staff if the folks are not computer literate, because for more than 8 hours this identical bill has been in their offices.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. MATSUI), a member of the Committee on Ways and Means.

Mr. MATSUI. Mr. Speaker, I thank the gentleman from Texas (Mr. FROST) for yielding me this time.

I would like to clarify some misunderstanding because I heard at the time as I was sitting in my office that the documents were delivered at three o'clock or it was posted on the Web site at four o'clock and that would have undoubtedly then would have given about 7 hours and 45 minutes for us to review the documents in the middle of the Homeland Security Department legislation as it was moving through there.

The reality of it is, and I think the gentleman from California (Mr. THOMAS) would have to verify this or at least his staff would have to verify this, or perhaps the gentleman from New York would, we were not notified that the documents, all 360 pages, would be posted on the Web site until 6:53 or almost seven o'clock in the evening. And as all of my colleagues know, we were in the final stages of debate on the Homeland Security Department at that time; so we have actually only had a little over 4 hours and 45 minutes to review this document, and I have to tell my colleagues that one of the things that troubles me about this is that this is a significant major piece of legislation, and I think that Members on both sides of the aisle, particularly Members on my Republican side of the aisle, because we are going to be discussing textile rules, we are going to be discussing issues like trade adjustment assistance, which could cost considerable sums of money.

We are going to be discussing health care issues that were going to go to displaced workers, and it would seem like both parties would want an opportunity to review and vet this legislation before we adopt it, presumably this evening at 2 or 3 in the morning. And I will tell my colleagues why this is important is because the other body this week will be taking this legislation up and they will have a chance to review it, and all the flaws of this bill will come out, and some of my colleagues might be embarrassed if they, in fact, vote for this legislation, sight unseen, and it will be sight unseen.

For example, let me just throw out the trade adjustment assistance that many people made a big thing about. The fact of the matter is that if a company closes and leaves the United States and goes, let us say, to China, which many companies are doing at this time, those employees that are displaced from that factory will not be eligible for trade adjustment assistance or the health care benefits. Most of my colleagues on my side of the aisle who have been told this are absolutely astonished because they were told when a plant closes, the employees are going to be able to receive assistance, and that is just not necessarily true in most cases.

And the gentleman from California (Mr. THOMAS), if all of us recall, just two weeks ago, introduced legislation to provide $90 billion at a time when we are all facing a great deal of trouble on Wall Street, $90 billion worth of tax cuts to U.S. companies that would go offshore, and so essentially this bill would encourage companies to go to China offshore, and the tax bill that the gentleman from California (Mr. THOMAS) has offered would do the same thing.

I find it kind of incomprehensible that Members who may not quite understand the implication of this, it could hurt their hometown companies, would end up voting for this and then next week maybe find out that this bill does not say what many of the Members suggested it might say. So I think this martial law proposal at this time in this evening for this kind of bill is pretty outrageous, and it should not be really offered tonight.

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

I am proud to be a member of the Committee on Rules. We are usually the last here. This week we have been the last here and the first here. We can continue and use the entire full hour on this same-day resolution and have all our colleagues debate the same day. And then we will have a consensus on whether the House approves of the same-day rule or they do not, and then we will move into the opportunity to have the Committee on Rules meet because they were noticed last evening.

At eight this morning, we put out this same-day rule which led the indication that we would be considering the trade bill which many in the House knew was being negotiated actively by the entire Conference Committee. So we will continue and do the full hour here. We will then have a Committee on Rules meeting and we will do a full hour on the rule and then we will take it to debate, if that is what the body chooses to do.

I am prepared to yield back the balance of my time if the ranking member yields his time back and we can move forward, or we will continue to take the hour. So I will ask the ranking member if he has further speakers or whether he wants to yield his time, in which I will follow.

Mr. FROST. Mr. Speaker, is the gentleman prepared to yield back his time so that the House may proceed to a roll call vote on this particular matter?

Mr. REYNOLDS. Yes.

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

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

The previous question was ordered.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the resolution.

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

Mr. REYNOLDS. 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 217, nays 207, not voting 9, as follows:

[Roll No. 368]

YEAS—217

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Coble
Collins
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dicks
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sununu
Sweeney
Tancredo
Tanner
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)
Wolf
Young (AK)
Young (FL)

NAYS—207

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Goode
Gordon
Graham
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefley
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Norwood
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
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Wilson (SC)
Woolsey
Wu
Wynn

NOT VOTING—9

Blunt
Combest
Lipinski
Meehan
Nussle
Riley
Roukema
Smith (MI)
Stump

□ 0014

Messrs. JOHN, WEINER, HILL, and SMITH of Washington changed their vote from ''yea'' to ''nay.''

Mr. YOUNG of Alaska 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.

□ 0015

LEGISLATIVE PROGRAM

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

Mr. ARMEY. Mr. Speaker, let me say, of course, we are all concerned about just exactly how we will proceed, and let me give Members the best information I have. We have just finished the same day rule. The trade promotion bill has been filed so we will now ask the Committee on Rules as soon as it is possible within their protocols and courtesies that they extend to one another to meet and prepare a rule for consideration of the trade promotion bill.

In the meantime on the floor of the House in just a few minutes, we are going to ask the Committee on Financial Services to bring their resolution to go to conference on the terrorism reinsurance bill. We will take care of that business and any other business we will be able to work together on.

We have been working very hard trying to clear some unanimous consent opportunities for several of our Members. We continue to clear as many of those as we can. Insofar as we have completed the intervening work prior to our ability to reconvene the House for the purposes of the rule on trade, we will just have to recess subject to the call of the Chair until we can proceed.

Also, I should advise Members we have an opportunity to address the bankruptcy reform conference report, and we are checking on that. So it is still possible we might try to consider that before we conclude our business. Members should be advised that as we work through the various problems and delays we have, all these things are possible and all these things are problematic. So we have what is known in Texas as a running gun fight, and I will try to report to Members how it is going as we move along. That is the best information I have at this time.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Leader, I listened to the reading of the martial law legislation, and it said that we could consider the bankruptcy bill, the trade bill, and also the electoral reform bill. Is it the gentleman's understanding that the electoral reform bill could go to the Committee on Rules for a rule and come to the floor, and I would say this evening, but it is now this morning?

Mr. ARMEY. Mr. Speaker, I am advised by the chairman of the committee that they have, in fact, just reported out a rule on the trade promotion. Maybe we can move more quickly on that on the floor than I had anticipated.

We do not expect a conference report on election reform; but we do have a conference report in hand on bankruptcy reform. We are looking at all of the options with scheduling that. As near as I can tell, that plus going to conference on the anti-terrorism reinsurance bill is the work before us.

If I might ask the Members of this body, we have several Members on both sides of the aisle who have an opportunity to put on behalf of themselves and their constituents, their district interests, some matters before the body by unanimous consent. It is simply a matter of us being willing, all of us, to look at those Member requests. We do as much as we can to take care of Members on both sides of the aisle as possible. Some of these are timely matters. We have one with respect to Indiana which simply would be of no consequence or interest to the gentlewoman's district if we put it off until after.

When approached or asked about these, give what consideration Members can to colleagues. This is not a matter that the leadership has any particular interest in other than helping as many Members as possible. If we can get some of those cleared, we will help other Members.

Ms. PELOSI. Mr. Speaker, if the gentleman would continue to yield, it is my understanding that the bankruptcy conference report, trade promotion, and terrorism risk insurance are the three bills that may come to the floor tonight?

Mr. ARMEY. Mr. Speaker, the gentlewoman's understanding is correct.

Ms. PELOSI. And there is nothing beyond that except the unanimous consent requests?

Mr. ARMEY. Right.

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

Mr. ARMEY. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Speaker, I would be happy to accommodate the request. Earlier this evening there were a number scheduled, including one of mine which is unanimously supported by the entire Oregon delegation, House and Senate, Republicans and Democrats, to name a new courthouse which has just been authorized and appropriated.

Unfortunately, I was told that the gentleman from Texas (Mr. DELAY) was upset about the debate over the aviation explosive screening, and he personally said my bill will not be allowed. And if mine will not be allowed, since it was previously scheduled, then I will object to all unanimous consent requests.

Mr. ARMEY. Mr. Speaker, for the record, we have not received a request from the minority leader relative to the gentleman's bill. We can obviously not respond to a request that has not been made. Again, let me just say we all have disappointments in our life.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3009, TRADE ACT OF 2002.

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 107–625) on the resolution (H. Res. 509) waiving points of order against the conference report to accompany the bill (H.R. 3009) an Act to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT OF CONFEREES ON H.R. 3210, TERRORISM RISK PROTECTION ACT

Mr. OXLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Ohio (Mr. OXLEY)?

Mr. DEFAZIO. Reserving the right to object, Mr. Speaker, I ask the gentleman to repeat the unanimous consent request.

The SPEAKER pro tempore. Does the gentleman from Oregon yield on his reservation?

Mr. DEFAZIO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio? The Chair hears none and, without objection, appoints the following conferees:

From the Committee on Financial Services, for consideration of the House bill and the Senate amendment thereto, and modifications committed to conference: Messrs. OXLEY, BAKER, NEY, Mrs. KELLY, Messrs. SHAYS, FOSSELLA, FERGUSON, LAFALCE, KANJORSKI, BENTSEN, MALONEY of Connecticut, and Ms. HOOLEY of Oregon.

From the Committee on the Judiciary, for consideration of section 15 of the House bill and sections 10 and 11 of the Senate amendment thereto, and modifications committed to conference: Messrs. SENSENBRENNER, COBLE and CONYERS.

There was no objection.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3009, TRADE ACT OF 2002.

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 509 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 509

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 3009) an Act to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

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

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

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

Mr. REYNOLDS. Mr. Speaker, House Resolution 509 is a standard and fair rule providing for the consideration of the conference report to accompany H.R. 3009, the Trade Act of 2002. The rule waives all points of order against the conference report and against its consideration. Additionally, the rule provides that the conference report shall be considered as read.

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

□ 0030

What we have before us today is a historic opportunity to remedy this obvious shortcoming. I would like to personally commend all those on both sides of the aisle, and in both Chambers, who have worked in a bipartisan manner to make this possible.

Trade is a fundamental element of the U.S. economy, stimulating growth, creating jobs, and expanding consumer choices. Nearly one in every 10 American jobs is directly linked to the export of U.S. goods and services, and these jobs are estimated to pay 13 to 18 percent more than the U.S. national average. From family farms to high-tech startups to established businesses and manufacturers, increasing free and fair trade will keep our economy going and create jobs in our economy.

Consider a study conducted by the University of Michigan. The average American family of four could see an annual income gain of nearly $2,500 from a global reduction in tariffs and trade barriers. That money would be a welcome addition to the family budget.

Trade is also a cornerstone of American relations with other countries. Free-flowing trade helps alleviate poverty, building stronger and more prosperous neighbors. With trade as a conduit, walls can break down and democratic ideals can be shared more openly between countries. Whether bolstering our economy at home or spreading the values of democracy worldwide, free trade is an important tool in fostering new opportunities for the United States. Trade promotion authority is vital to making these opportunities possible.

Mr. Speaker, in the spirit of bipartisanship that has helped bring us to this point, I would like to quote President John Kennedy who, in 1960, noted, ''World trade is more than ever essential to world peace. We must therefore resist the temptation to accept remedies that deny American producers and consumers access to world markets and destroy the prosperity of our friends in the non-Communist world.''

At a time when America strives to enhance and strengthen our friendships around the world, it is imperative that we recognize the correlation between peace and free trade.

Mr. Speaker, this agreement has been a long time in coming. Even though every President from Richard Nixon to Bill Clinton has enjoyed the right of trade promotion authority, that authority has been lacking since its expiration in 1994. The underlying legislation will restore that negotiating authority and open the doors of prosperity for this country. Let us not make America, its workers or its products wait any longer.

I strongly urge my colleagues to support this rule and the underlying legislation.

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

PARLIAMENTARY INQUIRY

Mr. CALLAHAN. Mr. Speaker, I have a parliamentary inquiry.

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

Mr. CALLAHAN. Is it permissible during a debate on the rule for Members to revise and extend their remarks?

The SPEAKER pro tempore. It is, by unanimous consent.

Mr. CALLAHAN. At this time of morning I think it would be very wise. Since both sides have heard all of the debate, some of the Members consider the fact at this late hour that a revision and extension of remarks would serve the same purpose.

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman from New York for yielding me the time, and I yield myself such time as I may consume.

My good friend from Alabama makes a great suggestion, but an even greater suggestion would be for us not to be in the dead of night undertaking this extraordinary work.

Mr. Speaker, I rise in opposition to this rule and in strong opposition to the underlying conference report. It is the conference report on what is called TPA. Yes, TPA. By my way of thinking, that ought to stand for Thoughtless Political Action, because that is precisely what this House is prepared to do. I hope the American worker is braced for the sucker punch they are about to receive. I said exactly 1 month ago that it is no wonder that the American people have such disdain for politicians. Well, this conference report

bears that out in spades. Like the bill last month, this conference report is another perfect example of backroom deals gone bad in the dead of the night, legislating under the cloak of darkness, and accountability at its most pernicious.

On December 6 of last year, with the number of unemployed Americans totaling more than 8.25 million, the majority made a series of back-door deals to secure trade promotion authority for an administration which in my judgment has yet to prove to Americans that it really cares about their jobs. All of this was done under the pretense of furthering U.S. business interests abroad. At least the majority can rightfully argue that TPA does further U.S. interests abroad. Too bad this expansion is done at the expense of the American worker as well as the environment.

Mr. Speaker, I hope that my colleagues fully understand that since the current administration took office, an average of 157,000 Americans are losing their jobs every month. Tonight, the majority is again poised to eliminate tens of thousands of more jobs under the pretense of United States trade promotion. Knowingly eliminating any job at a time our economy has proven that it is incapable of re-creating that job is not an option that Congress should entertain. We really ought to be ashamed of ourselves for even considering this kind of measure.

You see, Mr. Speaker, this body knows that trade agreements cost American jobs. In fact, 420 of us agreed to this conclusion when the House overwhelmingly extended trade adjustment authority in June 2001. Yet the TAA provisions in the conference report are a reckless disregard of the obvious. Aside from the inept direct financial assistance available to displaced workers, the conference report has reduced the Senate-passed TAA proposal on health care to a tax credit that covers a meager 65 percent of the cost of a worker's premium. Realize, the Federal Government pays 72 percent of Members' health care premiums, and it is preposterous for us to expect the unemployed to pay any more than we do on health care.

But all of this does not even matter if the Treasury Department does not establish the guidelines for a complex TAA program, or if States do not release the TAA funds once they have been administered. It is funny how language ensuring the distribution of TAA funds is mysteriously missing from this report that was on the Internet at 4, or at 7:15, take your pick. The majority maintains that it is obvious that States will release the funds. I say if it is so obvious, put it in writing.

Realize, providing open-ended authority to the President without requiring that environmental, labor and agricultural standards be included in any trade agreement is nothing short of hammering another nail in the coffin of hundreds of American industries nationwide.

I support free trade. I have in the past and I will again in the future. However, any free trade agreement must also be a fair trade agreement. Through the eyes of a farmer, it is outrageous to expect the American agricultural industry to compete with South American, Central American or Asian agricultural industries who are not required to pay their workers a living wage and are not held to the same environmental standards as farmers are here in the United States.

Don't believe me? Look at what NAFTA did. I voted for that measure, and it is the worst vote I have cast in this body. Just look at what it did to my home State of Florida, specifically the agriculture industry. From citrus to sugar and from rice to tomatoes, Florida's agricultural industry has lost thousands of jobs as a direct result of NAFTA. The tomato industry went basket belly up after dumping. While Mexican farmers have profited, and I hold no grudge against them, companies have closed; and Florida farmers no longer have jobs or farms.

Mr. Speaker, we can continue to stay here in the middle of the night and play politics with Americans' lives under the pretense of U.S. trade promotion, or we can get serious about securing the future of American jobs and industries. This report does not re-create the 364,000 jobs which were lost in the month of June, and it certainly does not re-create the 1.7 million jobs we have lost since September 11. This report does not ensure the future of United States agriculture, and it definitely does not ensure the future of the U.S. steel and textile industries.

It is one thing to talk politics, and it is another thing to talk policy, but when the politics begin to interfere with the policy and that policy interferes with American lives and livelihoods, then we have a problem. Tonight, Mr. Speaker, we have a problem.

This report lays the foundation for hundreds of thousands of U.S. jobs to be shipped off to foreign countries with no guarantee that displaced American workers will be compensated. The environmental and labor provisions that do exist in the report are as disingenuous as the pretenses with which the majority brings this legislation to the floor this morning. This so-called Trade Promotion Act does indeed grant some significant benefits to some workers. Regrettably, not the workers who pay our salaries with their hard-earned tax dollars. There is nothing in this bill that promotes the interest of the American worker. Nothing.

This bill does so little for the American worker, under the guise of doing so much, that I recommend changing the name TPA to the Trade Pretense Act. I urge a ''no'' vote on the rule and a ''no'' vote on the conference report.

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

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

Mr. LINDER. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today in strong support of both the rule and the underlying legislation, the conference report on the Trade Act of 2002.

First and foremost, as a member of the conference committee on the 2002 Trade Act, I wish to express my gratitude to the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means, for his leadership and diligence in bringing this important legislation to the floor today. I commend the chairman for his devotion to promoting the principles of free trade and ensuring the U.S.'s prominence in the international marketplace.

Mr. Speaker, in one of his first requests to the 107th Congress, President Bush requested the authority to negotiate trade agreements with credibility in the international arena. The President understands what so many macroeconomists have proclaimed, trade is beneficial to all nations and all peoples. Through trade agreements with other nations, new horizons are opened for U.S. exports, helping to create high-quality new jobs for Americans while American consumers gain access to lower-cost goods. The President knows that free trade benefits the U.S. economy. Given our recent economic uncertainty, it is important that we finally grant his request for the authority to negotiate trade agreements in order to help strengthen our economy.

Finally, without this legislation, the House of Representatives has no voice in the negotiation of trade agreements. The House is elevated by the trade promotion authority provisions included in the 2002 Trade Act, which require the President to consult with both the House and the Senate throughout trade negotiations. Once an agreement has been reached, the House and Senate each have the opportunity to approve or disapprove the agreement. Mr. Speaker, this conference report gives the House of Representatives a voice in trade negotiations, a voice which would otherwise be silent.

I urge my colleagues to vote in support of the rule and the conference report to ensure that we may participate in future trade negotiations.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Michigan (Mr. LEVIN), who has extensive knowledge on the subject that we are talking about.

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

□ 0045

Mr. LEVIN. Mr. Speaker, with all due respect, I am amazed that it would be suggested here that we only rise and decide to extend our remarks and not talk about the substance. We are talking about a 300-page bill, is it? We are talking about a bill that is going to set the stage for trade negotiations for the

next half decade, and we are doing it at a quarter to 1:00? It is suggested also that we not speak on the substance?

I am speaking now because I want us to get off on the right foot. This is not a debate over expansion of trade. I favor it. It is not a debate over globalization. It is here to stay. The issue is whether we are going to wrestle with the new issues inevitably rising in this new era of trade, or we are going to look the other way.

Issues like core labor standards, this bill pretends to address them. It does not. It says it follows the Jordan standard. It does not. It pretends to address the issues of investment. It does not. Like the bill that came through here, it is a facade. It says it addresses, it was just said, the role of Congress. It does not. It is a facade. If anything, it makes it worse. In this new era of trade, it leaves us as simply a body to be consulted, and not a partner.

Look, inevitably there are new issues. If ever there were a requirement for bipartisanship in trade, it was in this new era. So it called for a bipartisan effort. A partisan approach to trade is built on sand, and the majority here started on the wrong foot. They started with a partisan approach. They are going to end up on this floor with essentially a partisan vote.

Shame on this approach. You make Trade Promotion Authority one without value. Time will show that what you are doing here is going through the motions, instead of erecting a strong foundation for trade policy in the 21st century. Turn down this rule and turn down the bill.

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

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 2 minutes to my friend, the gentleman from California (Mr. MATSUI).

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

Mr. Speaker, let me just say this: What are we really talking about here? Let us talk about the legislation for a moment. It is a quarter to 1 right now. We just got a 360-page bill about 5 hours ago. We dealt with the homeland security legislation, so no one really has had a chance to read it.

I have to say that many people are saying though the trade adjustment assistance provision, in which we are supposed to help displaced workers, many of the colleagues on my side of the aisle, and I imagine on your side of the aisle, have basically said this will help those workers who lost their jobs because factories are closing.

But the reality is that is not so. The Senate had a provision in there that if a company would move offshore, let us say to China, and 500 employees in your home community were laid off, then trade adjustment assistance and health care benefits would click in.

Unfortunately, in the conference, the gentleman from California (Mr. THOMAS) insisted that that provision be removed. Now, about 75 percent of plant closings are because of companies moving offshore. It is not because of import competition. So, a great number of employees that many of our constituents right now think will be covered, will not be covered.

I think it is going to be rather tragic when the Senate talks about this next week, and our colleagues go back home, after voting for this bill, and find out they made a grave mistake.

Lastly, let me just say, when this bill comes back in terms of a multinational 144-country agreement 3 years from now, we are going to have changes that Members would never have thought about. You are going to have changes in U.S. antitrust laws; you are going to have changes in food safety laws; you are going to have changes in accountant standards.

So essentially it means, let us say we have another Enron 2 years from now, 3 years from now. The WTO will tell us exactly what kind of accounting standards we are going to have. We could not do it on our own. We are giving up our authority under article I, section 8 of the U.S. Constitution. We have the authority to make all trade laws.

Essentially we are delegating this authority to the President of the United States. We should have some limitations on that authority if in fact we want good trade legislation.

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

Mr. HASTINGS of Florida. Mr. Speaker, may I please inquire as to the amount of time remaining on each side?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Florida (Mr. HASTINGS) has 18 minutes remaining and the gentleman from New York (Mr. REYNOLDS) has 24½ minutes remaining.

Mr. HASTINGS of Florida. May I inquire if the gentleman from New York is inclined, that he have a few speakers, so that we can even out the time?

Mr. REYNOLDS. Mr. Speaker, I would say to the gentleman from Florida, I have some speakers left, but I was under the impression the gentleman had many, so I was looking to continue moving through the flow. We will not use the entire time.

Mr. HASTINGS of Florida. We will take one more, and then, most respectfully, I will ask the gentleman to utilize some of his time.

Mr. Speaker, I am privileged to yield 3 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), my good friend who serves with me on the Committee on Rules.

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

Mr. Speaker, I rise at 1 a.m. this morning in opposition to this rule, born out of martial law, and in strong opposition to this conference report. This is simply a bad deal for American workers. This is a very complex conference report that deserves serious consideration by this House, which, sadly, it will not get.

It is not an emergency. It does not require that the House override its most basic procedures and principles of fairness. The conference report can just as easily be taken up in September, which would allow the Members of this House to have a genuine understanding of the changes made during conference negotiations.

If Members are going to be asked to turn the clock back nearly 30 years on the role and jurisdiction of Congress in our trade laws, if Members are going to be asked to give up our constitutional responsibility to regulate foreign and domestic commerce, then the least we should provide to the Members of this House is the time to read both the bold and the fine print of this conference report and to have the opportunity to talk to the companies and the workers in our districts most likely affected.

Some of these industries, Mr. Speaker, are in my district, textile industries in Fall River. Like recent trade agreements, the conference report continues to view the American textile industry and its workers as expendable.

It also deprives secondary workers who lose work or who lose their jobs because of trade agreements from receiving the same trade adjustment assistance benefits they were granted under NAFTA.

Let us be clear on this point. It means secondary workers who lose their jobs because a plant moved to Mexico may qualify for TAA benefits, but secondary workers who lose their jobs because a plant moves to China or Chile will not qualify for such benefits. That makes no sense.

Under this conference report, if a trade agreement makes the food our families eat dangerous to their health, too bad. If a trade agreement undermines our environmental protections, too bad. If a trade agreement weakens our ability to enforce our antitrust laws, corporate accountability procedures and advertising standards, still too bad. Too bad, because Congress will not be able to do a thing about it.

This conference report is an outrage. This rule and this martial law process is an insult. It is an insult to the Members of this House, both Democratic Members and Republican Members, and it is an insult to the American people. I urge my colleagues to vote no on the rule and no on the conference report.

Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. DIAZ-BALART).

Mr. DIAZ-BALART. Mr. Speaker, I rise today in strong support of the rule, which will allow for consideration of the Trade Act of 2002 conference report. It has been a long and arduous process that has brought us here this evening. The House originally passed the Andean Trade Promotion and Drug Eradication Act on November 16, 2001 and then followed with the passage of the Trade Promotion Authority on December 6. It is now more than 8 months

since the passage of the first bill, and I believe that we have a product today that is of extreme importance really in the national security of the United States.

We have a unique opportunity to strengthen democracies under great pressure in this hemisphere. Nations in this hemisphere are facing numerous challenges that threaten their fledgling democracies, including narco trafficking and terrorism.

One of the surest ways to support democracies under extreme pressure in our hemisphere is by facilitating the emergence of a Common Market of the Americas, the free trade area of the Americas. Free trade among free peoples is good policy and good for the people of the Western hemisphere. To achieve a Free Trade Area of the Americas, Mr. Speaker, it is crucial that we approve this conference report and finally give the President the authority he needs to get this process going and to make it a reality.

I rise in strong support of the rule and the underlying bill due also to another provision that has been very needed for a long time.

This bill includes the extension of the Andean Trade Preference Act. Due to the ATPA, the U.S. and the Andean nations have enjoyed an $18 billion beneficial trade relationship for the last decade. The extension of the ATPA is not merely a matter of economic or trade policy, but it is a decision with consequences for U.S. foreign and national security policy in this hemisphere.

Bolivia, Colombia, Peru and Ecuador are nations that we must continue to help. They have indicated over the past decade that they wish to be strong members of a free and democratic hemisphere, a hemisphere that will one day be free of terrorism and free of tyranny. Continuing ATPA will help the Andean nations fight poverty, terrorism and drug protection, as well as protect democracy and promote human rights. ATPA promotes job creation in a region with where the alternative for many workers is easily a life devoted to drug promotion.

Promoting development in this region is crucial to a U.S. foreign policy that seeks to support countries fighting against terrorism and fighting against the drug trade.

I urge my colleagues to consider the benefits of extending ATPA, not only to our South American neighbors, but also because of the effect on the American consumers, who will enjoy a wide variety of product choice with fewer artificial constraints and restrictions.

Extending and improving ATPA is a decisive step toward improved relations with this hemisphere. This legislation will foster the expression of a mutually supported and beneficial relation between the U.S. and the democracies of the Western hemisphere.

I want to thank the gentleman from California (Chairman THOMAS) and those who have worked so hard to finally bring to a reality before us tonight. I urge my colleagues to pass the rule and the underlying legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 2½ minutes to the distinguished gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I want to appeal to the Members on this floor and beyond, because I looked through these 304 pages, thank you for giving me that courtesy, and looked very, very carefully for the sections on child labor. And I want you all to know that it has been taken out at the conference level.

We know what goes on in other countries. So do not talk about the free market. This is child slavery. Everybody in this room knows about it. Everybody reads about it, day in and day out.

Why was that taken out of this bill? That is only one section of the 304 pages. Why was it taken out? It was taken out because what we are going to do this evening, this morning, or tomorrow afternoon, whenever we end this debate, what we are going to be doing is allowing the same corporate cowboys that we have been talking about for the last 3 weeks on this floor and out there to make the decisions on trade.

This is not free trade. This is at the expense of little children, and you know it and everybody else knows it. Whether you are talking about farm, whether you are talking about textile, whether you are talking about steel, everyone knows it. This was the battle, this was the major battle between Jefferson and Hamilton, when they decided to extract from the Federalist Papers, 50 of which were written by Alexander Hamilton, to discern that we need a diverse economy, not one based on one single item. And what have we reaped? We have lost 1,300,000 manufacturing jobs, and this is where we are headed. I was not sent here to surrender my rights and responsibilities under the Constitution.

□ 0100

I did not come here to surrender Article I, Section 8. Maybe that is why some of us were sent here, but I was not. I hold that Constitution, I carry it with me everywhere I go. I know what my responsibilities are as a Congressman, and I intend to follow through.

I want to be more than a rubber stamp for the President of the United States, be he or she Democrat or Republican, on trade agreements. That is not why we were sent here. They defied every agreement since 1994, and you know it and everybody knows it. I ask my colleagues to vote against the rule.

Mr. REYNOLDS. Mr. Chairman, I yield 3½ minutes to the gentleman from Florida (Mr. YOUNG), the chairman of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Speaker, since I have been here I have voted to give the President trade negotiating authority on every trade bill that has come to the House floor. I want the President to have that authority, and of all of the presidents that I voted to give that authority to, President Bush is on the top of my list, because I have tremendous confidence in his ability to conduct the proper negotiations for the United States. Let us face it. We do need some real negotiations with the other industrial leaders of the world.

But I have a bit of a dilemma here tonight. I am looking at the Rules of the House, and this one particular rule is titled, ''Appropriations on legislative bills.'' It says, ''A bill or joint resolution carrying an appropriation may not be reported by a committee not having jurisdiction to report appropriations.'' And when I began to read through this bill, once it was available to us, I found, in an amendment to section 174 of the Workforce Investment Act, an appropriation. It is not an authorization for appropriations, but an actual appropriation of $60 million for worker assistance programs. This particularly caught my attention because when the House passed the supplemental, which was one of the most difficult conferences that I have ever taken part in, we included $300 million for this worker assistance program. But I had to take it out of the supplemental conference agreement because we were spending too much money.

The problem that I am having tonight is, why is it too much money if the proper committee provides it, but it is not too much money when an authorizing committee, which does not have the jurisdiction, provides it?

Money spent is money spent, whether it is mandated by an authorization bill or whether it is appropriated by the Committee on Appropriations. That is what got my attention. As I read this bill, I came up with 4 additional sections of the bill where it provides an appropriation. So while this has become an appropriations bill, the Committee on Appropriations has not had much of a chance to even take a look at it.

So I am in a dilemma, because I want to vote for the President to have this negotiating authority, but I also want to preserve the integrity of the Rules of the House. I also want to preserve the integrity of the appropriations process, which is starting to break down because the budget process died on the vine.

We are trying to appropriate with a budget where the House has a budget resolution that is $9 billion less than the Senate. Now, anybody that can add and subtract knows we cannot reconcile appropriations bills when one body has one number, and another body has another number. But that is where we are today, and the appropriations process is dragging because of that.

So I have a real problem here. I want to do something to make sure the President has the authority, but I need to protect the integrity of the process. When this bill comes time to vote, I

will decide how I am going to vote. But I think it is important that we all know that if there is a rule of the House, we ought to abide by it. The Committee on Appropriations should appropriate; the Committee on Ways and Means should deal with its jurisdictions and authorities; other authorizing committees should deal with their authorities and jurisdictions, and we should each stick to what has worked so well for so long.

Mr. HASTINGS of Florida. Mr. Speaker, I am privileged to yield 2½ minutes to the gentlewoman from Ohio (Ms. KAPTUR), who has very few peers in this body that have as clear an understanding of trade.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman from Washington for yielding and say that I rise in opposition to the rule on the conference report.

The American people know something is wrong in Washington when every single trade bill passed by this Congress and signed by the President results in more lost jobs, more penny-wage jobs, more lost markets as imports deluge in here from every single country in the world and we cash out good jobs with good benefits in textiles, in electronics, in agriculture, in automotive, in machine tools, in steel; even baseball and U.S. flags.

TPA expands NAFTA to the entire hemisphere. Before NAFTA, we had a trade balance, I say to the gentleman from California (Mr. DREIER), with Mexico. Every year the trade balance has gone down, gone south, losing over hundreds of thousands of jobs into Mexico and cashing out our automotive and machine tool industry and even agriculture now down there. And when people start getting paid $3 a day, then guess what happened? They moved the jobs to China.

So we have had a sucking sound to Mexico which is now shifting over to China, and I defy any American to go into a store today and buy something that is not made in China, and the American people can verify this through their own experience.

Now, I say to the gentleman from California (Mr. DREIER), he did not really talk about the pain and suffering. Talk to the workers at Brachs Candy in South Chicago. They are about to go through that shutdown, a 100 year-old company. It is one in a long line of millions of U.S. jobs.

I used to feel sorry for you that you really did not understand, but I feel much sorrier for the workers and the farmers of this continent and the world, because you are creating a great divergence between wealth and poverty. You are drawing a new Mason Dixon Line. It is different than what we experienced inside the United States. The wealthy, the shareholders, those on Wall Street and the futures markets, they love this system. But the workers of our country and the farmers of the world, they are being hurt. What do you think is fueling immigration into this country from the south?

Mr. Speaker, I would urge my colleagues to vote ''no'' on the rule and ''no'' on the report. Do not vote for a world with these kinds of extremes in wealth and poverty that are cashing out our middle class and creating global environmental cesspools and corporate slums and global plantations with penny-wage jobs. Vote for the kinds of trade agreements that build a middle class here at home and abroad and true world peace.

And what a shame for us, what a shame for us that this is being brought up at 1 o'clock in the morning, just like GATT was about 8 years ago, because they want to do it in the quiet of the night when most people are sleeping. It is too important for that. Have some self-respect for us. Let us debate as we should one of the most important bills that will come before this Congress.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair would remind Members to address their remarks to the Chair and not to each other directly.

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

Mr. BRADY of Texas. Mr. Speaker, we have waited far too long to have the ability to sell American products overseas. It is just critical, critical to America's economy and jobs that we get back into the game, that we start to sell American products, because we have been on the sidelines since 1994. The rest of the world is running circles around us. It is Lewis and Clark days out there and every Nation is out there staking out markets for their country except America.

The potential is just huge for our Nation. Ninety-six percent of the world's population lives outside of the country. As of last year, half of the adults in the world, half of the adults, have yet to make their first telephone call, their first telephone call. That means that if European countries land those contracts, they will create European lands. If Asia lands those contracts, they will create Asian jobs. But if America has the opportunity to get out there and compete, we will create American jobs.

These international trade jobs, they pay more than our domestic jobs here at home. They are less likely to be laid off. In Texas, in our region, in manufacturing alone, since NAFTA, we have created enough new manufacturing jobs to fill every seat in the Astrodome twice over. Two out of every three new jobs we are creating in our State comes from international trade, and we have $1 billion of environmental projects along our border with Mexico: clean air, clean water, waste water and sewer that we would never have without trade.

Trade is good for our jobs, good for our economy, good for labor rights.

There is a principle here. The principle is if Americans build a better mousetrap, we should be free to sell it anywhere in the world without discrimination. And if someone else builds a better mousetrap, we ought to be able to be free to buy it for our families and for our businesses. We should not retreat from fair trade competition; we should embrace it, because competition is what America is about. It is the key to our high-wage and our high-tech future.

Mr. Speaker, the bottom line is, we do not have a salesman. America needs a sales force and a sales leader out there. We are providing the President with that. We should support this rule.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 2 minutes to the gentleman from New York (Mr. RANGEL), my good friend, who simply has, throughout time, stood eyeball to eyeball and toe to toe with all who would argue on the subject of trade.

Mr. RANGEL. Mr. Speaker, it is 1:10 in the morning, and I think that all Members of this House recognize that in order for our country to enjoy economic growth, that we have to engage in international trade. We also recognize that the power of commerce and trade remains in this House, but it does not make a lot of sense to believe that 535 lawmakers will be negotiating trade agreements.

So therefore, the power should be given to the executive branch to actually negotiate these agreements, but it does not mean that the House of Representatives should give up its authority to protect the American people and American workers as we yield to the executive branch. Why? Because it is the executive branch that yields a part of our power to world trade organizations, to international organizations.

All we are saying on our side is that there should be some standard for the leader of the Free World, the United States of America, to be able to say that as we engage in trade, with all of our power and prestige, that there is minimum standards that we expect other nations to follow with their workers, with their right to organize, with their ability to dream, like Americans dream, that their life can be improved.

Do we say that it should reach our standards? No. What we are saying is that there should be standards involved. There should be standards involved in protecting what is not ours, not the United States' and not other countries', but what God has given the world, and that is our environment to live in. Something else that we say we should have, and that is the laws of the United States Congress should not be changed by foreign nations. We should preserve that right.

So all we are saying is that all of us want trade. We recognize that it is necessary for us, better for developing nations; not Cuba, because of the sovereign State of Florida and the Republic of Florida as they dictate our foreign policy and trade policy, but I suggest this is a bad rule and a bad time to be debating such an important subject.

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

Mr. HASTINGS of Florida. Mr. Speaker, may I inquire as to the time remaining?

The SPEAKER pro tempore. The gentleman from Florida (Mr. HASTINGS) has 8½ minutes remaining; the gentleman from New York (Mr. REYNOLDS) has 16 minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I am prepared to reserve the balance of our time and ask most respectfully that the gentleman from New York even out some of the time.

Mr. REYNOLDS. Mr. Speaker, the chairman of the Committee on Rules has requested such time as he may consume, and if the gentleman from Florida is prepared to close, I will urge that upon my chair, as he would speak to close.

Mr. HASTINGS of Florida. Mr. Speaker, is the gentleman saying he does not have any more speakers other than the chairperson, or whomever will close?

Mr. REYNOLDS. That is correct.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from Vermont (Mr. SANDERS), a very good friend of mine.

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

Mr. Speaker, fast track essentially extends our current trade policies. And why in God's name would we want to do that when our current trade policy is an absolute disaster that has cost this country millions of decent-paying jobs and has resulted in the pushing down of wages from one end of America to the other?

□ 0115

The facts are clear. They are not disputable. When we have a failed policy, why do we want to extend it?

I hear some people talking about how fast track and trade policies have created new jobs. What world are they living in? The reality is today, nobody disputes it, we have a $346 billion trade deficit, recordbreaking. No one disputes that between 1994 and 2000, the United States lost more than 3 million decent-paying manufacturing jobs due to our trade policies. In 2001, manufacturing lost 1.3 million jobs. Over the past 4 years, this is incredible, our Nation has lost 10 percent, 10 percent of our manufacturing base.

Then people come up here and they say, let us continue; let us extend this absurd and failed policy. When will they catch on, when there are no more manufacturing jobs in America? When all of our kids are flipping hamburgers?

Everybody knows the truth, and the gentlewoman from Ohio (Ms. KAPTUR) said it. We all know it. When we go to a department store and buy a product, where is that product manufactured? We all know it. It is not manufactured in Vermont; it is not manufactured in California. It is manufactured in China.

Why is it manufactured in China? We know the answer to that. In China, desperate people, desperate people are working for 20 cents an hour, and the corporate titans in this country have sold out our people and have taken their plants to China, where people go to jail if they try to form a union; where women are brought in from the countryside to work 15, 16 hours a day making sneakers for pennies an hour.

We all know that big money has contributed huge amounts to both political parties in order to move these trade issues, but let us stand up for ordinary Americans and for the middle class. Let us not become a poor, low-wage Nation. Let us reverse our trade policies. Let us demand that corporate America reinvest in Vermont, in America, and not just in China. Let us have a fair trade policy, rather than this disastrous so-called free trade.

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

Mr. Speaker, if this rule passes, we will have great debate by sponsors of the legislation. As I have said many times, managing this rule in what is now hopefully the final legs of an opportunity to pass this conference report that is not a partisan matter on trade, it is a bipartisan matter in both Houses as we look to the debate, and then to move forward with the will of the House.

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

Consequently, as exports increase, employment in these sectors will increase. In the Rochester area, companies like IBM and Kodak play a significant impact on the local economy. In employment they will benefit directly from increased exports and international sales that will result from new trade agreements and open markets that are negotiated under the trade promotion authority.

For example, about one in every five Kodak jobs in the United States depends on exports. New trade agreements are needed to break down foreign barriers and keep American-made goods competitive overseas, as well as open up foreign markets on domestic companies.

This body and the other body will have the final say on those trade agreements. There are 28 bilateral agreements by Mexico and countries throughout the world. There are 27 by the European Union. Mr. Speaker, this country only has two. The trade promotion authority gives us an opportunity to move forward and an opportunity to see more jobs.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Ohio (Mr. BROWN), who has been the leader in this regard.

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend, the gentleman from Florida, for yielding time to me.

Yesterday, under enormous pressure from defrauded investors, the Republican leadership finally, reluctantly agreed to bring a strong accounting bill to the floor. But tonight, the Republican-dominated House is poised to turn around and give corporate America its most desired prize of all, trade promotion authority, or fast track. The fast track conference agreement is a great deal for huge corporations, but it is a bad deal for American workers.

Republican leadership has given these corporations everything it wants in this Congress: insurance companies write legislation to privatize Medicare; energy companies write our energy policy; chemical companies write our environmental policy; Wall Street writes Social Security privatization legislation.

Fast track, the granddaddy of them all, would prevent thousands of displaced workers from obtaining training, trade adjustment assistance, and health care coverage. It fails to make labor and environmental standards required negotiating objectives for future trade agreements.

But it is worse than that. This TPA, this fast track, shifts power from democratic governments to corporations. It allows corporations to challenge laws, environmental laws, food safety laws, worker protection laws that were passed in this Congress, that were passed in the 50 State legislatures, regulations that protect workers and protect the environment.

This legislation threatens food safety, it threatens clean air laws, it threatens safe drinking water laws, it threatens worker safety laws. Vote "no" on trade adjustment.

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

Mr. HASTINGS of Florida. Mr. Speaker, I am privileged to yield 2 minutes to my good friend, the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Just a small bit of history, Mr. Speaker. I came to this Congress under the Presidency of William Jefferson Clinton, when many times we tried to craft a trade bill that respected and understood the role that this Congress has in oversight, respecting the laws of this Nation, understanding the needs of workers and the environment, and protecting children.

But it is interesting that under William Jefferson Clinton, this Republican

House could never get a trade bill to be passed. Now, all of a sudden, there is this great energy to move a bill forward that does not take into consideration the very thoughtful Levin amendment that considered the environment, considered child labor, prohibition, and considered health benefits for laid-off employees.

This particular legislation that has come in the dead of night, when no one has been able to read it, is a trade bill for the trash heap, the trash heap of a Constitution that has been shredded in this trade bill.

Why do I say that? Because this trade bill allows racial profiling to go on by members or employees of the United States Government. I respect the U.S. Customs Agency; but for the life of me, I cannot understand why we have refused to acknowledge that we in this country deserve constitutional rights.

What they have done is they have decided to say that African American women, who are nine times more often stopped by U.S. Customs agents then white women, have no constitutional rights. It says to them that they can take a plane load of individuals from Italy, and take all the African Americans off of the plane and search them and find no contraband, and under the trade bill the customs agents would do this with impunity.

I believe we can have a trade bill. It can also be a bipartisan trade bill, a responsible trade bill; but I will not lose my constitutional rights on a trade bill that deserves to be put on the trash heap of disappointments.

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

Mr. HASTINGS of Florida. Mr. Speaker, I am privileged to yield 1 minute to the gentleman from California (Mr. FARR), who serves on the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies of the Committee on Appropriations from the number one agricultural State in America, California.

Mr. FARR of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise tonight to respond to the request, rather flippantly, that we go back to the offices and read on the Internet what this bill is. I read it, not in my office, because we were voting; but there are 304 pages right here on the floor for 435 Members to read.

I want to wake up America at 1:25 in the morning to tell them they had better understand what is going on here tonight. This is not one little simple trade bill; this is five trade bills. This is a fast track bill, an Andean trade preference bill, a customs reauthorization bill, a trade assistance package, and a dozen provisions including giving the U.S. Trade Representative a slush fund to pay WTO fines without congressional approval.

This bill gutted the Eshoo trade preference adjustments. Reading this bill, it is a travesty to California agriculture. We sell out California flower growers. We sell out California asparagus growers. Yet they were able to protect the Puerto Rico rum producers. We sell out textiles, shoes, and jewelry; and we ignore the child labor problems that are in Ecuador in the banana industry, as pointed out by the New York Times.

This is a bad bill. Vote against the rule.

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

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield the remainder of our time to my good friend, the gentleman from Washington (Mr. MCDERMOTT), who serves on the Committee on Ways and Means and certainly has a clear understanding of the measure.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Washington (Mr. MCDERMOTT) is recognized for 30 seconds.

Mr. MCDERMOTT. Mr. Speaker, it is a great pleasure to sit on the Committee on Ways and Means with the smartest chairman we have in the entire history of the Committee on Ways and Means. He sat out here and lectured us about the fact that we had not picked up off the Web this 340-page bill that was sent to us at 6:53, right in the middle of the discussion of the homeland security bill.

What we were supposed to do was get an e-mail from Diane Kirkland. You all know who she is; she is very familiar to all of you. This e-mail says, go and get a link and get this bill. And the chairman stands over there with that haughty look and says, you were not smart enough to know where to look for the thing that I hid. Vote ''no.''

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

Mr. DREIER. Mr. Speaker, it is true that it is 1:30; but we have been debating this bill since 1994, because 1994 is when this authority expired, and we have been working long and hard to promote free trade.

As I have listened to the horror stories that have come from the other side of the aisle, I would have to remind them once again, we have seen 134 trade agreements established in the world since that expiration, and the United States is a party to only three of them. We have not had the authority that will allow us to respond to many of the problems that exist out there.

The world has access to the U.S. consumer market. What trade promotion authority will do is it will allow us to pry open markets where 90 percent of the world's consumers are. That is about creating jobs right here in the United States. That is what trade promotion authority is about. Vote ''yes'' for the rule and vote ''yes'' for the conference report.

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

The previous question was ordered.

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

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 220, nays 200, not voting 14, as follows:

[Roll No. 369]

YEAS—220

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Biggert
Bilirakis
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Collins
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dicks
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gilman
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Northup
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
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Stenholm
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh

Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wolf
Young (AK)

NAYS—200

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldacci
Baldwin
Barcia
Barrett
Becerra
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clement
Clyburn
Coble
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Goode
Gordon
Graham
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal
Norwood
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
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Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skeen
Slaughter
Snyder
Solis
Spratt
Strickland
Stupak
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Wilson (SC)
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—14

Baird
Blunt
Combest
Gillmor
Hefley
Hinojosa
Lewis (CA)
Lipinski
Meehan
Ney
Roukema
Stark
Stump
Whitfield

□ 0151

Mr. HILL and Mr. WYNN changed their vote from ''yea'' to ''nay.''

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.

REMOVAL OF CONFEREE AND APPOINTMENT OF CONFEREE ON H.R. 3210, TERRORISM RISK PROTECTION ACT

The SPEAKER pro tempore (Mr. SIMPSON). Without objection and pursuant to clause 11, rule I, the Chair removes the gentleman from North Carolina (Mr. COBLE) as a conferee on H.R. 3210, Terrorism Risk Protection Act, and appoints the gentleman from Virginia (Mr. GOODLATTE) to fill the vacancy.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

CONFERENCE REPORT ON H.R. 3009, TRADE ACT OF 2002

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 509, I call up the conference report on the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 509, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 30 minutes.

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

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

First of all, I want to thank all the Members of the House and especially those 18 members on this conference committee of six different committees on House side and the five Senators from the Finance Committee for allowing all of us to be placed in a time period which is extremely unusual to resolve a conference committee. It was done in a manner and an attitude that produced a product that I think the institution, the House of Representatives and the Senate, should be pleased, notwithstanding the fact the President has not had the power to negotiate since 1994 when finally the Senate acted and the House was able to go to conference with the Senate. We have relatively quickly resolved the differences between the two Houses.

Notwithstanding the fact that we have fallen behind in terms of bilateral and multilateral trade relationships around the world because the Presidents have not had this power, the House and the Senate in this particular historic agreement have understood in a far more sophisticated way completely the consequences of trade.

Clearly when we engage in trade, it means change. The positive change is, of course, better-paying jobs, and it provides cheaper goods to consumers. The downside of course is that that change means some jobs are traded for other jobs. And what has not been fully recognized is that we get the benefits of the upside, but a full understanding of trade means we need the protections on the downside because if you can take care of those who, through no fault of their own, have lost their job through trade, you create an atmosphere and a desire to engage in even more trade.

And that is what this conference report reflects. An understanding the President needs the negotiating power but that also included is a structure to make sure that through no fault of those who lose their job, they are taken care of, not just in terms of employment or retraining, but in terms of providing, for example, health insurance, to the extent that it is entirely possible that under these provisions, someone, who was not able to get health insurance when they were employed during the retraining program, would get health insurance. That is how enlightened this particular measure is.

I am extremely pleased to say that four of the five Senators, two of the three Democratic Senators, have agreed with this conference report, and I would like to say that the chairman of the Finance Committee, Senator MAX BAUCUS of Montana, deserves an enormous amount of credit in terms of his willingness to sit very long hours discussing issues that sometimes are very difficult to resolve but nevertheless having the will and the fortitude to come out the other side to produce this document.

And then just let me say that we would not be here tonight if it were not for three very brave, I was going to say colleagues. I will say friends of mine on the other side of the aisle, ironically someone represents a district that is directly next to mine. We share a portion of the San Joaquin Valley, the gentleman from California (Mr. DOOLEY); the gentleman from Tennessee (Mr. TANNER); and the gentleman from Louisiana (Mr. JEFFERSON).

If they did not have the courage and the conviction to sit down and say it has been too long, let us try to work out a document, because as has been the case most frequently, this House led. It led in a bipartisan way. And we are here tonight largely because of their courage and conviction. And I want to thank them very much.

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

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

I did not know how many other Democrats the distinguished chairman was going to laud here, but I see they all fled the floor.

Mr. Speaker, on this historic occasion at two o'clock in the morning, the chairman would like for everyone to believe that we are embarking on a

trade agreement that is going to cause the free world to thank us for the great work that we have done. Of course when one would ask how many people in this august body has had the opportunity to read the 304 pages of this bill we are referred to the Web site and e-mail to find out what is here.

□ 0200

So I guess basically what the chairman is saying is, do not vote for the bill because we can assume that the Members do not know exactly what is in these 304 pages. What he is suggesting is that Members trust him.

So maybe we can staple him to whatever newsletter we are going to send out to tell people what we have done for the free world and how this is going to help the workers. But I doubt very seriously whether we can wave the flag and be so proud of the fact that, when we are talking about international trade, he had to find two Democrats that made it possible, when Democrats in the House are almost half of the House.

What we should be doing when we deal with foreign policy and when we deal with trade is to be able to say when that American flag goes up that it was a bipartisan effort that we made; and that deals were not made in the middle of night or Members not selected one or two, but it means that we come together to find out what is in the best interest of the United States of America and not what is in the best interest of the majority.

In the final analysis, the work that we do in this House is not the work of Democrats, it is not the work of Republicans, it is the work of the people in the House of Representatives that have a responsibility to deal with the commerce provisions of the United States Constitution.

Now, there are some people that may not care what happens in the World Trade Organization. They may say let the executive branch negotiate and we give up these powers. But when the final day is written and it is over and the history is written, it is going to be what did the United States of America do to set standards for the rest of the working people in this world.

A lot of people have suffered and died for the right of unions to be able to come and to give us a decent wage, vacation, and all those things. We do not expect that in developing countries, that they would assume our standards. What we do hope is that they would be able to assume our dreams, our aspirations, and be able to do that. On this side of the aisle, we say that should be incorporated in each and every agreement that we have, no matter how undeveloped a country is.

But, listen, the best time to talk about our best work is when everyone is sleeping. The best time to talk about what we did is when no one knows what we have done. The best time to bring up a historic bill is 1 a.m. in the morning and debate it until 3 a.m. in the morning.

So I guess we are going to find out what happens in this bill at some time, at some place, but this is no way for this Congress to be conducting its business.

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

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Illinois (Mr. CRANE), the chairman of the Subcommittee on Trade.

Mr. CRANE. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of H.R. 3O09.

Mr. Speaker, this bipartisan conference agreement is the culmination of a process that began in the Subcommittee on Trade over a year ago when I introduced H.R. 2149, the Trade Promotion Authority act. Since that time, Republicans and Democrats have trudged miles together in search of this delicate consensus.

Mr. Speaker, trade is fundamental to our relations with other nations. As the President strives to neutralize international threats to our security, Trade Promotion Authority is an essential tool for him to build coalitions around the world that safeguards our freedoms.

This bill is about arming the President with authority that achieves trade agreements written in the best interest of U.S. farmers, companies, and workers. This legislation will ensure that the world knows that Americans speak with one voice on issues vital to our economic security. At the same time, it ensures that the President will negotiate according to clearly defined goals and objectives written by Congress.

TPA simply offers the opportunity for us to negotiate from a position of strength. In no way does TPA constitute the final approval of any trade agreement. Congress and the American people retain full authority to approve or disapprove any trade agreement at the time the President presents it to Congress.

I am also pleased that included in this legislation is my bill, the Andean Trade Promotion and Drug Eradication Act, which renews our commitment to help the Andean countries in the war on drugs. Notably, the Andean provisions include expanded benefits for Andean apparel made of U.S. and regional fabrics, yarn, and for tuna in pouches.

In closing, Mr. Speaker, Americans have never been reluctant to go head to head with our trading partners. We should not dash the best chance we have of creating a better future of dynamic economic growth and success for our workers, businesses, and farmers in the international markets. Restoring this authority will help the U.S. resume its rightful role as the world leader when it comes to trade.

Mr. Speaker, this is an historic moment for the House. Accordingly, I urge an ''aye'' vote on H.R. 3009.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. GRAHAM).

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

We are not the only people in America working at 2 a.m. in morning. In the textile plants, what few are left in the South and other places in the country, there are people working the third shift. And here is what I want to tell them if they have a chance to listen. I am voting on a piece of legislation that affects your jobs, and I have no idea exactly how it works. But I know this: On page 271, 272, page 281, 243, and 244, the amount of duty-free apparel that can come into this country to compete with your job has doubled and tripled, and it is some of the dyeing and finishing protections that we fought so hard for, which I think have been tremendously undermined.

My colleagues are asking me to vote on a bill to give the President the ability to unilaterally negotiate trade agreements, and dozens of pages affect textile policy. And when you double the amount that can come in from foreign countries, where the wage rates are almost nothing, no environmental laws, you are going to put some of my people out of business. And you are making me vote in the middle of the night on something I do not know about, and I resent the hell out of it, and I am going to vote no.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from California (Mr. DOOLEY).

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

Mr. DOOLEY of California. Mr. Speaker, I want to first off commend the conferees that put together this conference report, in particular the gentleman from California (Mr. THOMAS), who joined with the majority leader in the Senate, Mr. DASCHLE, and Senator Max Baucus, a member of the Senate Committee on Finance, and really put together what I think is a significant step forward on the Trade Promotion Authority that is complemented with the Trade Adjustment Act.

These individuals, Democrats and Republicans, came together because they understand that the future and the welfare of the American people is going to be best advanced if we move forward with a trade agenda that embodies a policy of economic engagement, and that by building stronger trade relationships we are going to provide greater economic opportunities for the businesses and the workers that they employ.

But these Democrats and Republicans also understood that we also have to be providing assistance to those workers who are dislocated because of increased competition in trade. They built upon some of the good work of Democrats in the House in the Trade Adjustment Act. They ensured that this final package that we are going to be voting on today, for the first time, includes health benefits for

workers who are dislocated because of trade. Sixty-five percent tax credit for their health insurance. This is a new benefit that never has been provided before.

This trade adjustment package also ensures for the first time ever that older workers will have wage insurance that they have not had before. And this Trade Adjustment Act package we are voting on today ensures we have a significant expansion of coverage for secondary workers. That is going to ensure that tens of thousands of workers that were not eligible for trade assistance benefits in the past will be covered today.

This is a comprehensive package that embraces the best of policies in terms of how we can advance our economic opportunities and also expand the values of the United States. Through this increased trade with these countries, we ensure that we can expand democracy and capitalism and human rights, while at the same time providing the legitimate safety net for the workers in this country.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT), a senior member of the Committee on Ways and Means.

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

Mr. MCDERMOTT. Mr. Speaker, this has been an amazing night. First, the President gets the Homeland Security bill he wants, and now he has the fast track bill he wants.

As I was listening and watching the first, and now reading the second a little bit, I thought of a quote. ''Beware the leader who bangs the drums of war in order to whip the citizenry into a patriotic fervor, for patriotism is indeed a double-edged sword. It both emboldens the blood, just as it narrows the mind. And when the drums of war have reached a fever pitch and the blood boils with hate and the mind has closed, the leader will have no need in seizing the rights of the citizenry. Rather, the citizenry, infused with fear and blinded by patriotism, will offer up all of their rights unto the leader and gladly so. How do I know? For this is what I have done. And I am Caesar.''

□ 0210

Now, does that sound familiar to what is going on here tonight? This is an historic bill. When Members return in September, they will give back their voting cards and get a rubber stamp, and they can stamp approve, approve, approve, anything the President wants. The President is going to bring a trade bill here, and Members are going to get a chance to stamp approve; or not approve.

Why do I worry about that? Let me tell Members. Let us look at his record. It is not as though he is an amateur who just wandered on the scene. This man signed a law for $180 billion worth of farm subsidies, which fly in the face of our international commitment to reduce trade-distorting subsidies. Those subsidies drive down the price of agricultural goods, and seriously impair the efforts of developing countries to cultivate their own means of food production.

The President has imposed WTO noncompliant steel tariffs, which have exacerbated our problems with Europe. Despite NAFTA and WTO, the President has slapped the Canadian softwood lumber with 30 percent tariffs. The President has withdrawn the United States from the ABM treaty.

This is the man that Members are giving the right to go out and negotiate for them, and all they have is their stamp ''approved,'' or not. That is what Members are going to get. That is the participation of Members. Members are yielding up their rights fully to this man. If Members feel comfortable with that, they can jump up and vote ''aye.''

This President walked away from the Kyoto treaty. I have several pages of what he has done in the international arena. This is the man who sat on the stage with the President of Brazil and after he made some comments, the Brazilian President said, ''We consider him an amateur.''

Mr. Speaker, we are giving an amateur the right of the American people to decide what happens to child labor, what happens to our economy. Vote ''no.''

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

Mr. Speaker, I find it rather ironic that back in December this House examined the trade promotion authority that was sent over to the Senate that created this conference. In that measure was the strongest structure for oversight and control by the Congress in any trade promotion program. The House and the Senate by simply moving a resolution can deny the President the ability to enter into any agreement.

Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. KOLBE), a Member who has been a stalwart in trade for many years.

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

Mr. KOLBE. Mr. Speaker, I rise in support of this by conference agreement on trade promotion authority. We have traveled a long and difficult road to arrive at this moment.

For 8 years, American leadership and national interests have been sitting on the sidelines. During this time, American companies and workers have stood by while we have watched our competitors from other countries gain advantages through trade agreements from other countries at our expense because the President of our country did not have the authority to negotiate agreements of our own.

At last we are bringing a positive trade agenda for the American economy for our consumers, workers, families, farmers. I want to suggest three reasons why trade promotion authority needs to be promoted and supported.

First, it is an economic growth incentive. During the decade of the 1990s, trade has accounted for more than a quarter of domestic economic growth. Today more than ever, we need the engine of economic growth if we are going to continue.

Second, trade promotion authority is critical to job creation. In manufacturing, one of every five jobs comes from trade. In the services sector, U.S. exported $295 billion in exports, $180 billion more than was imported.

This bill will create job opportunities for American workers in all kinds of industries, while at the same time it helps those who might lose their jobs with trade adjustment assistance.

Third, trade promotion authority will improve our standard of living. President Bush's remark that free trade has increased the standard of living for a family of 4 by as much as $2,000 through the combined effect of higher wages and lower consumer prices.

All of those reasons show how trade promotion is in our national economic interest. But it is also in our foreign policy interests. It is a key tool for encouraging economic growth abroad. The reason we pursue a strong global economy as a key planking of our foreign policy is because successful economic growth abroad helps us achieve our humanitarian and national security policy objectives.

Mr. Speaker, this bill deserves our consideration and support. I urge Members to vote ''aye.''

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I believe in trade. I believe trade is important for our country. I believe trade is important for the world. I believe that former Secretary of State Cordell Hull had it just about right when he said that when goods and products cross borders, armies do not. I believe that.

But tonight's debate is not about whether we believe in trade or are against trade. Tonight's debate is about what the rules of trade are going to be. The trade negotiations of the 21st century will be less about the reduction of tariffs and quotas and more about the establishment of important standards and what those standards are going to be like, not only in this country but globally. Standards such as worker rights, environmental protection, child labor protections, food safety and the sanctity of our own domestic laws. And the question will be whether or not the harmonization of those standards will move upwards, or whether it will result in a race to the bottom.

I believe Presidents need trade promotion authority, but it is more than just words in a document. A large part of it is based on trust and confidence in the delegation of this extraordinary

power from the Congress to the executive branch.

With all due respect, I wish I had more confidence that the trade policy decisions coming out of this White House was based more on principle rather than politics, because the track record thus far does not inspire that type of confidence. We merely have to look at the steel tariff decision or the textiles deals that are being cut, or the lumber decision; but especially the complete 180 degree reversal on the farm bill that the President initially opposed but ultimately signed at the end of the day.

A farm bill that I still believe holds the single greatest potential of bringing down the next round of trade talks that we are about to enter into.

Mr. Speaker, I was one of the few sounding the alarm about how bad this bill was to our Nation's trade policy. The administration cut my legs and the legs of some of my colleagues out from under us in what they did. Now they ask for our vote of confidence in giving them this authority. I wish I could, but I cannot; and, therefore, I will vote ''no'' this evening.

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. SMITH).

□ 0220

Mr. SMITH of Washington. Mr. Speaker, there are two stats that have always stuck out for me in trade that I first heard from President Bill Clinton. The first is that 96 percent of the people live someplace other than the United States of America, which means that if we wish to grow and expand our markets, we are going to need access to those markets. You cannot do that without fast track trade negotiating authority. Without the ability to negotiate, to reduce tariff barriers to other countries that we have, you cannot move forward. Right now the U.S. is in the unfortunate position of facing much higher tariffs than we have here at home. We need to negotiate to change those.

The second stat is that the U.S., despite being only 4 percent of the world's population, is still responsible for over 20 percent of the world's consumption. So if you are in the developing world that we have heard much about tonight, if you have any hope of growing economically, you need access to our markets as well.

Despite those two facts, we have heard a lot about how, Yes, we support trade, but this isn't the way to do it because of all the challenges we face. But what I think we have to think about is under those terms, what would a trade agreement look like that the opponents support? What can we possibly do in a trade agreement to raise the labor standards throughout the developing world, throughout the world that does not have our standards, to our level? The answer, of course, is that we cannot. We are not going to get there. Fully 70 percent of the world is dramatically below us in labor standards.

Does that mean that we do not trade with them? Does that mean that we simply say we are going to erect a protectionist barrier? Certainly that is a trade agreement that I guess we would all like. You would like to be able to have access to other countries' markets without them having access to yours; but that is not realistic, and it is not good for global stability. I submit that we can move forward, that the world that has been described tonight by those who say that these trade agreements have destroyed us simply is not the one any of us lives in. We can compete. We have competed and succeeded. Under Bill Clinton's leadership, amongst others, we enjoyed the fastest economic expansion ever, and that was across the board. That was not just the wealthiest 10 percent. That was everybody. We can compete and win. We cannot shut out the rest of the world.

I urge a ''yes'' vote.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. SPRATT), the ranking member on the Committee on the Budget.

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

Mr. SPRATT. Mr. Speaker, this conference report does far more than just give the President fast track authority. Packed into these 400 pages is something called the Andean Trade Promotion Act, and if you come from textile country, this is no trivial matter. These provisions open up duty-free access for Andean textile imports that is four times current trade.

Also packed into this conference report are major amendments to the Caribbean Basin Trade Partnership Act. These almost triple the amount of apparel that can come in duty-free from the 26 countries in the Caribbean and Central America. As if that were not enough, this conference report goes on to expand the African Growth and Opportunity Act, doubling the amount of apparel that can come in duty-free, unencumbered from 35 countries in sub-Saharan Africa.

Over the last several years, believe me, I come from textile country, hundreds of plants have closed and textile apparel workers by the thousands have lost their jobs. By opening our markets in this report to a flood tide of new imports from the Andes, from Africa and from the Caribbean, from 70 countries in all, this bill can only add to an industry that is already hemorrhaging from a trade deficit that is running right now at $62 billion.

Let me cut through all the technical detail and give you one example of how gratuitously generous this bill is. Right now Caribbean countries can ship duty-free to this country knit apparel made of regional fabric to the extent of 336 million square meters. This bill would expand that 336 million square meter limit, or cap, to 500 million square meters by October 1, and to 970 million square meters by October 1, 2004. That is unprecedented and totally unnecessary.

It is true that it closes the so-called ''printing and dyeing'' loophole, but this bill opens up a bigger gap and does no net good on the whole. These concessions are unprecedented, they are unnecessary, they are an unmitigated disaster, and if they indicate the kind of trade agreements that will be brought back for a fast track vote, they are reason enough to vote this conference report down.

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

I tell the gentleman that I would like to have every T-shirt that everyone sees sold in the mall and every store come from the USA. The fact of the matter is they do not anymore. We can lament the fact that they do not, but the fact is they do not. And the choice is do you want them to come from Sri Lanka, do you want them to come from Pakistan, do you want them to come from areas that find Australian cotton far more available, or do you want to help our friends in the Caribbean when the choice is between someone tens of thousands of miles away or someone 100 or 200 miles away that will be purchasing U.S. cotton and U.S. yarn from the very areas the gentleman comes from and encourage a win at home, a win in the hemisphere?

Because if we are debating whether we are going to have U.S. T-shirts or foreign T-shirts, that debate is over. Are we going to help our friends close to home that buy our product or are we going to make sure that we continue to lose opportunities because we refuse to understand reality?

Mr. Speaker, it is my pleasure to yield 1 minute to the gentlewoman from Washington (Ms. DUNN).

Ms. DUNN. Mr. Speaker, it is a pleasure to stand and speak on behalf of this bill. It has been a long time in coming. I want to congratulate Chairman THOMAS for successfully negotiating this agreement. America has been falling behind in expanding trade since the expiration of TPA back in 1994. We produce the highest quality services, the most bountiful crops, and the most advanced technologies in the world. Yet the high tariffs we face overseas destroy our competitive edge. While our foreign competitors weave a web of preferential trade opportunities for themselves, American companies, farmers, and workers continue to face higher tariffs and other barriers that hinder access to American products and American services.

In Washington State where one out of three jobs is related to trade, we know that expanding trade opportunities works for America. Today we renew our commitment to engage in trade by passing a TPA bill that will expand access to markets and reduce other trade barriers. TPA will enhance our competitiveness, create jobs, and help bolster our economic recovery.

It is time for Congress to pass TPA.

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

I just want to make it clear, Mr. Speaker, that I support the trade provisions in this bill. But I also support the protection of workers in the United States, especially those that have been displaced. And I am more than certain that if Republicans and Democrats would have gotten together and members of the Committee on Ways and Means and explained what we were trying to do in trade and at the same time protect our workers here, that we would not have a partisan bill, but we would have a bipartisan bill.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise tonight to ask you to vote ''no.'' Vote ''no'' tonight. Maybe next year, maybe the year after that, but right now we do not need to pass this bill.

We call ourselves being here because we want to have trade promotion authority, we say we are here because we want to have fast track, and I keep asking myself, why did that take 300 pages? Why could we not give the President the authority he wants with 10 pages? What is all this other about? I have been trying to figure it out since 7 o'clock tonight. Well, I do not know all the answers, but I know enough to know this. It is the final nail in the coffin of the textile industry in America. This will do it. We will not have to fight about it anymore. We are going to lose the jobs if this passes.

Many of us right here are going to lose wool plants in our district, you know who you are, just because somewhere in this 300 pages there is another three lines or two.

The President has authority right now. He can make trade agreements anytime, anyplace he wants to. We do get to say yes or no, reject or agree, and we actually get to amend. That is what we are trying to take away here, is it not? We want to take away our ability to amend.

Well, ladies and gentlemen, we just ought not to give up our responsibility. Five previous Presidents have had this authority. What has happened to us? Well, we import more and we export less and the trade deficit rises. We talk in this bill about displaced workers. I never could figure out what a displaced worker was. But I am pretty sure they are some of the folks in my district who are losing their jobs.

I wish I had longer, but just vote ''no'' tonight.

The past five presidents had this authority and what happened? We imported more and exported less. The trade deficit keeps climbing. What does free trade mean to you? Does it mean we open our borders to receive foreign imports or does it mean foreign countries open their borders so we can export? Whatever it means to you, the fact remains we are importing $2 hammers and exporting jobs and closing our industries.

We talk about displacing workers—what does that mean? It means thousands of people losing their jobs in the textile industry, the timber industry, in agribusiness, and the steel industry, without American labor laws—antidumping.

We have generous benefits for ''displaced workers'' and health benefits—even for workers whose factories move overseas to countries that have preferential trade agreements with the U.S. That is tantamount to saying we know our trade agreements will lead to more factories closing and more displaced workers. Why would you ever need this if this bill is about exporting? The Senate said we want a vote if you are going to trade away our antidumping laws or weaken trade remedy laws. Why would anyone object to this unless you are going to trade away American trade laws and turn trade over to the WTO, where China has as many votes as we do?

But do not worry Congress, we are not giving our responsibility over to someone else. We can always pass a resolution that we do not agree with a trade deal that is unfair to the U.S. Then what? So what? We can write letters to the trade ambassador saying don't go to Doha and agree to nonreciprocal trade agreements and the ambassador can do what he pleases, as he did at Doha.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Texas (Mr. BENTSEN).

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

□ 0230

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

Mr. Speaker, I think that the bill before us today is actually a pretty good bill. I voted for the fast track bill that President Clinton sent up, and I think this bill is better than the bill that President Clinton sent up. I also think that this bill contains some items that this House has not seen until tonight.

There has been a lot of discussion about the displaced worker provisions, the trade adjustment assistance. I have worked on that with others in this body, and I think, quite frankly, we have been arguing over whether the glass is half full or half empty.

But I think, quite frankly, in this bill, if you look at the facts, the glass is at least three-quarters full from where we started in this House. It may not be as much as what was in the other body, but it has, for the first time, refundable health insurance for displaced workers. That is not in current law. It expands coverage for secondary workers and shifts in production where we have trade agreements. That is not in current law. It has wage insurance for older workers. That is not in current law. It now matches the training benefits with the monetary benefits. That is not in current law. And it extends them and it increases the appropriations dramatically. That is not in current law.

I think this is good public policy. And while we have disagreements within this House and I have disagreements within my own party, which are, I think, legitimate disagreements, what we should not disagree upon is the fact for the first time in 40 years since this program, the TAA program, was created by John Kennedy, this is a landmark revision of this program.

I think we ought to take advantage of it, and I think we ought to pass it, because I think it is good for the country and it is good for workers, and I hope that our colleagues will pass this tonight.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from New York (Mr. LAFALCE), the senior member of the New York delegation, and, at the same time, on behalf of the delegation, thank him for the great service he has provided to his country and to this Congress.

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

Mr. LAFALCE. Mr. Speaker, fast track authority, Trade Promotion Authority, is a fraud. It is a hoax. The President has plenary authority to negotiate anything he wants to. What we are purporting to do is forfeit Congressional authority. That is what it is about. We do not grant authority, we purport to forfeit Congressional authority to offer amendments. There is a difficulty. We cannot do it legislatively, because we have that power constitutionally. So this legislation, if it passes unanimously, is constitutionally unenforceable.

Now, I do not think there is a constitutional scholar who would differ with that. But if they did, legislatively it is a hoax, because in every single so-called fast track bill, there has been a provision. There is in this bill, on page 217, lines 15 through 19. Basically what it says, we will give up our authority to amend, unless we change our mind and wish to amend, at which time we come forth with a rule and we offer any amendments we want. It is a hoax, a fraud.

What we really are doing here is purporting to change for the purposes of trade a representative democracy into a parliamentary democracy, where the President is really prime minister, and presidents love that, and the Congress is a parliament, and we are stupid enough to go along with it.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and Workforce.

Prior to that, I would just like to say for folks who have not been able to read this, I sure hear a lot of citations on pages 200, 300, 350, 361. I just do not get it.

Mr. BOEHNER. Mr. Speaker, let me congratulate our colleague from California, the chairman of the Committee on Ways and Means (Mr. THOMAS), for what really was a very successful negotiation with the Senate over putting this Trade Promotion Authority bill together.

We all know that much of the growth in our economy over the last 10–20 years has come from our ability to

trade more with others around the world. As we reduce trade barriers around the world, it will continue to enure to the benefit of our children and theirs in this global economy we find ourselves in.

The most significant part of this package, though, is the fact that, for the first time, we make a significant effort to help those who may lose their jobs as a result of their company ceasing operations here.

I think the help that is in this bill is in fact substantial. We expand the National Emergency Grants to help those workers, whether it is with health care, child care, transportation, training. This bill authorizes some $510 million to help dislocated workers through these grants.

It is a good bill. It deserves our support.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Oregon (Mr. WU).

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

Mr. Speaker, we have a broad-ranging trade bill before us which purports to deal with antiterrorism, with intellectual property, with transparency, anticorruption, foreign investment, labor and the environment. A prior speaker asked, what would it take to get your support on a trade bill? I will tell you right now, to add one more item to this list; human rights, enforceable human rights.

I know that I might be one lonely voice in the wilderness on this right now, but I think that ultimately we will prevail. And I will tell you, even being alone on this issue, it is a heck of a lot better place to be than those who are in prison or suffering under tyrannical regimes in other places, when we can do something about it, when we can use our trade leverage.

Now, let me underscore, we are dealing with subjects as diverse as intellectual property and foreign investment, labor and the environment. But being a slow reader, Mr. Speaker, I only got to page 174, and I want to point out that it is with respect to labor and the environment that there is a terrific loophole built into this bill, and I want to point this out with specificity so that no one can say they did not know about it.

Page 174: Parties to a trade agreement retain the right to exercise discretion with respect to investigatory, prosecutory, regulatory and compliance matters, and to make decisions regarding the allocation of resources and enforcement with respect to other labor and environmental matters determined to have higher priorities, and to recognize that a country is effectively enforcing its laws if a course of action or inaction reflects a reasonable exercise of such discretion or results from a bona fide decision regarding the allocation of resources, and, here is the key part, no retaliation may be authorized based on the exercise of these rights or the right to establish domestic labor standards and levels of environmental protection.

To deem this a loophole is to call the hole in the side of the Titanic a small leak. I urge rejection of this bill.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Pennsylvania (Mr. ENGLISH), a member of the Committee on Ways and Means.

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

Mr. Speaker, this is landmark legislation that provides solid benefits to workers and communities facing the challenges of globalization. At a time of record trade deficits, this legislation gives the President the authority to conduct negotiations to strengthen U.S. trade policy in a dramatic way, while at the same time opening new markets to American products.

It establishes a new national compact on trade which will guarantee workers who have been laid off better access to health care benefits, and it provides income stabilization for older workers by giving them the difference between the salary they can earn from a lower-paying job as opposed to their earlier job that they lost because of a trade-related displacement.

This legislation incorporates broader trade adjustment assistance for those who need it in the wake of a trade-related layoff; broader by providing secondary worker benefits for upstream workers, as well as for downstream workers, affected by trade shifts to Canada and Mexico. It broadens TAA by providing benefits to workers if a firm shifts production to any country with a free trade agreement with the U.S. or any country eligible under a variety of agreements.

This legislation also gives the administration the power to challenge egregious labor practices in foreign countries, such as child labor, and it promotes greater coordination between the WTO and the ILO.

□ 0240

In short, we will be creating opportunities to link trade, labor rights, and environmental policy to a degree never before achieved.

There are some who will say that this bill will not accomplish enough, Mr. Speaker, and as a group, I marvel even now at their pessimism about the competitiveness of the American worker and the American economy. But how many of them have been moving the goal post as we have been crafting this legislation, and how many of them have associated themselves with the less aggressive trade policy of the last administration?

Vote this trade bill through. It is the beginning of a new day and a stronger trade policy for America.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy in permitting me to speak on this measure this evening.

The distinguished chairman of the Committee on Ways and Means professes surprise that Members who disagree with him can read the bill. I find it interesting. I remember the same gentleman told us here with a flourish that this proposal had been posted at 3 p.m. this afternoon. It has been pointed out by several people that the Members were not notified until 6:53. But if the gentleman would use the Web, turn to the bottom of the page of 304, he will find that it was not posted until 5:20 p.m.

If he cannot tell time, it makes one wonder what else has been left out in the consideration of this proposal.

I believe in free trade. I came to this Congress immediately involving myself in trade issues, because it was one of the few areas where we could work together in a bipartisan basis. Mr. Speaker, that has been shattered over the last couple of years, and it is a sad, sad note.

Let me give just one example of a concern that I heard from my constituents back home when they knew that I supported trade promotion authority. They talked about the imbalance under Chapter XI provisions that provided a superior position for foreign investors, and they said, that is wrong to go to an international tribunal and avoid the requirements of U.S. law.

Well, what has happened in the conference committee is they fixed it, they fixed it all right, but they fixed it so that not only can foreign investors avoid the responsibilities of U.S. law, but now American interests can obey our regulatory provisions and be able to avail themselves to a tribunal rather than be involved under the same requirements that we have now. That is not what my people wanted.

I strongly urge a rejection of this ill-advised piece of legislation and the willingness to draw bright, partisan lines and give up issues of textiles, steel, and agriculture. It is not the way to do the business of the House.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Tennessee (Mr. TANNER), a member of the Committee on Ways and Means.

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

Mr. TANNER. Mr. Speaker, I would like to start by thanking the conferees. This trade is a hard issue for all of us, but the conferees worked long and hard. We have a Republican House and a Democratic Senate. This is a conference report. I think that is bipartisan.

We are talking about economics, basically, and it is a fact that in this country, we can grow more food than we can eat and make more stuff than we can buy and sell to each other. Given that fact, it is an economic fact that unless we can get rid of this surplus production through trade, somebody is going to lose their job. That is not a political argument; that is an economic fact of capitalism.

Now, how do we get this surplus production out of here? We do it by economic engagement with the rest of the world through the institutional process of granting to any administration, not this one, but any administration the ability to negotiate to the bottom line with those who would negotiate with us so that we can get rid of this surplus production and keep jobs in this country.

This bill is stronger in every respect than current law. The TAA provisions are really unprecedented, and many others have spoken to that one.

But finally, I would like to convey this thought to my colleagues. Economic engagement is truly a matter of national security. If history teaches us anything, it teaches us that economic partners sooner or later become military allies, and I want to see us having American jets flown by the Brazilian Air Force or having American ships sailed by other countries; not French, not others, not Japanese or whatever.

Mr. THOMAS. Mr. Speaker, the gentleman is making excellent points, he just does not make them as fast as most people; therefore, I yield him an additional minute.

Mr. TANNER. Mr. Speaker, I thank the chairman. It is a curse of where I am from, I guess. But I do want to continue this line.

The economic engagements that I believe this country must engage in is truly a matter of national security. As I said, history teaches us that economic partners become military allies, and we have seen over the course of the last few years over 190 trade agreements and we are not a part of them, and we will not be a part of them because we do not have the institutional ability to engage to the bottom line those who would trade with us and those who would negotiate with us on these trading arrangements.

So for that reason, and because I think the bill is far better than any law that we have ever passed before in TPA, and better than TAA in every respect than current law, it deserves our consideration and our vote.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. BONIOR), the former whip.

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

Mr. Speaker, since 1994, 3 million jobs in our country have evaporated as a result of bad trade laws. In my home State of Michigan, we have lost 150,000 workers to these trade laws. They have lost their paychecks, good jobs, jobs that one can sustain a family with; gone to Asia, to Mexico.

Not only have we lost these jobs, we have crippled whole communities. If one drives through parts of Detroit or Flint or Saginaw, and one can see the devastation that these trade laws have caused. There is no tax base left to pay for fire and police and education and health care. They have been absolutely devastated. We are losing our manufacturing sector. Does anybody deny that? Look at what has happened to steel, textiles, autos. It is a tragedy. And what is even as much a tragedy for this institution is the surrender of the congressional prerogatives given to this body by the Constitution of the United States.

Mr. Speaker, this night will be recorded as one of the largest surrenders of constitutional authority in the history of our government, giving it to the presidency. And it is not just goods and services we are talking about; we are talking about labor law, environmental law, copyright law, investment, safety law. That is all under the rubric of trade today. One vote is all we are going to get, up or down, that is it, and we know how that works. Historic evening, Mr. Speaker. Vote ''no'' on this.

□ 0250

Mr. THOMAS. Mr. Speaker, I think we have a very clear recent historical example of what happens when Congress is not wise enough to make sure that they delegate the authority that Congress retains and the responsibility to allow the President to negotiate. We have not had the Presidential ability to negotiate for more than 8 years. We have had no agreements.

Members can covet the power and not use it, or we can sensibly delegate it, with the clear ability to bring it back if necessary, and enter into bilateral, multilateral, and world trade arrangements which clearly benefit all Americans.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. HOUGHTON), a member of the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Speaker, I am not at my best at 10 minutes of 3 in the morning, but I will do what I can in order to put this thing in clear perspective, as far as I am concerned.

This piece of legislation loses no jobs. As a matter of fact, it does not even gain jobs. But we all know that 96 percent of the world's population live outside of the United States. They are our market in the future. We can take a look in terms of the impact of export jobs, and it ranges between 15 and 20 percent extra pay for those people who produce those products.

This is very straight forward. We want more business. In order to get more business, we have to negotiate. In order to negotiate, we have to have the government behind us. This allows the government to get behind us.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN), a senior member of the Committee on Ways and Means and one who has fought for trade throughout his career.

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

Mr. LEVIN. Mr. Speaker, the basic partisanship which has marked this legislation from the beginning in this House even blinds the majority as to what has happened these last years.

No trade agreements? Jordan, CBI, Africa, the China PNTR? They were all developed on a bipartisan basis. It is the only way to shape trade policy that is viable.

They started on a partisan foot; and they think because they have a few Democratic hands that that makes it a bipartisan product. It does not. 161 Democrats voted for a fast track bill in this House. They did not reach out for 1 minute to try to meld the two bills into one. As a result, they come here tonight with a partisan product more than a bipartisan product, and trade policy built on partisanship is built on sand and will sink.

True, there is some TAA here; but a half-baked TAA is no substitute for good trade policy, and half-baked it is. If workers are laid off because a company moves to, say, Ecuador, they are covered; to China or Japan or some other place, they are not covered. That is half-baked, at best.

Thirdly, I want to say a word about oversight. There is more facade in this discussion than in any other respect, perhaps. Trade today is not about tariffs; trade today is not about nontariff barriers. It is about health and safety, it is about antitrust, it is about environment, it is about core labor standards; and no one is talking about introducing American standards as the requirement, just so people do not use child labor, and they emasculated the child labor provisions, emasculated. That is what we are talking about. That is what trade is in the 21st century.

They built up this facade that Congress is going to be involved. It is consultation at the whim of the administration. They say there is a sense of Congress, that that can be expressed. It undoes the only protection we now have that something can come through the Committee on Ways and Means or the Committee on Finance. We need, in this Congress, to be a partner, not a second-class citizen. If we remain that way, the citizens of the United States are going to be undermined by the executive of this country.

Vote ''no'' on this bill.

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

Mr. Speaker, gee, I thought when we were talking about trade agreements, it was a structure in which, over time, the trade between those two countries was mutually beneficial and that what we want to do is have a broad-based relationship between people who see benefits going both ways.

The Caribbean Basin Initiative, an outreach to our friends in the Caribbean? I would not exactly say that is a reasonable, equal relationship. Free Trade Agreement with Jordan? A clear reward for the kind of friend we have in a very difficult area of the world, probably far more motivated for geopolitical reasons than really for trade. Southern Africa? We have neglected

that area for years and years, and what we are doing is reaching out, not enough, way too late.

And what we hear are criticisms because we are talking about not 1 percent of someone's amount of trade; we are talking tenths of 1 percent. That is not a long-term mutually beneficial relationship in which the gentleman from Tennessee and the gentleman from New York talked about how we mutually better each other.

Those are important humanitarian outreaches under the structure of trade. But if that is what we get without trade promotion authority, we had better have trade promotion authority.

Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Ohio (Mr. PORTMAN), a member of the Committee on Ways and Means.

Mr. PORTMAN. Mr. Speaker, I thank the chairman for yielding time to me. I want to commend him for coming to a resolution on a very difficult and complex issue, and that is the trade promotion authority and trade adjustment assistance.

This has been a long road, Mr. Speaker. Not since 1994 has this country had the ability to navigate world commerce and to be able to open up barriers to U.S. trade. It is time for America to get back in the game.

Without this authority, countries are not going to deal with us, and others have disputed that tonight, but the proof is in the pudding. There are now 120 trade agreements out there; the United States is party to three. Since 1990, the European Union has negotiated 20 new trade agreements. These are our competitors. These are people who are competing for jobs with our workers. They are currently in negotiations for 15 additional trade agreements.

It is time to get back in the game. It has been long past time. By doing so, we not only open up foreign trade for our goods and our services, we also are able to export our free market economy, which has brought us unprecedented prosperity and has the ability and potential to do that for the rest of the globe, to truly lift all boats.

I am amazed to hear my colleagues on the other side of the aisle, who are free traders, but tonight say that although they supported President Clinton's trade promotion authority, they cannot support this one. They cannot support trade promotion authority, even though, as compared to the Clinton trade promotion authority, we now have more consultation with Congress.

In fact, it is unprecedented consultation with Congress. It has real teeth. It has a real congressional oversight group. It has never had that before. It has much stronger labor and environment provisions, including on child labor, stronger provisions than in the Clinton trade promotion authority. The ability to effectively enforce other countries to enforce their own standards is new. We have not had that before. Members may not think that is perfect, but that is a lot more than we have had before.

Stronger protection of U.S. trade remedies, including the ability for Members of Congress to help protect our antidumping laws, our countervailing duty laws, our trade remedies here at home by being able to offer a motion on the floor of this House. Any Member would be able to do that. That is more than we ever had in terms of protecting our own trade remedies.

Finally, of course, a dramatic expansion of trade adjustment assistance. I appreciate the fact that there are some on the other side of the aisle who tonight are going to vote for this trade promotion authority primarily because there are unprecedented benefits to workers who have been displaced by trade, both in terms of health care and other benefits.

I want to commend the chairman, because he has gotten the United States, through this new agreement, back in the game. We need to get back in the game for our workers; we need to get back in the game for our jobs here at home.

Vote ''yes'' on this good bill.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BECERRA), a member of the Committee on Ways and Means.

□ 0300

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

Mr. Speaker, some call it trade promotion authority. Some call it fast track. I call it a missed opportunity. To be honest, and we should all be honest, we had a chance to meaningfully promote the elimination of abusive child labor practices by our trading partners. We had a chance to protect our domestic laws on the environment and on consumer protection. We had a chance to advance progressive trading practices by eliminating barriers and tariffs to productive trade among our international friends.

But, instead, Mr. Speaker, this conference report favors foreign investors over U.S. citizens and businesses in this country. It extracts the teeth from the enforcement provisions meant to prevent unscrupulous foreign businesses willing to violate their country's laws and our laws, and this conference report sidesteps our responsibility to the displaced workers and impacted communities that we know will result from this legislation.

Mr. Speaker, instead of doing something meaningful, we have punted. Instead of doing something right, we have walked through the back door to trade. Instead of doing what America believes we should, we dared not to lead. At a time when we find abuse by predators of children in this country to be offensive, we could have told the world we will lead and make sure that nowhere in the world will children be abused, whether by a predator or by any unscrupulous employer.

At a time when we could have told our workers, if you are displaced, we will provide you with some benefits, including health care, what we do in this bill is we actually tell a worker we will offer you health care, but it will cost you more when you are unemployed as a result of this trade than it would have cost you when you were working. That is not leading.

Mr. Speaker, we could come up with a good bill to lead. Let us dare to lead. Vote against this conference report.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from New York (Mr. RANGEL) has 2 minutes remaining. The gentleman from California (Mr. THOMAS) has 30 seconds remaining and the right to close.

Mr. RANGEL. Mr. Speaker, I yield the remainder of my time to the gentleman from California (Mr. MATSUI), a member of the Committee on Ways and Means, to close on behalf of the minority.

Mr. MATSUI. Mr. Speaker, I thank the distinguished gentleman from the State of New York (Mr. RANGEL), the ranking member of the Democratic Committee on Ways and Means.

First of all, what I would like to do if I may is respond to some of my colleagues on both sides of the aisle but basically on the Democratic side of the aisle that says that we have trade adjustment assistance, and that alone, or among other things, is enough to get us to support this legislation.

If, in fact, the bill that came out of the Senate was part of the conference report, I would say, well, okay, if you want trade adjustment assistance, that is fine. But the bill that came out of the conference report is not the bill that left the Senate. Because essentially what we see here is a bill that is really kind of a mirage. For example, if a U.S. factory closes and goes overseas to China and 5,000 U.S. workers are out of a job in your congressional district, those workers are not covered under this bill of trade adjustment assistance. They will not get trade adjustment assistance and they will not get health care benefits.

It is very rare when this provision will be used, and that is why it is in the bill because the goal was not to use trade adjustment assistance. So it is really a mirage. So if Members think they can go home and tell their colleagues and their constituents that they will get trade adjustment assistance, they are flat out wrong. It will rarely be used.

Let me make one other observation, if I may. This next round will not be about trading goods. It will not be about reducing tariffs and quotas. We have done that. That is pretty much over. You can trade goods back and forth all over the world if you want today. What this will be about this next round is about moving investments, and we all know that. And that means basically every U.S. regulation, whether it is accounting standards, whether it is defining whether a lawyer can practice law, these are going to be all on the table in this next round.

Members mention antitrust laws, that will be on the table. This legislation is not needed for the President at this time. He can negotiate without giving this major delegation of authority by the United States Congress to the President of the United States. I urge a no vote.

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

Mr. Speaker, I appreciate the tone of the debate. I am concerned about the content. For the first time, not primary but secondary workers are covered. Five times in this legislation references to the most abusive forms of child labor are listed. Some of the statements simply are not factually true.

What is true is we have fallen behind in creating arrangements that help us in world trade. It is time to pass legislation to get us back in the game.

With that, I would ask my colleagues to vote yes and I want to thank all of my colleagues on the other side of the aisle for their courage and cooperation.

Mr. BEREUTER. Mr. Speaker, this Member rises today to express his very strong support for the conference report for Trade Promotion Authority (TPA) (H.R. 3009). This Member would like to thank the distinguished gentleman from California, the Chairman of the House Ways and Means Committee (Mr. THOMAS) for introducing the original TPA legislation and for his efforts to move this legislation through the legislative process. Additional appreciation is expressed to the distinguished gentleman from California, the Chairman of the House Rules Committee (Mr. DREIR) for his efforts in expediting the consideration of this legislation; to the Chairman of the Senate Finance Committee, the senior senator from Montana (Mr. BAUCUS); and to all the supportive conferees who worked to bring this conference report to the House and Senate.

Under the conference report of H.R. 3009, Congress would agree to vote ''yes'' or ''no'' on any trade agreement in its entirety, without amendments. This Member in the past has always supported TPA, or ''Fast-Track Authority'' as it was previously called, because it is an absolutely critical authority to delegate to the President, acting through the United States Trade Representative, to conclude trade agreements with foreign nations for approval by the Congress. Certainly, TPA is necessary to give our trading partners confidence that the negotiated agreements will not be changed by Congress. Without the enactment of TPA, the United States will continue to fall further behind in expanding its export base and that will cost America thousands of potential jobs. Granting TPA to the President is absolutely essential for America to reach towards its export potential.

Mr. Speaker, giving examples of expanded trade liberalization agreements from my own state, I can stay with confidence and anticipation that approval of TPA certainly will enhance Nebraska's agricultural exports. According to estimates from the U.S. Department of Agriculture, Nebraska ranked fourth among all states with agricultural exports of $3.1 billion in 2000. These exports represented about 35% of the state's total farm income of $8.9 billion in 2000. In addition to increasing farm prices and income, agricultural exports support about 44,800 jobs both on and off the farm. The top three agricultural exports in 2000 were live animals and red meats ($1 billion), feed grains and products ($769 million) and soybeans and products ($454 million). However, Nebraska agricultural exports still encounter high tariff and a whole range of significant nontariff barriers worldwide. Similar opportunities for growth in exports also exist in Nebraska's service and manufacturing sector.

At the November 2001 World Trade Organization (WTO) ministerial in Doha, Qatar, trade ministers representing over 140 countries agreed to the Doha Declaration, which launched a comprehensive multilateral trade negotiation that covered a variety of areas including agriculture. The trade objectives in the Doha Declaration called for a reduction of foreign agriculture export subsidies, as well as improvements in agriculture market access. In order to help meet these trade negotiation objectives, TPA would give the President, through the United States Trade Representative, the authority to conclude trade agreements which are in the best interest of American farmers and ranchers.

This legislation is very important for Nebraska because our state's economy is very export-dependent. According to the U.S. Department of Commerce International Trade Administration, Nebraska has export sales of $1,835 for every state resident. Moreover, 1,367 companies, including 998 small- and medium-sized businesses with under 500 employees, exported from Nebraska in 1998. Therefore, TPA is critical to help remove existing trade barriers to exports of Nebraska and American goods and services.

To further illustrate the urgency for TPA, it must be noted that the U.S. is only party to ''free trade agreements'' with Mexico and Canada through NAFTA and with Israel and Jordan. However, Europe currently has entered over 30 free trade agreements and it is currently negotiating 15 more such agreements. In addition, there are currently over 150 negotiated preferential trade agreements in the world today. Without TPA, many American exporters will continue to lose important sales to countries which have implemented preferential trade agreements. For example, many American exporters are currently losing significant export sales to Chile because Canadian exporters face lower tariffs there under a Canada-Chile trade agreement.

This Member would like to focus on the following five subjects as they relate to the conference report of H.R. 3009: financial services; labor and the environment; congressional consultation; the constitutionality of TPA; and the foreign policy and national security implications of TPA.

First, as the Chairman of the House Financial Services Subcommittee on International Monetary Policy and Trade, this Member has focused on the importance of financial services trade, which includes banking, insurance, and securities. This Subcommittee was told in a June 2001 hearing that U.S. trade in financial services equaled $20.5 billion in 2000. This is a 26.7% increase from the U.S.'s 1999 financial services trade data. Unlike the current overall U.S. trade deficit, U.S. financial services trade had a positive balance of $8.8 billion in 2000.

The numbers for U.S. financial services trade have the potential to significantly increase if TPA is enacted into law. The U.S. is the preeminent world leader in financial services. TPA would further empower the United States Trade Representative to negotiate with foreign nations to open these insurance, banking, and securities markets and to expand access to these diverse financial service products.

Certainly, TPA would particularly benefit U.S. financial services trade as it relates to the Free Trade Area of the Americans since many of the involved countries are emerging markets where there will be an increasing demand for sophisticated financial services. Furthermore, TPA would also benefit financial services trade as it is part of the larger framework of the World Trade Organization (WTO) General Agreement on Trade in Services (GATS). In 2000, GATS members began a new round of service negotiations.

Second, the conference report of H.R. 3009 includes important labor and environmental provisions. For example, among other provisions, TPA adds a principal U.S. negotiating objective to ensure that a party to a trade agreement does not fail to effectively enforce its own labor or environmental laws. This type of provision was also included in the U.S.—Jordan Free Trade Agreement which was signed into law on September 28, 2001 (Public Law No. 107–43).

Third, it is important to note that this legislation has strong congressional consultation provisions for the time before, during, and after the negotiations of trade agreements. For example, the President is required, before initiating negotiations, to provide written notice and to consult with the relevant House and Senate committees of jurisdiction and a Congressional Oversight Group at least 90 calendar days prior to entering into trade negotiations. This Congressional Oversight Group, the Members of which would be accredited as official advisers to the United States Trade Representative, would provide advice regarding formulation of specific objectives, negotiating strategies and positions, and development of the trade agreement. In addition, TPA would not apply to an agreement if both Houses separately agree to a procedural disapproval resolution within any 60-day period stating that the Administration has failed to consult Congress.

Fourth, enactment of TPA is required to secure a constitutionally sound basis for American trade policy in the globalized economic environment focusing our country today. Under Article II of the U.S. Constitution, the President is given the authority to negotiate treaties and international agreements. However, under Article I of the U.S. Constitution, Congress is given the power to regulate foreign commerce. In this TPA legislation, any trade agreement still has to be approved by Congress by a straight-forward ''yes'' or ''no'' vote, without any amendments, by both the House and the Senate before it can be signed into law. As a result, TPA does not impinge upon the exclusive power of Congress to regulate foreign commerce. Furthermore, the U.S. Constitution does not ban the adoption of a Senate or House rule which prohibits amendments from being offered to a bill during Floor consideration. In fact, the House considers bills almost every legislative week which cannot be amended on the Suspension Calendar.

Fifth, extending TPA to the President has critical national security implications. Indeed, the terrorist attacks of September 11th highlighted the extent to which American security

is placed at risk when the U.S. fails to remain engaged. in areas around the world. Many countries of Central America, South America, Asia, and Africa have fragile democratic institutions and market economies. They remain in peril of falling into the hands of unfriendly regimes unless the U.S. helps to develop the kind of economic stability underpinning democratic societies that enhanced trading opportunities can provide.

Mr. Speaker, this Member is very pleased that the final conference report for H.R. 3009 does not include the amendment which was offered in the other body by the junior senator from Minnesota (Mr. DAYTON) and the senior senator from Idaho (Mr. CRAIG) and included in the version of TPA which was passed by the other body. The Dayton-Craig provision, while undoubtedly well intended, would have opened trade agreement bills negotiated by the President under the TPA to amendment—thereby making it very unlikely that other nations would complete trade negotiations with the U.S. Trade Representatives, knowing that such agreements could be further amended by Congress. That problematic circumstance is why Congress had to develop the Fast-Track arrangement in the first place—what we now call TPA or Trade Promotion Authority.

This Member would have been compelled to vote against passage of the conference report for H.R. 3009 if the Dayton-Craig amendment had been included in the final report. The Dayton-Craig amendment certainly would have made TPA unacceptable to the other countries with whom we were attempting to negotiate free trade agreements.

Mr. Speaker, for the above stated reasons and many others, this Member strongly supports TPA because it is absolutely critically important to the health and the future growth of the U.S. economy. Therefore, this Member very strongly urges his colleagues to support the conference report for H.R. 2009. This is probably the most important vote of the 107th Congress.

Ms. SCHAKOWSKY. Mr. Speaker, I rise in profound regret, disappointment and anger as we consider the conference report before us tonight. The House leadership is attempting to ram through this bill, in the dead of night, without giving the American public the ability to look at it and express their views before we vote. It is clear why.

The United States should be using its unprecedented economic power and global leadership position to fight for trade policies that respect labor and human rights, expand economic opportunities for workers, and improve the environment, both at home and abroad. We should use our power not just to promote corporate profits but to promote higher standards of living for working families. We should help stop the global race to the bottom in which some multinational companies move operations from country to country as they search for the one that lets them pay the lowest wages, commit the worst labor abuses, use child labor, and damage the environment without penalty. We should use the power of our markets to push for democratic reforms, equal rights for women, and stronger human rights. And, we should ensure that property rights and profits do not come first, ahead of the ability of governments to protect the very lives of their people.

We had an opportunity in this bill to accomplish those objectives. Tragically, the House Republican leadership rejected that opportunity.

This bill abrogates Congressional authority and Congressional responsibility to review trade agreements to ensure that workers' rights and environmental protection are included. If we pass this bill, Congress would have the opportunity to consider only one privileged resolution on each WTO negotiation, agreements that may last five to seven years. Even if serious information arose regarding food safety, environmental regulation or health standards, Congress would get one and only one opportunity to exercise its Constitutional prerogative to review and ratify trade agreements.

This bill fails to provide Trade Adjustment Assistance to all workers who lose their jobs. Instead, it makes arbitrary and extraordinarily unfair distinctions. Workers who lose their jobs because of foreign imports are deemed worthy of assistance. Workers who lose their jobs because their employer shut down a factory and moved it to China are not.

The bill holds out the theoretical possibility that workers who lose their jobs because of trade policies will get help in maintaining health insurance coverage for their families, then dashes any hope for meaningful assistance. Laid-off workers would have to pay 35 percent of premium costs for coverage, an enormous financial burden. There are no market protections, so insurance companies could change whatever premium they want for whatever coverage they decide to provide.

The bill rejects Senate language endorsing the Doha Declaration on TRIPS and Public Health, meaning that the monopoly patent rights of pharmaceutical companies will be protected while the right of developing countries to deal with the AIDS pandemic through compulsory licensing and generics will not.

Finally, this bill eliminates Senate language to require that, in order to receive special trade benefits under the Generalized System of Preferences (GSP), countries end child labor and discrimination against women and other groups.

Mr. Speaker, if we in this body care about the rights of women and workers; the needs of children and the sick; the environment and human rights; we must reject this conference report. We owe it to the people of our country and the people of the world.

Ms. JACKSON-LEE of Texas. Mr. Speaker, global commerce is a force for progress. However, current trade rules are too often used to undermine environmental protections and democratic rights in the name of ''free trade.'' Fast Track is the expansion of presidential authority in international trade. However, the fast track trade promotion authority conference report does not provide meaningful healthcare coverage for numerous workers who lose their jobs because of trade. Fast track legislation consistently overlooks the rights of workers in developing countries.

The Chairman of the Committee on Ways and Means and the Chairman of the Senate Finance Committee have prepared a conference report that is big on fluff but short of substance. An example of this is that U.S. businesses will have broad new protections for operating in foreign markets. However, the conference report guts healthcare coverage for workers when businesses shift jobs overseas. What this means is that if a Houston company employing 500 workers lose their jobs due to increased imports from Asia, these workers are eligible for healthcare coverage; however, if the same company shuts down their operations in Houston and relocates its operations to Asia, there's no coverage under this bill. Is this fair?

The conference report would allow foreign investors to have greater rights than are currently afforded them under U.S. law. The language in the conference report could lead to vague, overly broad international standards undermining the Supreme Court's decisions on the environment, antitrust, tort law, worker health and safety, and other issues.

The conference report provides laid-off workers a tax credit for insurance coverage. However, this tax credit is poor. It forces workers to pay more for health insurance at the time they lose their job. On average, employers pays 85% of health insurance premiums, however the conference report would only provide a tax credit that would cover 65% of the premium. Is this fair?

In addition, the conference report fails in major ways. It does not guarantee coverage for workers and omits essential market reforms necessary to make sure that the limited health care options are available. Moreover, the conference report fails to provide a minimum standard of benefits for workers. What this means is that the conference report does not include premium protection. A displaced worker who has diabetes or a heart condition can be charged by an insurer five to ten times the normal rate. Is this fair?

This is a time when the public has clearly voiced that global trade matters move more into the eye of public scrutiny, and this conference report makes the fast track trade bill look like NAFTA on steroids. Since NAFTA's passage in 1995, the trade deficit between the United States and Mexico has ballooned to $29 billion annually. An estimated 700,000 American jobs have been lost to nations that don't have to play by the same labor and environmental rules that American workers do.

Furthermore, the GAO found that African Americans made up 15% of the workers displaced by the trade under the general Trade Authority Assistance (TAA) program in 1999, though African American workers account for less than 12% of the overall workforce.

The conference report also marginalizes and diminishes Congress' role on issues such as antitrust, environmental regulation, food safety, accounting standards and telecommunications. The conference report adds a completely new restriction that was not in either the House or the Senate bill.

This restriction allows only one privileged resolution per negotiation. This means that only one privileged resolution could be raised for WTO negotiations that may last 5–7 years. The conference report creates a historic shift in Congress' Constitutional prerogative to regulate not just foreign commerce, but more importantly domestic commerce (areas like antitrust, food safety, accounting standards).

The conference report language insulates customs officials from liability for racial profiling. The report notes that Customs officers have a legal shield unavailable to any other law enforcement officer in the country. This would have the direct effect of weakening protections against racial profiling and other illegal and unconstitutional searches by the Customs Service that have been highlighted in recent GAO studies. Specifically, the GAO

found that passengers of particular races and genders were more likely than others to be subjected to intrusive strip and x-ray searches after frisks or patdowns, even though the results of such searches found that they were less likely to be in possession of contraband.

The most extreme examples of racial profiling by the Customs Service were directed against African-American women, who were nine times more likely than white women to be the victim of an intrusive search, even though they were only half as likely as white women to be found carrying contraband. In light of the conduct of the Customs Service, such a broad grant of immunity, absent legislative scrutiny and oversight, invites continuing civil liberty violations.

I am very strongly opposed to the Fast Track provisions contained in the conference report for H.R. 3009. As we search for increased national security, we must be mindful of the fact that our civil liberties are a precious resource and ensure that freedom is not a casualty of vigilance. The conference report language tramples on the ability of individuals to address the overzealous activities of the Customs Service and undermines the expectation of privacy.

Moreover, this legislation takes a step backwards on workers' rights and environmental protection. The conference report would essentially rule out the enforcement of workers' rights and environmental protection in future fast-tracked trade agreements, reversing the bipartisan progress that was made on the U.S.-Jordan Free Trade Agreement. The workers' rights negotiating objectives, taken as a whole, are weak and counter-productive. The report will make it impossible to negotiate anything like the U.S.-Jordan FTA on workers' rights.

Therefore, I urge my colleagues to strongly oppose passage of the conference report for H.R. 3009.

Ms. HARMAN. Mr. Speaker, some days are harder than others. The last 24 hours was excruciating. The votes on establishing a Department of Homeland Security were difficult, but its urgency is underscored by the continuing threat from terrorism.

Trade Promotion Authority (TPA) is another hard issue. I represent a trade-dependent district and am well aware that LAX and the Port of Los Angeles are huge trade multipliers. The Port of Los Angeles and neighboring Port of Long Beach moved $175 billion worth of cargo last year and accounted for 500,000 trade-related jobs in the region. The Los Angeles Customs District is the Nation's second largest, based on value of two-way trade. In 2001, this totaled $212.5 billion, compared with $214.1 billion of the first place New York.

In the South Bay, trade clearly generates high skill, high wage jobs. But not everyone benefits, and so the conversation about trade should properly address those who are hurt. The challenge is to retrain affected workers not freeze them and their outdated skills in an uncompetitive workplace. The policy answer is to provide what has traditionally been called trade adjustment assistance (TAA)—training, wage assistance, and healthcare—to those who are hurt.

I voted against TPA last December because the Administration refused to include TAA in the legislation. The conference report we vote on tonight does not make the same mistake. The TAA package is three times as big as any ever proposed, and includes most of the improvements proposed by the Eshoo-Bentsen bill (H.R. 3670) which I cosponsored and strongly support.

This TPA enables displaced workers to purchase group healthcare with an advanceable and refundable tax credit and expands coverage to include workers whose jobs as suppliers to other manufacturers are affected by trade. It provides wage insurance for older workers who lose their jobs to trade and fills part of the gap between their old and new earnings, and it doubles the funding for job training to $220 million per year.

For the first time, this legislation requires labor and environmental issues be given the same consideration as other negotiating objectives. It provides the U.S. with remedies against countries that degrade their labor and environmental laws and requires increased consultations with Congress through a Congressional advisory board.

Trade plus trade adjustment assistance is good for American workers. Trade plus greater respect for labor and environment is good for the world's workers.

This agreement is not perfect, but it is better than prior trade negotiating authority and includes the most comprehensive TAA package ever. I will support it.

Mr. CONYERS. Mr. Speaker, this legislation represents one of the finest examples of how the tragedy of September 11th is being used to abuse process and rationalize offenses against the Constitution. Sections 341 and 344 of this bill needlessly expands the scope of Federal authority and threatens the protection of civil rights by granting broad search immunity to customs agents and allowing warrantless searches of outgoing international U.S. mail. Although I strongly believe that the Federal Government should aggressively investigate and prevent future terrorist attacks, increased security should not come at the cost of our constitutional rights.

Section 341 of the bill provides immunity to a Customs officer conducting a search of a person or property provided he or she was acting in "good faith." Presumably an officer could engage in blatantly discriminatory conduct, but if he in "good faith" believed that he was justified in doing so, he could not be held liable.

This provision would, in effect, expand immunity so that a person would not be entitled to relief from an unconstitutional search unless the officer acted in "bad faith"—a nearly impossible standard to meet. Even though this provision would dramatically change immunity law, it was attached to a Customs Authorization Bill and never considered by the Judiciary Committee.

Current law already provides qualified immunity to Customs agents. Qualified immunity is based on an assessment of what a reasonable officer should have done in any given situation. Under current law if a law enforcement officer conducts an unconstitutional search based upon a reasonable but mistaken conclusion that reasonable suspicion exists, the officer is entitled to immunity from suit. This standard provides Customs agents protection against unreasonable lawsuits but also protects individuals from unconstitutional searches.

When an official seeks qualified immunity, a court is obligated to make a ruling on that issue early in the proceedings so that, if immunity is warranted, the costs of trial are avoided. The Customs Service has not offered a reasonable justification as to why the qualified immunity standard should be changed. Moreover, Customs has offered no examples of cases where the existing qualified immunity doctrine has failed to protect an agent acting within the scope of their authority.

Section 341 would accord Customs officers a legal shield unavailable to any other law enforcement officer in the country. This provision would have the direct effect of weakening protections against racial profiling and other illegal and unconstitutional searches by the Customs Service that have been highlighted in recent GAO studies. Out of all the possible Federal law enforcement agencies, the Customs Service should not be provided with additional immunity.

The racial profiling problems of the Customs Service are not imaginary and have been subject to documentation and litigation. The GAO found that passengers of particular races and genders were more likely than others to be subjected to intrusive strip and x-ray searches after frisks or patdowns, even though the results of such searches found that they were less likely to be in possession of contraband.

The GAO concluded that the Customs Service's pattern of selecting passengers for intrusive searches (their profile) was inconsistent with rates of finding contraband and recommended the implementation of policies that target passengers more consistently with their search-hit rate and other more accurate indicators of criminal conduct.

The most extreme examples of racial profiling by the Customs Service were directed against African-American women, who were nine times more likely than white women to be the victim of an intrusive search (including strip search and body cavity searches), even though they were only half as likely as white women to be found carrying contraband.

Many major civil rights organizations opposed this provision in the House bill including: the Leadership Conference on Civil Rights, the National Association for the Advancement of Colored People, the National Council of La Raza, the Mexican American Legal Defense Fund, the Counsel on American Islamic Relations and the American Arab Anti-Discrimination Committee. The civil rights community believes that passage of this provision would be a major set-back in the fight to end racial profiling.

This legislation compounds the erosion of civil rights protections by weakening the legal standard for the searching of U.S. mail. Under current law, the Customs Service is empowered to search, without a warrant, inbound mail handled by the United States Postal Service and packages and letters handled by private carriers such as Federal Express and the United Parcel Service.

The Customs Service's interest in confiscating illegal weapons' shipments, drugs or

other contraband inbound or outbound is adequately protected by its ability to secure a search warrant when it has probable cause. Short of an emergency, postal officials can always hold a package while they wait for a court to issue a warrant. There is simply no legitimate justification for this expansion of search authority, unless of course you exclude the need to circumvent the Constitution.

Recently, the U.S. Postal Service wrote a letter to the Chairman of the Financial Services Committee on the issue of searching outbound mail without a warrant: The Postal Service has taken the position that, ''There is no evidence that eroding these long established privacy protections will bring any significant law enforcement improvements over what is achieved using existing, statutorily approved law enforcement techniques.'' In short, experts from the Postal Service have determined that this provision is unnecessary.

As we search for increased national security, we must be mindful of the fact that our civil liberties are a precious resource and ensure that freedom is not a casualty of vigilance. Given that Congress has recently expanded the police powers of government officials, now is not the time to cut back on the mechanisms in existing law that are designed to ensure police powers are not abused.

Without arguable justification, these provisions trample the ability of individuals to address the overzealous activities of the Customs Service and undermine the expectation of privacy in the U.S. mail. I urge you to join me in opposing this legislation.

THE SUBJECTIVE-INTENT QUALIFIED IMMUNITY PROPOSAL FOR CUSTOMS OFFICIALS

PROBLEMS WITH THE HOUSE PROPOSAL

This issue involves the Constitution—not slip-and-fall cases, or security fraud cases. This proposal would affect cases involving alleged violations of individuals' constitutional rights, and we should be very careful before we tamper with the rules.

The doctrine of qualified immunity has been established and refined by the Supreme Court over four decades. Congress has never enacted a statute that would change the standard for officials' qualified immunity in constitutional tort cases. This would be the first time.

Current law protects against frivolous lawsuits. The Supreme Court has instructed lower courts to resolve qualified immunity issues at the earliest opportunity. Even if government officials fail to win qualified immunity at the dismissal or summary judgment stage, they still have the option of appealing those judgments to a higher court immediately.

This proposal would hurt real people. It would increase the likelihood of meritorious claims being thrown out. Parties would end up fighting at length over whether an official did or did not subjectively believe his conduct to be lawful—even if existing law clearly established that it wasn't. Resolving such complicated disputes would expend valuable judicial resources and often lead to inaccurate results. And officials who violated clearly established constitutional rights might not be held accountable.

Why treat customs officials better than the F.B.I. or local cops? Customs officials serve a very important role. However, there is simply no reason to treat them differently from other government officials—such as border patrol agents, state and local police officers who work near the border, or prison guards. All of these officials are entitled to the same, strong shield to liability. There is no need to change the rules for customs officials.

CURRENT LAW

Under current law, every government official—federal, state, and local—is protected by the doctrine of qualified immunity. This is a very broad shield from liability. In the words of the Supreme Court, it protects ''all but the plainly incompetent or those who knowingly violate the law.'' *Malley* v. *Briggs*, 475 U.S. 335, 341 (1986). Officials are shielded from liability ''as long as their actions could reasonably have been thought consistent with the rights they are alleged to have violated.'' *Anderson* v. *Creighton*, 483 U.S. 635, 638 (1987).

When an official seeks qualified immunity, a court is obligated to make a ruling on that issue early in the proceedings so that, if immunity is warranted, the costs of trial are avoided. *Saucier* v. *Katz*, 533 U.S. 194, 200 (2001). The Supreme Court has repeatedly ''stressed the importance of resolving immunity questions at the earliest possible stage in litigation.'' *Hunter* v. *Bryant*, 502 U.S. 224, 227 (1991).

Before 1982, the test for qualified immunity had both an objective and a subjective component. First, an official had to prove that he did not violate ''clearly established'' law. Second, he had to show that he acted in ''subjective good faith'': i.e., that he believed that he was not violating the plaintiff's constitutional rights and was not acting with a ''malicious intention.''

In 1982, the Supreme Court eliminated the subjective component. It emphasized that consideration of an official's subjective motivations often involved ''broad-ranging discovery and the deposing of numerous persons, including an official's professional colleagues. Inquiries of this kind can be peculiarly disruptive of effective government.'' *Harlow* v. *Fitzgerald*, 457 U.S. 800, 817 (1982). In other words, the subjective test made this issue less—not more—likely to be resolved in summary judgment proceedings. *Id.* at 816. *See also Anderson*, 483 U.S. at 641 (''Anderson's subjective beliefs about the search are irrelevant.'').

HOW THE CUSTOMS SERVICE HAS FARED IN THREE RECENT CASES

1. *Saffell v. Crews*, 183 F.3d 655 (7th Cir. 1999)

Facts: Airline passenger was subjected to a strip search following her return from a trip to Jamaica. Customs inspector conducted a pat-down search, then a partial strip search. No drugs found.

Outcome: Inspector is entitled to qualify immunity: ''Crews, an experienced Customs inspector, was neither incompetent, nor did the district court find that she intentionally violated the law.''

2. *Bradley v. United States*, 164 F.Supp.2d 437 (D.N.J. 2001)

Facts: Passenger who was subjected to a strip search claimed racial discrimination and invasion of her privacy.

Outcome: Even assuming that customs agents violated the passenger's rights, they were entitled to qualified immunity: ''Qualified immunity is afforded to federal employees to protect them from reasonable mistakes or poor judgment calls.''

3. *Brent v. Ashley*, 247 F.3d 1294 (11th Cir. 2001)

Facts: Only African American passengers on plane from Italy were detained, isolated, strip searched, and then x-rayed. No contraband was found.

Outcome: Inspectors' decision to conduct strip search and x-ray examination based merely on ''general profile of arrival from a source country'' and ''nervousness'' violated the Fourth Amendment. Because these grounds had been ''explicitly rejected'' by both the supreme Court and Eleventh Circuit, the inspectors were not entitled to qualified immunity. However, the subordinates who assisted in the searches were entitled to qualified immunity.

NAACP OVERWHELMING PASSES RESOLUTION OPPOSING FAST TRACK

EMERGENCY RESOLUTION NO. 1

Whereas, the fast track promotion authority bills now entering a conference between the House and the Senate, give the administration the authority to negotiate new trade agreements that cannot be amended or fully debated by Congress, but only voted up or down; and

Whereas, previous grants of fast track authority have resulted in flawed trade deals including the North American Free Trade Agreement [NAFTA] and the World Trade Organization [WTO] and the current administration seeks to expand and replicate these trade deals; and

Whereas, the Economic Policy Institute estimates that these trade agreements—which have resulted in ballooning new trade deficits—have cost more than three million American jobs and job opportunities since 1994, with NAFTA alone accounting for the destruction of three quarters of a million of these jobs; and

Whereas, the Department of Labor has certified for trade adjustment assistance more than 400,000 workers who lost their jobs due to NAFTA, and the GAO found that African Americans made up 15% of workers displaced by the trade under the general TAA program in 1999, though accounting for less than 12% of the overall workforce; and

Whereas, free trade contributes to the rise in income inequality and downward pressure on wages and employers use the threat of moving overseas to take advantage of new trade rules in order to thwart union organizing drives and exact concessions at the bargaining table; and

Whereas, trade deals that cost jobs, lower wages and increase employer threats hurt the African American community, where median wages are lower, overall unemployment is significantly higher and the benefits of union membership are greater than among white workers; and

Whereas, workers in developing countries have also suffered under the free trade rules—Mexican workers saw their real wages drop and poverty increase under NAFTA, while the proliferation of export processing zones in Asia and Latin America has exposed young woman workers to health hazards and rights violations—and free trade agreements increase the power of multi-national companies to pit workers against workers in a race to the bottom in wages and working conditions; and

Whereas, agreements on trade and investment in services such as the General Agreement on Trade in Services [GATS] encourage the privatization and deregulation of services, including public services like transportation and utilities, thus threatening an important source of good jobs for African American workers; and

Whereas, investment rules such as Chapter Eleven of NAFTA give private foreign companies the right to demand taxpayer compensation for public interest regulations which diminish the value of their investments, thus giving foreign investors more rights than domestic investors and small-business owners and threatening important environmental and public health regulations such as California's ban on the toxic fuel additive MTBE; and

Whereas, pharmaceutical companies have used the intellectual property rules in trade agreements to threaten developing countries with retaliation if they violate patent rules

in order to provide affordable access to essential life-saving medicines, even medicines needed to treat people with HIV/AIDS; and

Whereas, the last twenty years of increased trade and investment liberalization have coincided with slower global growth, an increase in global income inequity and higher public debt burdens, especially in the poorest countries of Sub-Saharan Africa; and

Whereas, most trade deals continue to be negotiated in secret and trade disputes are resolved in secret, thus denying the public an opportunity to participate in important public policy decisions which affect their families, communities and livelihoods; and

Whereas, ongoing trade negotiations at the WTO and towards a Free Trade Area of the Americas [FTAA], which would expand NAFTA to the rest of the Hemisphere, have failed to make progress towards the creation of fairer trade rules which would protect public health and safety and public services, safeguard the environment, contain enforceable commitments to the International Labor Organization's core labor standards (freedom of association, the right to organize and bargain collectively and prohibitions on child labor, forced labor and discrimination) and stimulate broad-based economic development at home and abroad;

Whereas, the current fast track bills also fail to make real progress on these fundamental issues, thus guaranteeing that future trade deals will harm workers, degrade the environment and undermine progress towards sustainable, equitable and democratic development around the world.

Therefore, be it resolved, that the NAACP oppose the fast track bills now being discussed in Congress and urge members of Congress to vote against the fast track bill that comes out of the current conference; and

Be it further resolved, that the NAACP urge the Bush Administration to consult closely with Congress and the public, especially with communities of color, before negotiating any new trade agreements and to release draft negotiating texts and open up dispute settlement panels; and

Be it further resolved, that the NAACP support the inclusion of enforceable protections for the environment, workers' rights, public services and public interest regulations in all new trade agreements; and

Be it finally resolved, that the NAACP urge the Bush Administration to ensure that trade agreements do not include a commitment by the United States to privatize significant public services, including services related to national security, social security, public health and safety, transportation, utilities and education.

LEADERSHIP CONFERENCE ON CIVIL RIGHTS,
Washington, DC, July xx, 2002.

DEAR SENATOR: On behalf of the Leadership Conference on Civil Rights, the nation's largest and most diverse civil and human rights coalition, I write to express our strong opposition to section 141 of the House version of the Customs Border Security Act of 2001 (H.R. 3129), and to urge that this provision not be included in the final version of the bill that comes out of Conference. This provision would unjustifiably weaken protections against racial profiling and undermine President Bush's call to end this pernicious practice.

Section 141 would provide Customs officers with legal immunity from civil lawsuits stemming from searches of individuals entering the country, based on the officer's assertion that the search was conducted in ''good faith.'' We are unaware of any precedent for this sweeping protection. Customs officers would be afforded a legal shield unavailable to any other federal law enforcement officer.

Under current law, the ''qualified immunity'' doctrine protects officers from liability for actions ''that did not violate any clearly established constitutional or statutory rights.'' The additional protection now sought by the Customs Service apparently would cover searches that do violate clearly established constitutional or statutory rights but which were undertaken in good faith.

This additional protection is unjustified for several reasons. First, individuals victimized by official actions that violate ''clearly established constitutional or statutory rights'' deserve legal redress. Second, a good faith exception puts a premium on ignorance of the law; officers should not gain immunity because they did not understand what constitutes a ''clearly established constitutional or statutory rights.'' Finally, there is no reason for the Customs Service to have this additional protection that other law enforcement agents do not. If Congress is going to debate whether all agents should receive this unjustified protection, that debate should not occur on this bill.

In considering whether the Customs Service deserves this unprecedented protection, Congress should recall that in a March 2000 report, the General Accounting Office found that black female U.S. citizens were nine times more likely than white female U.S. citizens to be subjected to x-ray searches by the Customs Service. This disparity persisted despite the fact that black women were less than half as likely to be found carrying contraband as white females. We understand that the Customs Service has taken steps to address this problem, but this is no time to reverse the agency's progress.

Instead of weakening protections against racial profiling on an ad hoc, agency-by-agency basis, Congress should enact legislation to ban racial profiling. A bipartisan bill to implement that goal, the End Racial Profiling Act of 2001 (H.R. 2074), has been endorsed by the Leadership Conference and currently has 93 cosponsors.

Thank you for your consideration of our views. Please feel free to contact Julie Fernandes of the Leadership Conference staff at (202) 263–2856 regarding this issue.

Sincerely,

WADE HENDERSON,
Executive Director.

AMERICAN CIVIL LIBERTIES, UNION,
Washington, DC, July 18, 2002.

DEAR SENATOR: The ACLU urges Members of the Conference Committee to reject several troubling provisions included in the House and Senate versions of H.R. 3009, the Andrean Trade Preference Act. Sections 341 and 344 of the House bill and Section 1143 of the Senate bill should be removed in Conference. These provisions would weaken protections against racial profiling and other illegal searches and undermine the right to privacy in personal correspondence.

UNWARRANTED IMMUNITY FOR CUSTOMS OFFICIALS

Section 341 of the House bill provides immunity to a Customs officer conducting a search of a person or property provided he or she was acting in ''good faith.'' The Senate Bill does not contain a similar provision. Even though this provision would dramatically change immunity law, the provision was attached to a Customs Authorization Bill (H.R. 3129) and never considered by the judiciary committee. Many major civil rights organizations opposed this provision in the House bill including: the Leadership Conference on Civil Rights, the National Association for the Advancement of Colored People, the National Council of La Raza, the Mexican American Legal Defense Fund, the Counsel on American Islamic Relations and the American Arab Anti-Discrimination Committee. The civil rights community believes that passage of this provision would be a major set-back in the fight to end racial profiling.

Current law already provides qualified immunity to customs agents. Qualified immunity is based on an assessment of what a reasonable officer should have done in any given situation. Under current law if a law enforcement officer conducts an unconstitutional search based upon a reasonable but mistaken conclusion that reasonable suspicion exists, the officer is entitled to immunity from suit. See United States versus Lanier, 520 U.S. 259 (1997). This standard provides customs agents protection against unreasonable law suits but also protects individuals from unconstitutional searches. The customs service has not offered a reasonable justification as to why the qualified immunity standard should be changed.

Section 341 would provide a customs officer with ''good faith'' immunity. The term ''good faith'' is not defined in the bill. Presumably an officer could engage in blatantly discriminatory conduct, but if he in ''good faith'' believed that he was justified in doing so, he could not be held liable. This bill would expand immunity so that a person would not be entitled to relief from an unconstitutional search unless the officer acted in ''bad faith''—a nearly impossible standard to meet. No law enforcement official is entitled to this broad grant of immunity. Given that Congress has recently expanded the police powers of government officials, it should not at the same time cut back on the mechanisms in existing law that are designed to ensure police powers are not abused.

Out of all the federal law enforcement agencies, the Customs Service should not be provided with additional immunity. The Customs Service has a documented record on racial profiling. A March 2000 General Accounting Office report found that while African American men and women were nearly 9 times more likely to be searched as white American men and women, they were no more likely to be found carrying contraband. After the GAO Report was released, then Commissioner Raymond Kelly implemented a series of changes to customs search policy designed to address the problem. In June of 2001, the total number of customs searches had decreased, but people of color, especially African-Americans, constituted the majority of the targets of the searches.

Furthermore, customs agents have the authority to conduct extraordinarily intrusive searches. Based only on a finding of reasonable suspicion, a customs agent can subject a traveler to a full body cavity search and an x-ray search. In the recent case Brent versus Odesta Ashly, et al. 247 F.3d 1294 (11th Cir. Ct. App. 2001), customs agents in Florida subjected an African-American woman to a painful strip search and then an x-ray search even though there was virtually no evidence of drugs or other contraband.

Recommendation: We strongly urge the Conference Committee to exclude Section 341 of the House Bill from the final Trade bill.

PRIVACY OF OUTGOING INTERNATIONAL MAIL

Section 344 of the House bill, ''Border search authority for certain contraband in outgoing mail,'' would allow the U.S. Customs Service to open outbound international mail without a warrant if they have reasonable cause to suspect the mail contains certain contraband. Under current law, the Customs Service is empowered to search, without a warrant, inbound mail handled by the United States Postal Service and packages and letters handled by private carriers such as Federal Express and the United Parcel Service.

Section 344 would allow Customs officials to open sealed, outbound international mail without a warrant, without probable cause, and without any judicial review at all. People in the United States have an expectation of privacy in the mail they send to friends, family, or business associates abroad. The Customs Service's interest in confiscating illegal weapons' shipments, drugs or other contraband is adequately protected by its ability to secure a search warrant when it has probable cause. Short of an emergency, postal officials can always hold a package while they wait for a court to issue a warrant.

Last fall, the U.S. Postal Service wrote a letter to the Chairman of the Financial Services Committee on the issue of searching outbound mail without a warrant: ''There is no evidence that eroding these long established privacy protections will bring any significant law enforcement improvements over what is achieved using existing, statutorily approved law enforcement techniques.'' (Letter to Chairman Oxley from the USPS, dated October 10, 2001.)

Section 1143 of the Senate bill is similar to Section 344. However, Customs officials would only have authority to search outbound international mail over 16 ounces without a warrant. Section 1143 improves on the House provision because it protects the privacy of letter-weight mail. But, the Senate provision also fails to provide any checks and balances on Customs officials' unilateral authority to open personal mail over 16 ounces. Customs officials' power to open personal correspondence without a warrant would be open to abuse because there would be no way to track warrantless searches and no independent third party review of their decisions. At a minimum, Section 1143 should establish oversight mechanisms to ensure Customs officials do not abuse their authority.

Recommendation: We strongly urge the Conference Committee to exclude Section 344 of the House bill and Section 1143 of the Senate bill from the final Trade legislation.

We urge you to reject sections 341 and 344 of the House bill and Section 1143 in the Senate bill because they would weaken protections against racial profiling and other illegal searches and undermine the right to privacy in personal correspondence. For more information contact Rachel King at 675–2314 or Katie Corrigan at 675–2322.

Sincerely,

LAURA MURPHY,
Director, Washington National Office.
RACHEL KING,
Legislative Counsel.
KATIE CORRIGAN,
Legislative Counsel.

COUNCIL ON AMERICAN-ISLAMIC RELATIONS,
Washington, DC, July 24, 2002.

Re: H.R. 3129—Do not include customs immunity into the trade bill

DEAR REPRESENTATIVE: We are writing to urge you to NOT include section 141 of H.R. 3129, ''The Customs Border Security Act of 2001'' in the current trade bill. Section 141 of H.R. 3129 would weaken protections against racial profiling and other illegal searches.

We are writing to you on behalf of the Council on American-Islamic Relations, as organization that works to protect the rights of American Muslims. Since Sept. 11 many American Muslims have been subjected to acts of racial discrimination and harassment. We are concerned that this bill will lead to more discrimination because it will immunize customs officers who engage in that type of behavior.

Customs agents currently enjoy protections from unwarranted claims of abuse through qualified immunity from prosecution based on objective criteria. Section 141 of H.R. 3129 would grant 'good faith' immunity, without defining what 'good faith' means. An officer could engage in blatantly discriminatory or unconstitutional conduct, but if he in ''good faith'' believes that the was justified in doing so, he could not be held liable. Such broad and open immunity would make it nearly impossible for a person who has suffered an unconstitutional search and/or seizure to seek redress. No law enforcement agency currently has such a broad grant of immunity.

Customs agents routinely conduct highly intrusive searches, and have a poor record on racial profiling. For example, a March 2000 General Accounting Office report found that while African American ere nearly 9 times as likely to be searched as white Americans, they were no more likely to be found carrying contraband. This combination of power and immunity will undoubtedly lead to civil rights abuses.

We urge you to NOT include text from H.R. 3129 in the current trade bill.

Sincerely,

JASON C. ERB,
Director, Governmental Relations.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, July 25, 2002.

Hon. MAX BAUCUS,
Chairman, Senate Committee on Finance, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BAUCUS: I urge you and the other Senate Conferees to reject Sections 341 and 344 of the House bill and Section 1143 of H.R. 3009, the Andean Trade Preference Act. These troubling provisions would weaken protections against racial profiling and other illegal searches and undermine the right to privacy in personal correspondence. Democratic members of both the Judiciary and Ways and Means Committees have consistently opposed these provisions when raised in Customs authorization legislation and the demerits of these proposals should not escape full scrutiny before passage.

Section 341 of the House bill provides immunity to a Customs officer conducting a search of a person or property provided he or she was acting in ''good faith.'' The Senate Bill does not contain a similar provision. Even though this provision would dramatically change immunity law, the provision was attached to a Customs Authorization bill (H.R. 3129) and never considered by the judiciary committee.

Through a series of meetings, we sought some justification for this proposed change in liability law. The Customs Service, however, failed to demonstrate that existing qualified immunity doctrine provided inadequate protection for Customs agents acting within the scope of their official authority. In fact, the existing doctrine of qualified immunity more than adequately shields public officials performing discretionary functions from civil damages if their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person should have known. I know of no case where a Customs agent, acting within the scope of his authority, has ever been issued a judgment and most cases are dismissed prior to trial. The Supreme Court has also repeatedly held that the reasonableness of an officer's behavior, not the subjective ''good faith'' standard used in this legislation is the proper test for liability.

Section 11 would accord Customs officers a legal shield unavailable to any other law enforcement officer in the country. This provision would have the direct effect of weakening protections against racial profiling and other illegal and unconstitutional searches by the Customs Service that have been highlighted in recent GAO studies. Specifically, the GAO found that passengers of particular races and genders were more likely than others to be subjected to intrusive strip and x-ray searches after frisks or patdowns, even though the results of such searches found that they were less likely to be in possession of contraband. The most extreme examples of racial profiling by the Customs Service were directed against African-American women, who were nine times more likely than white women to be the victim of an intrusive search, even though they were only half as likely as white women to be found carrying contraband. In light of the conduct of the Customs Service, such a broad grant of immunity, absent legislative scrutiny and oversight, invites continuing civil liberty violations.

Similarly, the Customs Service failed to demonstrate evidence of a need to change the legal standard for searching U.S. mail. Under current law, the Customs Service is empowered to search, without a warrant, inbound mail handled by the United States Postal Service and packages and letters handled by private carriers such as Federal Express and the United Parcel Service. The Customs Service's interest in confiscating illegal weapons' shipments, drugs or other contraband inbound or outbound is adequately protected by its ability to secure a search warrant when it has probable cause. Short of an emergency, postal officials can always hold a package while they wait for a court to issue a warrant.

Recently, the U.S. Postal Service wrote a letter to the Chairman of the Financial Services Committee on the issue of searching outbound mail without a warrant: ''There is no evidence that eroding these long established privacy protections will bring any significant law enforcement improvements over what is achieved using existing, statutorily approved law enforcement techniques.'' (Letter to Chairman Oxley from the USPS, dated October 10, 2001.)

Times of crisis are the true test of a democracy. As we search for increased national security, we must be mindful of the fact that our civil liberties are a precious resource and ensure that freedom is not a casualty of vigilance. Without arguable justification, Sections 341, 344 and 1143 trammel the ability of individuals to address the overzealous activities of the Customs Service and undermine the expectation of privacy in the U.S. mail. I, therefore, urge you to strike these provisions from the trade bill.

Very truly yours,

JOHN CONYERS, JR.,
Ranking Member, Committee on the Judiciary.

Mrs. TAUSCHER. Mr. Speaker, I rise to support the Trade Promotion Authority conference report. I am for free and open trade, and I want this President and all presidents to have Fast Track authority. Today, I think we need to remove some misconceptions about Trade Promotion authority. This is not a trade agreement. Rather, it would give our government the authority to negotiate trade agreements.

Congress would still get to vote up or down on every trade agreement that's made, and I would stand by my commitments to American workers and to protecting our labor standards and environmental laws during each and every one of those votes.

I believe trade is critical to America's economic growth and prosperity. The great strength of the American economy is really in the spirit of its people. It's American innovation, entrepreneurship, and competitiveness that drives our industry, agriculture, and local

businesses. The good news is every American stands to benefit from free trade.

Mr. Speaker, I am happy to see the conference report contains a solid trade compromise with robust trade adjustment assistance for displaced American workers. In fact, this is the most progressive trade authority ever considered by Congress. It expands the current worker assistance program threefold, and for the first time provides health care assistance for the unemployed.

As we move forward in a global economy, this legislation provides the right balance between reaping the rewards of free trade and protecting displaced American workers. Free trade is in the long-term interest of the United States and our economy, and in the creation of jobs that benefit American workers. I look forward to voting for this comprehensive trade legislation.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise in opposition to H.R. 3009—the Fast Track Conference Report. I also rise in opposition to the amendment to authorize the President to grant duty-free treatment for Andean exports of ''tuna packed in flexible (e.g., foil), airtight containers weighing with their contents not more than 6.8 kg each.''

For months, I have provided the House and Senate with documentation that clearly shows that the Andean countries have the production capacity to destroy U.S. tuna operations in American Samoa, Puerto Rico, and California. I have also clearly demonstrated that the economy of American Samoa is more than 80 percent dependent, either directly or indirectly, on the U.S. tuna fishing and processing industries, and any give away to the Andean countries will adversely impact cannery operations in American Samoa.

Simply put, duty-free treatment for pouch products poses the same threat as duty-free treatment for canned products. Although the pouch tuna business is currently estimated to be about 6 percent of the total tuna business, conservative estimates suggest that the pouch business will grow three, five, and ten years at 75, 50, and 25 percent respectively. This equates to 8 percent share by 2005, 12.2 percent by 2007, and about 15.4 percent of total U.S. tuna trade by 2012.

Reuters wire service recently reported that StarKist intends to move away from the standard 6-ounce cans and boost distribution of tuna in a pouch. In other words, pouch product will displace canned product and canneries in American Samoa and Puerto Rico will be unable to compete with low labor costs in the Andean region. This will force a shut down of cannery operations in American Samoa and Puerto Rico. This will also lead to the demise of the U.S. tuna fishing fleet which will be forced to transship its product to the Andean countries at a cost disadvantage that will be impossible to overcome. In short, canned tuna will become a foreign controlled commodity instead of the branded product American consumers have trusted with confidence for over 95 years.

Given these eventualities, I cannot support a position that includes unlimited duty-free treatment for pouch products. I stand firm on capacity limitations which equate to no more than 18.1 million kilograms of tuna in airtight containers. I also stand firm on rules of origin. The U.S. tuna boat owners, Chicken of the Sea, and Bumble Bee also support my position and I am grateful for their support.

I also wish to note that I am disappointed that the House receded with an amendment to grant duty-free treatment for tuna packed in 6.8 kg pouches. Mr. Speaker, there is no such thing as a 6.8 kg pouch and it is almost inexcusable that the House would be misinformed on such a critical issue. To set the record straight, there are only two pouch sizes. There is a 7 oz. retail pouch and a 43 oz., or 1.22 kg, institutional food service pouch.

The food service pouch is packed in American Samoa by Chicken of the Sea. The 7 oz. pouch is controlled by StarKist. StarKist has said it will never pack its 7 oz. pouch in American Samoa. Why? Because StarKist is a company that is always in search of low-cost labor. Labor rates in the Andean region are 69 cents an hour and less. In American Samoa, tuna cannery workers are paid $3.60 per hour. Given these wage differences, it is unconscionable for the U.S. Congress to give StarKist one more edge in the marketplace and one more reason to leave American Samoa.

This legislation is flawed. It is based on the idea that drugs lords will be enticed to pack tuna for 69 cents an hour. It is baseless thinking and I cannot and will not support the inclusion of tuna in the ATPA. The Philippines, Thailand and Indonesia have also expressed their concerns and provided Congress with statements regarding the economic impact the ATPA would have on their region. The Government of the Philippines has blatantly stated that the inclusion of tuna would impede its efforts to eradicate poverty and combat terrorism.

Chicken of the Sea, Bumble Bee, the U.S. tuna boat owners, Puerto Rico, and American Samoa offered up a fair and reasonable compromise to resolve the controversy surrounding the inclusion of tuna in the ATPA. Our compromise was the Breaux amendment which passed the Senate Finance Committee. The Breaux amendment limits the amount of tuna that can enter the U.S. duty-free and also requires a source of origin provision that would require tuna to be caught by U.S. or Andean flag ships.

Capacity limitations are key to ensuring the continued viability of the U.S. tuna and fishing operations in American Samoa, Puerto Rico and California. Rules of origin are necessary to protect our U.S. tuna fishing fleet which is based in the Western Pacific Tropic. There are no fishing licenses left in the Eastern Pacific Tropic and the U.S. tuna boat owners are almost entirely dependent on cannery production in American Samoa. Any fluctuation in production affects the livelihood of the U.S. tuna boat owners.

There are about 30 U.S. flag purse seiners operating in the Western Pacific Tropic. This fleet supplies about 200,000 tons of tuna per year to the canneries in American Samoa. The loss of American Samoa as a base would mean the end of the U.S. tuna fishing fleet. The Breaux amendment, however, limits the loss to 50.4 million pounds, or 2.1 million cases. The Breaux amendment also offsets this loss by providing opportunity for the U.S. tuna boats owners to sell their fish to the Andean canneries. Our compromise also encourages Andean countries to develop their own fishing fleets as a means to maximize economic benefits.

Mr. Speaker, the Spanish fishing fleet, which is subsidized by the government of Spain, is alive and well and fishing for lightmeat tuna in the Eastern Pacific Tropic. Japan and Taiwan are well at work transshipping albacore tuna to Andean canneries. It is a well-documented fact that StarKist is purchasing albacore from Japan and Taiwan and transshipping it directly to Ecuador for packing.

I am concerned about these developments because I do not believe the ATPA should provide backdoor benefits for non-Andean countries. Neither Spain nor Japan nor Taiwan should be allowed to send their fish into the U.S. market duty-free. In my opinion, this would violate the intent of the ATPA and would unfairly disadvantage the ASEAN countries. In fairness to the U.S. tuna boat owners, in fairness of the ASEAN countries, in fairness to American Samoa, Ecuador, Colombia, Bolivia and Peru, I believe source of origin must be included in the ATPA. Limits must also be placed on the amount of tuna that can enter the U.S. duty-free.

I stand firm on capacity limits and rules of origin. In short, it is the people of American Samoa who will suffer economic loss as a result of the inclusion of any amount of tuna in the ATPA. To offset this loss, I believe Congress should make a sincere commitment to provide for an IRS Section 936 substitute which specifically addresses the needs of American Samoa. I also believe Congress should be prepared to assist American Samoa if it suffers massive unemployment and insurmountable financial problems.

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to this legislation. We are not divided here today on the benefits of free trade. We are divided on how to best achieve it—to compete on a level playing field in the global economy. Fast Track turns it back on hard working families. It will not stem the tide of lost jobs and lower labor standards seen since the passage of NAFTA.

Fast Track is not the answer. It makes protection of environmental and labor rights nonmandatory. It guts provisions that ensure that countries do not use child labor to gain advantage over the United States. We should be working to increase the safety of workers, not expose them to new dangers and new insecurities.

This agreement eliminates common sense trade assistance reform that would have covered worker dislocation caused by factories moving offshore. So, if you lose your job due to increased imports you are eligible for coverage. But if you lose your job because your factory shut down and moved offshore to Asia, you are not. Mr. Speaker, that isn't right.

Increasingly, American families are struggling everyday to make ends meet. Congress has the opportunity and the responsibility to ensure that American values define the international market and that our citizens build solid futures. Show that Congress cares about and understands America's hopes and fears for the future and vote ''no'' on Fast Track.

Mr. MORAN of Virginia. Mr. Speaker, I rise in strong support of Trade Promotion Authority.

This legislation reflects a solid product that extends to President Bush the trade negotiating authority that Congress has extended to the past five presidents. It also enables the president and the Trade Representative to begin negotiations on a new WTO trade round that can lead to further trade liberalization on American products and services overseas.

World trade lifts people out of poverty and stimulates economic development in developing countries, which results in more stable and law-abiding government.

There's no denying that our economy is changing and with that change comes new industries and economic opportunities. The hallmark of the United States' economic vitality is the ability of our country to innovate and develop new products and services.

TPA will help enable our trade negotiators to open new doors to international trade that are essential if we as a country want to remain a leader in world trade.

If we do not approve TPA today, we are forfeiting a critical mechanism to influence negotiations on new trade agreements.

I believe that approval of trade promotion authority legislation is essential to the health of our economy. It benefits American consumer and workers alike.

By providing trade promotion authority to the President, the Congress is signaling its support for the Administration to negotiate trade agreements that benefit Americans and that require Congressional consultation.

More importantly, we are sending an important message about U.S. leadership in the global economy. Without TPA, our trade representative cannot demonstrate Congressional support for a new round of WTO negotiations.

This bill also provides some much needed assistance for workers who have been displaced by Trade. Under this bill, for the first time displaced workers will be eligible for a 65 percent advanceable, refundable tax credit that can be used to pay for COBRA.

This bill recognizes how difficult it can be for older workers to change careers and provides wage insurance to bridge the gap between old and new earnings (up to $10,000 over 2 years).

But that's not all—there's a TAA program for farmers and ranchers, and an expanded training budget (retraining for displaced workers), and extends the availability of benefits for up to 2 and a half years.

As I have always said, I may be pro Trade, but I am also pro helping displaced workers, and this bill delivers on that promise.

We must act with one voice in supporting this legislation and the responsibility of Congressional oversight in trade.

We now live in a global economy that has been brought together through advances in technology, transportation and communications. International trade is not only a reality, but it is a necessity if we plan to thrive in the 21st century.

In this climate marked by a global economic downturn and a war on terrorism that crosses international borders, this legislation is an opportunity to signal U.S. leadership in the world.

Trade opens economic opportunities that minimizes the conditions that give rise to extremist groups, dictatorships and violations of human rights.

America's role in the world is defined largely by trade and economic ties with other countries. Our security is dependent upon prosperity.

We could spend countless hours modifying this bill, but the question comes down to whether this Congress supports a vision whereby America continues to be a global leader.

If we reject this balanced proposal, we send entirely the wrong signal to other countries that America does not support an ongoing policy of trade expansion that has been the hallmark of our country's prosperity and a model for people and democracies the world over.

I urge my colleagues to vote for this proposal and stand on the side of economic opportunity and openness. It is the right time and right thing to do.

Mr. BLUMENAUER. Mr. Speaker, I support free trade. The removal of trade barriers by both the United States and our trading partners will ultimately strengthen the economies of all nations.

I have long believed that the best process for achieving the elimination of trade barriers is for us to grant the President a properly-structured authority to submit trade agreements, negotiated pursuant to that structure, for an up-or-down vote by the Congress. With the proper provisions for environmental and labor protections, trade agreements can facilitate both our economic and our environmental goals.

Sadly, the leadership of this House has refused to give us such legislation or even an open process to consider the bill before us. Once again the Republican majority has resorted to a ''martial law'' rule, preventing members from having even one day to look at the bill on which we're voting. This is the latest in a series of affronts to bipartisanship, collegiality and the legislative process. Until early this evening it was not even possible for Members to obtain a copy of the conference report on which we are voting.

Relying as we must on third-party descriptions of the conference committee's agreement, I conclude that my concerns about labor, the environment and meaningful trade adjustment assistance have not been met in this report, just as they were not in the trade promotion bill that was rammed through this House by a single-vote margin in December. The conferees have not dealt with the flaws in the mechanisms established for investment protection under the North American Free Trade Agreement—mechanisms the New York Times yesterday called ''secret trade courts'' in its editorial urging the conferees to correct this. The conference language does not ensure the continued enforceability of environmental agreements the United States has entered into with other nations. The conference bill fails to extend the core labor standards of the International Labor Organization to trade agreements entered into with our neighbors in the Americas. The bill shortchanges dislocated American workers with inadequate trade adjustment assistance.

As I have argued before, in this body and to the Administration, we could have achieved broad, bipartisan support for trade promotion authority if the Republican leadership had dealt fairly and openly with these issues as part of their legislation. Instead, the leadership has continued a pattern of unduly partisan, non-participatory legislating on trade. For me, this is perhaps the most disappointing feature of the bill before us.

Finally, it is most ironic that this partisan approach to TPA has forced the Administration to make a hash of this nation's trade priorities. In the name of advancing free trade, the Administration has made egregious projectionist concessions on steel, textiles and agricultural products in order to secure votes for passage. I can only hope this atmosphere changes and we return to building a majority for an honest, bipartisan trade policy for our nation's future.

Ms. KILPATRICK. Mr. Speaker, I rise in opposition to the conference report to H.R. 3009, the Fast Track Trade legislation that comes before us today. I do support trade agreements that will benefit all parties involved; however, the conference report that we consider today does not do this. It is a far departure of where I think we should be going in the direction of fair and equitable trade agreements. Everything that was positive was eliminated in conference and the result is a piece of legislation that will take us down a precarious, dangerous path for our nation.

Specifically, my concerns lie with the workers that will be negatively affected by this open and free granting of negotiating authority for the President. While we look at Fast Track as a way to create new opportunities and jobs for many Americans and other workers overseas, it is completely irresponsible and heartless for Congress not to provide safeguards for those U.S. workers that will be negatively impacted. This is unacceptable and shows where our priorities really are. Saying ''yes'' to the conference report to the Fast Track legislation before us today is an anti-worker vote with too many implications that we cannot afford.

Workers are the backbone of any company, but Fast Track would erode the rightful safeguards they are owed. Trade Adjustment Assistance (TAA) and health care protections are significantly weakened in the conference report. The tax credits included would not assist displaced workers, by forcing them to pay more for their health insurance. Moreover, there is no guarantee that workers who had health coverage for a only a couple of months, or had no health coverage at all, prior to losing their jobs would even be afforded assistance. And for those workers that belonged to companies who shifted their factories overseas, this bill basically says to them, ''tough luck for you.'' What kind of assistance are we providing them? This is not assistance, it's corporate maximization, and it's the workers that pay the price.

Proponents of the trade agreement state that the conference report does indeed contain strong labor protections for U.S. workers; and that the provisions in the report are modeled after the Jordan Free Trade Agreement. That's simply not correct. The conference report falls short of the standards set in the Jordan FTA by excluding key commitments that deal with the incorporation of core labor standards in domestic law and the commitment to work towards the implementation and improvement of these laws. To state that the conference report affords strong labor protections is disingenuous.

In addition to the unacceptable worker protections in the conference report, there are a long string of other dangerous provisions that would take us backwards in our dealings. First, the environment plays second fiddle, if not worse, to promoting trade. Instead of being a leader in this area and protecting and advancing our standards, the U.S. would promote poor environmental policy in the name of signing a ''good agreement.''

Congressional oversight in ensuring that trade agreements are sound policy is also completely diluted. The conference agreement adds two new restrictions on Congress' ability to withdraw fast track and denies Congress our right to ensure that the trade laws of our nation are not forsaken in trade agreements.

On the other hand, foreign investors would be afforded even more rights than they have under current law. While Congress' rights are restricted, the rights of foreign investors are increased. This is a sell-out of the worst kind.

This conference report gives the President and his Administration a blank check to sign away worker protections, environmental protections, Congressional oversight, and so much more. It's a check that we shouldn't let pass—it's a check that we should stamp with a big ''void.'' For these reasons, I oppose passage of the conference report to H.R. 3009. We can and should do much better.

Mr. UDALL of New Mexico. Mr. Speaker, tonight we have before us the Conference Report on Trade Promotion Authority—or Fast Track.

I was hopeful that the Conferees would give us a bill that had real and meaningful protections for America's working men and women. I was hopeful that the Conferees would give us a bill that had real and meaningful safeguards for our environment. I was hopeful that the Conferees would give us a bill that had real and meaningful protections of Congressional prerogative to change U.S. trade laws. I was hopeful that the Conferees would give us a bill that had real and meaningful expansion of the Trade Adjustment Assistance program. I was hopeful that the Conferees would give us a bill that had real and meaningful instructions regarding international accounting rules. I was hopeful that the Conferees would give us a bill that had real and meaningful protections for U.S. taxpayers against unfair suits against domestic public-interest laws.

However, and not surprisingly, H.R. 3009 has none of these important components. Therefore, I will vote ''no'', and I urge my colleagues to do the same.

While I was hopeful that H.R. 3009 would have real and meaningful protections for working families, it amazingly takes a great step backwards on workers' rights. As written, this bill effectively rules out any enforcement of workers' rights in future trade agreements. How can American workers compete with foreign companies who pay their workers slave wages? How can American workers compete with foreign companies who crush union representation? How can American workers compete with foreign companies that employ children? Put simply, they cannot.

While I was hopeful that H.R. 3009 would have real and meaningful safeguards for the environment, this bill actually reduces the role of this Congress to enforce environmental standards. We should be encouraging our international competitors to protect the environment. We should be providing assistance to other nations to achieve real environmental protections. However, this bill fails to ensure parity between the environment and commercial considerations in future trade agreements.

While I was hopeful that H.R. 3009 would have real and meaningful protections of Congressional prerogative to change U.S. trade laws, this bill is a major step backwards. Why was the Dayton-Craig language from the Senate bill stripped from the Conference Report? This bill actually diminishes the already minimal oversight Congress has over U.S. trade laws. This bill actually prevents Congress from withdrawing from a trade agreement, even if the trade agreement is found to undermine our trade laws.

I was hopeful that the Conferees would give us a bill that had real and meaningful expansion of the Trade Adjustment Assistance program. Amazingly, this Conference reduces the Senate-passed TAA proposal to cover only 65 percent tax credit to cover health care costs. During these times of economic uncertainty, this is another slap in the face to laid-off workers. Worst of all, this 65 percent figure is below what most employers offer, so these struggling workers will actually pay more for their health coverage at a time when they've lost their jobs.

While I was hopeful that H.R. 3009 would have real and meaningful instructions regarding international accounting rules, this bill does not address the issue. At a time when we are passing long-overdue changes to our domestic accounting industry, this bill does nothing to prevent many of the shortcomings on the international front. We've just taken some great steps to improve what we do here in the U.S., but this bill could limit congressional changes to accounting regulations that are deemed ''more trade restrictive than necessary.''

I was hopeful that the Conferees would give us a bill that had real and meaningful protections for U.S. taxpayers against unfair suits against domestic public-interest laws. As a former State Attorney General, I am particularly sensitive to the unintended consequences of federal laws. As 35 current State Attorneys General wrote to Chairman THOMAS and Chairman BAUCUS, they had grave concerns that the investment provisions . . . [and] to the independence of our judicial system.'' As we already have seen in California, foreign companies have used the NAFTA investor rules to sue U.S. taxpayers for $1.7 billion over a California clean-water law and a Mississippi jury award in a fraud case. We should not allow our own state laws to be used against us in the name of free trade.

While I cannot support this bill, I have taken many pro-trade votes in this Congress. I will continue to support trade agreements that protect the environment. I will continue to support trade agreements that provide important safeguards to protect the rights of American working families as well as the rights of our trading partners' workers. I will continue to support trade agreements that protect our ability to exercise our Constitutional duty to provide oversight of the executive branch. As I've stated previously, this legislation does none of these things.

I urge my colleagues to vote ''no'' on the Fast Track Conference Report.

Mr. OXLEY. Mr. Speaker, I rise today to support the Trade Promotion Authority Conference Report. I would like to thank the distinguished Chairman of the Ways and Means Committee, Mr. THOMAS, for crafting this balanced and fair legislation. Trade Promotion Authority is absolutely critical to reenergize our economy, create jobs and stimulate growth. TPA will grant the President, in consultation with Congress, the ability to negotiate in good faith with our trading partners. Without TPA the United States will once again be excluded when the other nations of the world begin negotiations for a free trade agreement. Our competitors in Europe are already party to over one hundred free trade agreements, while the U.S., the world's largest and most powerful economy, is party to only 3 such agreements.

I would like to address my colleagues on the importance of TPA as it relates to trade in services. The U.S. is the world's largest exporter of services, and service is the fastest growing sector of the U.S. economy, accounting for 80 percent of both GDP and private employment. In 2000, the cross-border services trade surplus was $76.5 billion, offsetting 17 percent of the $452 billion trade deficit that year. These exports supported 4.4 million U.S. jobs in 2000 and added 20.6 million new U.S. jobs to the economy between 1989 and 1999. Services encompass all economic activity other than agriculture, manufacturing and mining.

Financial services are a key component in the trade in services equation. Financial services firms contributed more than $750 billion to U.S. Gross Domestic Product in 1999, nearly 8 percent of total GDP. More than six million employees support the products and services these firms offer. Expanded trade in financial services will enable U.S. service providers to gain access to more markets in critical global financial centers and developing countries.

With greater trade in financial services, global economies will be required to develop more sophisticated and more transparent financial systems. This is turn will result in a stronger and more innovative global economic marketplace. With economic hardships in Argentina, Japan and China, expanded trade in financial services will act as an incentive for these countries and others to reform their financing practices and develop more stable economic systems.

I strongly encourage my colleagues to vote to approve TPA. This legislation will give the President critical authority to seek to open additional markets for U.S. financial service providers, improve the regulation of international financial markets, and provide international customers access to a greater number of financial products. All of these actions will lead to a more sophisticated, better run global financial marketplace and a faster economic recovery. Our workers are counting on us, our employers are counting on us, and the world is counting on us. We must approve TPA today.

Mr. EVANS. Mr. Speaker, I cannot support this fast track conference report as submitted. This agreement clearly does not reflect the needs and concerns of my constituents. In the last two years, I have witnessed two major steel mills close in my district and several factories shift production lines overseas. This legislation gives the President unabridged authority to enter into more trade agreements that send good paying jobs overseas, while weakening existing trade laws.

As I have said before, I do not share President Bush's vision for unfettered free trade that hurts the workers of the 17th district of Illinois. The President has continually threatened to veto any agreement that contains language preventing him from weakening anti-dumping statutes. This agreement fulfills the President's desire to freely trade away anti-dumping protections.

The President has indicated one of his first steps after passage of fast track will be to expand NAFTA to include all of Central and South America. This expansion benefits a few importers at the expense of thousands of workers and farmers in my district. Never has there been a worse time in the economy to give the President so much authority to trade away jobs. We should not give the President

this far reaching authority, especially during an economic crisis.

This agreement also does not include strong transitional assistance to workers whose company moves overseas or shuts down due to unfair trade. Mr. Speaker, I have assisted thousands of my constituents with the poorly funded TAA program and cannot afford to watch more families turned away from needed assistance. This plan also expects families to cover high health insurance costs with a tax credit. To expect families during an unforeseen lay off to benefit from a tax credit which they would not see until the next year is ineffective and insulting.

Mr. Speaker, I support free trade when it benefits American workers. But, I do not believe we should grant the President fast track to negotiate trade agreements in this form. I urge my colleagues to vote down this conference agreement, which makes no improvement on previous attempts to implement fast track.

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

There was no objection.

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

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

Mr. RANGEL. 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 215, nays 212, not voting 7, as follows:

[Roll No. 370]

YEAS—215

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Barton
Bass
Bentsen
Bereuter
Biggert
Bilirakis
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Carson (OK)
Castle
Chabot
Chambliss
Collins
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dicks
Dooley
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Harman
Hart
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Horn
Houghton
Hulshof
Hyde
Isakson
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCrery
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Souder
Stenholm
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wolf
Young (FL)

NAYS—212

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Becerra
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capito
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clement
Clyburn
Coble
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (IL)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Duncan
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank
Frost
Gephardt
Gonzalez
Goode
Gordon
Graham
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hayes
Hilliard
Hinchey
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hunter
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Murtha
Nadler
Napolitano
Neal
Norwood
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Quinn
Rahall
Rangel
Regula
Reyes
Rivers
Rodriguez
Roemer
Rohrabacher
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Simmons
Slaughter
Smith (NJ)
Solis
Spratt
Stark
Stearns
Strickland
Stupak
Taylor (MS)
Taylor (NC)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Walsh
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Wilson (SC)
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—7

Blunt
Combest
Hansen
Lipinski
Meehan
Roukema
Stump

□ 0330

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of the conference report just passed.

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

There was no objection.

PROVIDING FOR CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE AND ADJOURNMENT OF THE HOUSE

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to section 2 of House Resolution 461, the Chair lays before the House the following Senate concurrent resolution:

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 132

Resolved by the Senate (the House of Representatives concurring), That, in consonance with section 132(a) of the Legislative Reorganization Act of 1946, when the Senate recesses or adjourns at the close of business on Thursday, August 1, 2002, Friday, August 2, 2002, or Saturday, August 3, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12:00 noon on Tuesday, September 3, 2002, or until such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Friday, July 26, 2002, on a motion offered by its Majority Leader or his designee pursuant to this concurrent resolution, it stand adjourned until 2:00 p.m. on Wednesday, September 4, 2002, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate

whenever, in their opinion, the public interest shall warrant it.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

RECALL DESIGNEE

The SPEAKER pro tempore laid before the House the following communication from the Speaker of the House of Representatives:

WASHINGTON, DC,
July 27, 2002.

Pursuant to section 2 of Senate Concurrent Resolution 132, I hereby designate Representative RICHARD K. ARMEY of Texas to act jointly with the Majority Leader of the Senate or his designee, in the event of my death or inability, to notify the Members of the House and the Senate, respectively, of any reassembly under that concurrent resolution. In the event of the death or inability of my designee, the alternate Members of the House listed in the letter bearing this date that I have placed with the Clerk are designated, in turn, for the same purpose.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

ELECTION OF MEMBER TO COMMITTEE ON AGRICULTURE

Mr. ARMEY. Mr. Speaker, I offer a resolution (H. Res. 510) and I ask unanimous consent for its immediate consideration in the House.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 510

Resolved, That the following Member be and is hereby elected to the following standing committee of the House of Representatives:

Agriculture: Mr. GEKAS of Pennsylvania.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY SEPTEMBER 4, 2002

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, September 4, 2002.

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

There was no objection.

AUTHORIZING SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND TO MAKE APPOINTMENTS AUTHORIZED BY LAW OR THE HOUSE NOT WITHSTANDING ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Wednesday, September 4, 2002, the Speaker, majority leader, and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

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

There was no objection.

PERMISSION TO ENTERTAIN MOTIONS TO SUSPEND THE RULES ON WEDNESDAY, SEPTEMBER 4, 2002

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to entertain motions to suspend the rules on Wednesday, September 4, 2002, subject to consultation with the minority leader by Thursday, August 29, 2002.

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

There was no objection.

MANY THANKS TO STAFF

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

Mr. ARMEY. Mr. Speaker, I would like to thank the following people for 5 days of incredibly hard work and long nights, the Parliamentarian's Office, the cloak room staff, the clerks, the door keepers, the Capitol Police, the legislative counsels, the pages, and all of those marvelous people I am looking at now who love to stay with us here at night, night after night after night.

APPOINTMENT OF HON. FRANK R. WOLF TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH SEPTEMBER 4, 2002

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 27, 2002.

I hereby appoint the Honorable FRANK R. WOLF or, if not available to perform this duty, the Honorable WAYNE T. GILCHREST to act as Speaker pro tempore to sign enrolled bills and joint resolutions through September 4, 2002.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

COMMUNICATION FROM HON. ROBERT A. BORSKI, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable ROBERT A. BORSKI, Member of Congress:

WASHINGTON, DC.
July 26, 2002.

Hon. J. DENNIS HASTERT,
Speaker of the House, Washington, DC.

DEAR MR. SPEAKER: I am writing to inform you that today I resigned from the U.S. Congressional delegation to the NATO Parliamentary Assembly. My resignation is in accordance with my decision to not seek reelection to the House of Representatives in the 108th Congress.

Thank you for your attention to this matter.

Sincerely,

ROBERT A. BORSKI,
Member of Congress.

APPOINTMENT OF MEMBER TO UNITED STATES GROUP OF THE NORTH ATLANTIC ASSEMBLY

The SPEAKER pro tempore. Without objection, and pursuant to 22 U.S.C. 1928a and clause 10 of rule I, the Chair announces the Speaker's appointment of the following Member of the House to the United States Group of the North Atlantic Assembly to fill the existing vacancy thereon:

Mr. TANNER of Tennessee.

There was no objection.

APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 4546, BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

The SPEAKER pro tempore. Without objection, the Chair appoints the following additional conferees on H.R. 4546:

As additional conferees from the Committee on Small Business, for consideration of sections 243, 824, and 829 of the Senate amendment and modifications committed to conference: Mr. MANZULLO, Mrs. KELLY and Ms. VELÁZQUEZ.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. ROUKEMA (at the request of Mr. ARMEY) for today after 5 p.m. on account of illness.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Ms. PELOSI, and to include extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,690.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on July 26, 2002 he presented to the President of the United States, for his approval, the following bills.

H.R. 2175. To protect infants who are born alive, otherwise known as the ''Born-Alive Infants Protection Act of 2001.''

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, and for other purposes.

ADJOURNMENT

Mr. ARMEY. Mr. Speaker, pursuant to Senate Concurrent Resolution 132, 107th Congress, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to Senate Concurrent Resolution 132, 107th Congress, the House stands adjourned until 2 p.m., Wednesday, September 4, 2002.

Thereupon (at 3 o'clock and 40 minutes a.m.), Saturday, July 27, 2002, legislative day of Friday, July 26, 2002, pursuant to Senate Concurrent Resolution 132, the House adjourned until Wednesday, September 4, 2002, at 2 p.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for official foreign travel during the second quarter of 2002, by Committees of the House of Representatives, as well as reports of foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the first quarter of 2002, and the fourth quarter of 2001 pursuant to Public Law 95–384, are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 31, 2002

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Matthew Szymanski	6/25	7/1	China		932.00		4,992.00		1,762.00		7,686.00
Ian Deason	6/25	7/1	China		932.00		4,992.00		1,762.00		7,686.00
Committee total					1,864.00		9,984.00		3,524.00		15,372.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DONALD A. MANZULLO, Chairman, July 15, 2002.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 31, 2002

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Mike Thompson	5/24	5/26	England		738.00		4,530.61				5,268.61
	5/26	5/28	Belgium		564.00						564.00
Danelle Farmer	6/16	6/22	Switzerland		1,578.00		5,034.00				6,612/00
John Goldberg	6/16	6/22	Switzerland		1,578.00		5,034.00				6,612.00
Elizabeth Parker	6/16	6/22	Switzerland		1,578.00		5,034.00				6,612.00
Brent Gattis	6/16	6/22	Switzerland		1,578.00		5,034.00				6,612.00
Hon. Eva Clayton	6/9	6/13	Italy		1,480.00		5,050.97				6,530.97
Committee total					9,094.00		29,717,581				38,811.58

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LARRY COMBEST, Chairman, July 15, 2002.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RESOURCES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 31, 2002

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Donna Christensen (VI)	4/6	4/8	Grenada		338.00		284.00				622.00
Committee total					338.00		284.00				622.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMES V. HANSEN, Chairman, July 17, 2002.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 31, 2002

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]

FOR HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return.☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

SHERWOOD L. BOEHLERT, Chairman, July 11, 2002.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO LONDON, ENGLAND, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 21–26, 2002

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Doug Bereuter	2/21	2/26	United Kingdom		1,720.00		(3)				1,720.00
Hon. Mike Bilirakis	2/21	2/26	United Kingdom		1,720.00		(3)				1,720.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO LONDON, ENGLAND, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 21–26, 2002—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Henry Brown	2/21	2/26	United Kingdom		1,927.35						1,927.35
							[4] 290.20				290.20
Hon. Paul Gillmor	2/21	2/26	United Kingdom		1,720.00		(3)				1,720.00
Hon. Porter Goss	2/21	2/26	United Kingdom		1,720.00		(3)				1,720.00
Hon. Mark Green	2/21	2/26	United Kingdom		1,927.35						1,927.35
							[4] 331.70				331.70
Hon. Joel Hefley	2/21	2/26	United Kingdom		1,720.00		(3)				1,720.00
Hon. Steve Horn	2/21	2/26	United Kingdom		1,720.00		(3)				1,720.00
Hon. Nick Lampson	2/21	2/26	United Kingdom		1,720.00		(3)				1,720.00
Hon. Scott McInnis	2/21	2/26	United Kingdom		1,720.00		(3)				1,720.00
Hon. Dennis Moore	2/21	2/26	United Kingdom		1,720.00		(3)				1,720.00
Hon. Thomas E. Petri	2/21	2/26	United Kingdom		1,720.00						1,720.00
							[4] 3,920.20				3,920.20
Hon. John Tanner	2/21	2/26	United Kingdom		1,720.00		(3)				1,720.00
Hon. Tom Udall	2/21	2/26	United Kingdom		1,720.00		(3)				1,720.00
Mike Ennis	2/21	2/26	United Kingdom		1,720.00		(3)				1,720.00
Debra Gebhardt	2/21	2/26	United Kingdom		1,927.35						1,927.35
							[4] 3,920.20				3,920.20
Charles W. Johnson	2/21	2/26	United Kingdom		1,720.00		(3)				1,720.00
Kay King	2/21	2/26	United Kingdom		1,720.00		(3)				1,720.00
Carol Lawrence	2/21	2/26	United Kingdom		1,720.00		(3)				1,720.00
Kelly McDonald	2/21	2/26	United Kingdom		1,927.35						1,927.35
							[4] 3,920.20				3,920.20
Merrell Moorhead	2/21	2/26	United Kingdom		1,720.00		(3)				1,720.00
Susan Olson	2/21	2/26	United Kingdom		1,720.00		(3)				1,720.00
Committee total					38,669.40		12,382.50				51,051.90

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] Military air transportation plus amount indicated.

THOMAS E. PETRI, Chairman, May 3, 2002.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO LONDON, ENGLAND, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 21–26, 2002

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Doug Bereuter	2/21	2/26	United Kindgom		1,720.00		(3)				1,720.00
Hon. Mike Bilrakis	2/21	2/26	United Kindgom		1,720.00		(3)				1,720.00
Hon. Henry Brown	2/21	2/26	United Kindgom		1,927.35						1,927.35
							[4] 290.20				290.20
Hon. Paul Gillmor	2/21	2/26	United Kindgom		1,720.00		(3)				1,720.00
Hon. Porter Goss	2/21	2/26	United Kindgom		1,720.00		(3)				1,720.00
Hon. Mark Green	2/21	2/26	United Kindgom		1,927.35						1,927.35
							[4] 331.70				331.70
Hon. Joel Hefley	2/21	2/26	United Kindgom		1,720.00		(3)				1,720.00
Hon. Steve Horn	2/21	2/26	United Kindgom		1,720.00		(3)				1,720.00
Hon. Nick Lampson	2/21	2/26	United Kindgom		1,720.00		(3)				1,720.00
Hon. Scott McInnis	2/21	2/26	United Kindgom		1,720.00		(3)				1,720.00
Hon. Dennis Moore	2/21	2/26	United Kindgom		1,720.00		(3)				1,720.00
Hon. Thomas E. Petri	2/21	2/26	United Kindgom		1,720.00						1,720.00
							[4] 3,920.20				3,920.20
Hon. John Tanner	2/21	2/26	United Kindgom		1,720.00		(3)				1,720.00
Hon. Tom Udall	2/21	2/26	United Kindgom		1,720.00		(3)				1,720.00
Mike Ennis	2/21	2/26	United Kindgom		1,720.00		(3)				1,720.00
Debra Gebhardt	2/21	2/26	United Kindgom		1,927.35						1,927.35
							[4] 3,920.20				3,920.20
Charles W. Johnson	2/21	2/26	United Kindgom		1,720.00		(3)				1,720.00
Kay King	2/21	2/26	United Kindgom		1,720.00		(3)				1,720.00
Carol Lawrence	2/21	2/26	United Kindgom		1,720.00		(3)				1,720.00
Kelly McDonald	2/21	2/26	United Kindgom		1,927.35						1,927.35
							[4] 3,920.20				3,920.20
Merrell Moorhead	2/21	2/26	United Kindgom		1,720.00		(3)				1,720.00
Susan Olson	2/21	2/26	United Kindgom		1,720.00		(3)				1,720.00
Prisco Patrick	2/21	2/26	United Kindgom		1,720.00		(3)				1,720.00
Committee total					40,389.40		12,382.50				52,771.90

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] Military air transportation plus amount indicated.

THOMAS E. PETRI, Chairman, May 31, 2002.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO MEXICO, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 16–18, 2001

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Richard A. Gephardt	11/16	11/18	Mexico		646.00						646.00
Steve Elmendorf	11/16	11/18	Mexico		646.00						646.00
Moses Mercado	11/16	11/18	Mexico		646.00						646.00
Committee total					1,938.00						1,938.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RICHARD A. GEPHARDT, Minority Leader, June 1, 2002.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

8276. A letter from the General Counsel, Department of the Treasury, transmitting a draft bill entitled, ''To amend section 313 of the Rural Electrification Act of 1936, and for other purposes''; to the Committee on Agriculture.

8277. A letter from the Congressional Review Coordinator, Department of Agiculture, transmitting the Department's final rule — Mediterranean Fruit Fly; Removal of Quarantined Area [Docket No. 01-093-2] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8278. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Change in Disease Status of Austria Because of BSE [Docket No. 02-004-2] received July 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8279. A letter from the Administrator, Farm Service Agency, Department of Agriculture, transmitting the Department's final rule — Lamb Meat Adjustment Assistance Program (RIN: 0560-AG17) received July 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8280. A letter from the Executive Vice President, Department of Agriculture, transmitting the Department's final rule — Dairy Recourse Loan Program for Commercial Dairy Processors (RIN: 0560-AF41) received July 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8281. A letter from the Executive Vice President, Department of Agriculture, transmitting the Department's final rule — Livestock Indemnity Program (RIN: 0560-AG33) received July 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8282. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Change in Disease Status of Greece With Regard to Foot-and-Mouth Disease [Docket No. 01-059-2] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8283. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Change in Disease Status of Poland Because of BSE [Docket No. 02-068-1] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8284. A letter from the Congressional Review Coordinator, Deprtment of Agriculture, transmitting the Department's final rule — Change in Disease Status of Finland Because of BSE [Docket No. 01-131-2] received July 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8285. A letter from the Secretary of the Navy, Department of Defense, transmitting notification of the decision to order up to 100,000 additional workstations under the Navy Marine Corps Intranet (NMCI) contract; to the Committee on Armed Services.

8286. A letter from the Assistant Secretary, Department of Defense, transmitting notification of each military skill to be designated as critical for purposes of payment of the special retention bonus; to the Committee on Armed Services.

8287. A letter from the Assistant Secretary of Defense, Department of Defense, transmitting notification of each military skill to be designated as critical for purposes of payment of the special retention bonus; to the Committee on Armed Services.

8288. A letter from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting the Department's final rule — Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations- Requirement that Brokers or Dealers in Securities Report Suspicious Transactions (RIN: 1506-AA21) received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8289. A letter from the Deputy Director, Department of the Treasury, transmitting the Department's final rule — Financial Crimes Enforcement Network; Rescission of Exemption from Bank Secrecy Act Regulations for Sale of Variable Annuities (RIN: 1506-AA30) received July 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8290. A letter from the Director, FDIC Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule — Agency Reorganization; Nomenclature Changes — received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8291. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Suspension of Community Eligibility [Docket No. FEMA-7787] received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8292. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Suspension of Community Eligibility [Docket No. FEMA-7785] received July 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8293. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Investment Company Mergers [Release No. IC-25666; File No. S7-21-01] (RIN: 3235-AH81) received July 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8294. A letter from the Director, Office of Safety Standards, Deaprtment of Labor, transmitting the Department's final rule — Occupational Safety and Health Standards for Shipyard Employment — received July 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

8295. A letter from the Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting the Department's final rule — Child and Adult Care Food Program Implementing Legislative Reforms to Strengthen Program Integrity (RIN: 0584-AC94) received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

8296. A letter from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule — Disability and Rehabilitation Research Projects (DRRP) Program — received July 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

8297. A letter from the Assistant Secretary of Labor for Mine Safety and Health, Department of Labor, transmitting the Department's final rule — Hazard Communication (HazCom) (RIN: 1219-AA47) received July 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

8298. A letter from the Secretary, Department of Labor, transmitting the Department's proposed legislation to implement the Federal Employees' Compensation Act Amendments of 2002; to the Committee on Education and the Workforce.

8299. A letter from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Benefits Payable in Terminated Single- Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits — received July 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

8300. A letter from the Assistant General Counsel for Regulatory Law, Deaprtment of Energy, transmitting the Department's final rule — Processing Requests for Indemnification or Ot her Extraordinary Contractual Relief Inder Pub. L. 85-804 — received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8301. A letter from the Attorney-Advisor, Department of Transportation, transmitting the Department's final rule — Reporting of Information and Documents About Potential Defects Retention of Records That Could Indicate Defects [Docket No. NHTSA 2001-8677; Notice 4] (RIN: 2127-AI27) received July 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8302. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Arizona — Maricopa County PM-10 Nonattainment Area; Serious Area Plan for Attainment of the PM-10 Standards [AZ092-002; FRL-7141-3] received July 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8303. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Protection of Stratospheric Ozone; Listing of Substitutes in the Foam Sector [FRL-7247-5] (RIN: 2060-AG12) received July 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8304. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Zinc Fertilizers Made from Recycled Hazardous Secondary Materials [FRL-7248-3] (RIN: 2050-AE69) received July 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8305. A letter from the Associate Managing Director, Federal Communication Commission, transmitting the Commission's final rule — Assessment and Collection of Regulatory Fees for Fiscal Year 2002 [MD Docket No. 02-64] received July 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8306. A letter from the Assistant Bureau Chief for Management, Federal Communications Commission, transmitting the Commission's final rule — The Establishment of Policies and Service Rules for the Non-Geostationary Satellite Orbit, Fixed Satellite Service in the Ku-Band [IB Docket No. 01-96] received July 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8307. A letter from the Deputy Chief, Policy and Rules Division, Federal Communications Commission, transmitting the Commission's final rule — Revision of Part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission Systems [ET Docket 98-153] received July 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8308. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of

Offer and Acceptance (LOA) to Pakistan for defense articles and services (Transmittal No. 02-55), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

8309. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 198-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8310. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 193-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8311. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 199-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8312. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles to Pakistan [Transmittal No. DTC 196-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8313. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles to Pakistan [Transmittal No. DTC 200-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8314. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 194-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8315. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 197-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8316. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India [Transmittal No. DTC 176-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8317. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India [Transmittal No. DTC 165-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8318. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India [Transmittal No. DTC 38-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8319. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India [Transmittal No. DTC 154-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8320. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India [Transmittal No. DTC 152-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8321. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India [Transmittal No. DTC 07-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8322. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Thailand and France [Transmittal No. DTC 142-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8323. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 2002-20: Provision of $25.5 Million to Support a Train and Equip Program in Georgia, pursuant to 22 U.S.C. 2318(b)(2); to the Committee on International Relations.

8324. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to India [Transmittal No. DTC 96-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8325. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to South Korea [Transmittal No. DTC 189-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8326. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Pakistan [Transmittal No. DTC 191-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8327. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to the United Kingdom [Transmittal No. DTC 151-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8328. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan [Transmittal No. DTC 186-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8329. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to India [Transmittal No. DTC 166-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8330. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to the United Kingdom [Transmittal No. DTC 138-02], pursuant to 22 U.S.C. 2776(c)and 22 U.S.C. 2776(d); to the Committee on International Relations.

8331. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to the Netherlands [Transmittal No. DTC 141-02], pursuant to 22 U.S.C. 2776(c)and 22 U.S.C. 2776(d); to the Committee on International Relations.

8332. A letter from the Congressmen, Congress of the United States, transmitting the 2001 report on the Open World Program; to the Committee on International Relations.

8333. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting an annual report required by section 655 of the Foreign Assistance Act of 1961; to the Committee on International Relations.

8334. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 2002-19: Determination on Eligibility of East Timor to Receive Defense Articles and Services Under the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

8335. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 2002-17: Military Drawdown for Georgia; to the Committee on International Relations.

8336. A letter from the Chair, Equal Employment Opportunity Commission, transmitting the Final Fiscal Year 2002 Annual Performance Plan and Fiscal Year 2003 Annual Performance Plan; to the Committee on Government Reform.

8337. A letter from the Assistant Attorney General, Department of Justice, transmitting the Department's draft legislation entitled, ''To Clarify the Authority of the Executive Director of the Board to Bring Suit on Behalf on the Thrift Savings Fund in the District Courts of the United States''; to the Committee on Government Reform.

8338. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule — Prevailing Rate Systems; Definition of Santa Clara, CA, Nonappropriated Fund Wage Area (RIN: 3206-AJ61) received July 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

8339. A letter from the Director, Office of Personnel Management, transmitting the Department's final rule — Suspension of CHAMPVA or TRICARE or TRICARE-for-Life Eligibles' Enrollment in the Federal Employees Health Benefits (FEHB) Program (RIN: 3206-AJ36) received July 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

8340. A letter from the Chairman, Federal Election Commission, transmitting the Commission's final rule — Explanation and Justification for Revised Form 5 and Schedule E of Form 3X, Regarding Reporting of Independent Expenditures — received July 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

8341. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — National Coastal Wetlands Conservation Grant Program (RIN: 1018-AF51) received July 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8342. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Adminisatration, transmitting the Administration's final rule

— Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Spring Commercial Red Snapper Component [I.D. 062702B] received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8343. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the West Yakutat District of the Gulf of Alaska [Docket No. 011218304-01; I.D. 070802A] received July 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8344. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Atlantic Highly Migratory Species; Bluefin Tuna Recreational Fishery [I.D. 053102B] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8345. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Trip Limit Adjustments and Closures [Docket No. 011231309-2090-03; I.D. 062702C] received July 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8346. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; Pelagic Fisheries; Measures to Reduce the Incidental Catch of Seabirds in the Hawaii Pelagic Longline Fishery [Docket No. 000622191-2104-02; I.D. 041700D] (RIN: 0648-AO35) received July 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8347. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish by Vessels Using Trawl Gear in the Central Regulatory Area of the Gulf of Alaska [Docket No. 011218304-1304-01; I.D. 071102A] received July 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8348. A letter from the Acting Director. Office of Sustainablee Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Pacific Halibut Fisheries; Washington Sport Fisheries [Docket No. 020131023-2056-02; I.D. 070302B] received July 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8349. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment to the Fishery Amendment Plans of the Gulf of Mexico [Docket No. 010410086-2165-02; I.D. 020801A] (RIN: 0648-AN83) received July 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8350. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Commercial Haddock Harvest [Docket No. 010313064-1064-01; I.D. 070102E] received July 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8351. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administrator's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; ''Other Rockfish'' in the Western Regulatory Area of the Gulf of Alaska [Docket No. 011218304-1304-01; I.D. 071202G] received July 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8352. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Commercial Haddock Harvest [Docket No. 010313064-1064-01; I.D. 070102E] received July 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8353. A letter from the Federal Register Certifying Officer, Department of the Treasury, transmitting the Department's final rule — Indorsement and Payment of Checks Drawn on the United States Treasury (RIN: 1510-AA45) received May 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

8354. A letter from the General Counsel, Department of Commerce, transmitting a draft bill entitled, ''Hague Agreemet Implementation Act''; to the Committee on the Judiciary.

8355. A letter from the Director, Regulations and Forms Services Division, Department of Justice, transmitting the Department's final rule — Powers of the Attorney General to Authorize State or Local Law Enforcement Officers to Exercise Federal Immigration Enforcement Authority During a Mass Influx of Aliens [INS No. 1924-98; AG Order No. 2601-2002] (RIN: 1115-AF20) received July 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

8356. A letter from the Congressional Medal of Honor Society of the United States of America, transmitting the annual financial report of the Society for calendar year 2001, pursuant to 36 U.S.C. 1101(19) and 1103; to the Committee on the Judiciary.

8357. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Alternate Hull Examination Program for Certain Passenger Vessels, and Underwater Surveys for Nautical School, Offshore Supply, Passenger and Sailing School Vessels Coast Guard [USCG-2000-6858] (RIN: 2115-AF73) received July 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8358. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan [USCG-1998-4623] (RIN: 2115-AF38) received July 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8359. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Zanesville, OH [Airspace Docket No. 01-AGL-21] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8360. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revocation of Class E Airspace, Umiat, AK [Airspace Docket No. 01-AAL-1] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8361. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Noise Certification Standards for Subsonic Jet Airplanes and Subsonic Transport Category Large Airports [Docket No. FAA-2000-7587 Amdt No. 21-81, 36-24 and 91-275] (RIN: 2120-AH03) received July 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8362. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Beach Guidance and Required Performance Criteria for Grants — received July 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8363. A letter from the Chairman, Commission on the Future of the United States Aerospace Industry, transmitting the Commission's third interim report entitled, ''Commission on the Future of the United States Aerospace Industry''; to the Committee on Science.

8364. A letter from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule — NASA Grant and Cooperative Agreement Handbook — Rewrite of Section D — Cooperative Agreements with Commercial Firms and Implementation of Section 319 of Public Law 106-391, Buy American Encouragement (RIN: 2700-AC44) received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

8365. A letter from the Assistant Administrator for External Affairs, National Aeronautics and Space Administration, transmitting the Administration's final rule — Delegation of Authority (RIN: 2700-AC54) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

8366. A letter from the Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — National Oceanic and Atmospheric Administration(NOAA) Science Advisory Board — received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

8367. A letter from the Acting Director, Office of Regulatory Law, Department of Veterans Affairs, transmitting the Department's final rule — Board of Veterans' Appeals: Rules of Practice--Effect of Procedural Defects in Motions for Revision of Decisions on the Grounds of Clear and Unmistakable Error (RIN: 2900--AK74) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

8368. A letter from the Acting Director, Office of Regulatory Law, Department of Veterans Affairs, transmitting the Department's final rule — Ankylosis and limitation of motion of digits of the hands (RIN: 2900-AI44) received July 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

8369. A letter from the Acting Director, Office of Regulatory Law, Department of Veterans Affairs, transmitting the Department's final rule — Adjudication; Fiduciary Activities--Nomenclature Changes (RIN: 2900-AL10) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

8370. A letter from the Acting Director, Office of Regulatory Law, Department of Veterans Affairs, transmitting the Department's final rule — VA Acquisition Regulation: Construction and Architect-Engineer Contracts (RIN: 2900-AJ56) received July 25, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

8371. A letter from the Chief, Regulations Branch, Department of the Treasury, transmitting the Department's final rule — Access to Customs Security Areas At Airports (RIN: 1515-AD04) received July 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8372. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Relief From Joint and Several Liability (RIN: 1545-AW64) received July 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8373. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Rulings and determination letters (Rev. Proc. 2002-52) received July 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8374. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2002-48) received July 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8375. A letter from the Administrator, Environmental Protection Agency, transmitting a legislative proposal to implement three important international environmental agreements that represent critical steps forward to protecting environmental and human health in the United States and around the globe; jointly to the Committees on Agriculture and Energy and Commerce.

8376. A letter from the Deputy Secretary, Department of Defense, transmitting a report on Outreach to Gulf War Veterans Calendar Year 2001; jointly to the Committees on Armed Services and Veterans' Affairs.

8377. A letter from the Executive Director, Office of Compliance, transmitting the annual report on the use of the Office of Compliance by covered employees; jointly to the Committees on House Administration and Education and the Workforce.

8378. A letter from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting a draft bill entitled, ''Fort Sumter and Fort Moultrie National Historical Park Act of 2002''; jointly to the Committees on Resources and Transportation and Infrastructure.

8379. A letter from the Secretary, Department of Transportation, transmitting a bill entitled the ''Federal Railroad Safety Improvement Act''; jointly to the Committees on Transportation and Infrastructure, Energy and Commerce, and the Judiciary.

8380. A letter from the Executive Director, U.S. — China Security Review Commission, transmitting the Commission's first annual report entitled, ''The National Security Implications of the Economic Relationship between the United States and China''; jointly to the Committees on Ways and Means, International Relations, and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows;

Mr. HANSEN: Committee on Resources. H.R. 4883. A bill to reauthorize the Hydrographic Services Improvement Act of 1998, and for other purposes; with an amendment (Rept. 107–621). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 5012. A bill to amend the John F. Kennedy Center Act to authorize the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts, and for other purposes (Rept. 107–622). Referred to the Committee of the Whole House on the State of the Union.

Mr. BONILLA: Committee on Appropriations. H.R. 5263. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2003, and for other purposes (Rept. 107–623). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMAS: Committee of Conference. Conference report on H.R. 3009. A bill to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes (Rept. 107–624). Ordered to be printed.

Mr. REYNOLDS: Committee on Rules. House Resolution 509. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3009) an Act to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes (Rept 107–625). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mrs. JO ANN DAVIS of Virginia:

H.R. 5240. A bill to direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Northern Neck National Heritage Area in Virginia, and for other purposes; to the Committee on Resources.

By Mr. LANGEVIN (for himself, Mr. GREENWOOD, Mr. BRADY of Pennsylvania, Mr. PASCRELL, Mrs. MORELLA, Mr. MCHUGH, Mr. FROST, Mr. KILDEE, Mr. WAXMAN, Mr. CUMMINGS, Mr. OWENS, Mr. STARK, Mr. ENGEL, Mr. MCNULTY, Mr. BALDACCI, Mr. BAIRD, Ms. WOOLSEY, Mr. MCDERMOTT, Mr. SERRANO, Mr. HALL of Ohio, Mr. MARKEY, Ms. MCCOLLUM, Mr. FOLEY, Mr. MENENDEZ, Ms. BROWN of Florida, Mr. LAMPSON, Mr. MATSUI, Mr. OBERSTAR, Mr. GEORGE MILLER of California, Mr. DAVIS of Illinois, Mrs. CHRISTENSEN, Mrs. NAPOLITANO, Mr. ACKERMAN, Mr. FORD, Mr. FATTAH, Mr. LANTOS, Mr. FARR of California, Mrs. JONES of Ohio, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. GREEN of Texas):

H.R. 5241. A bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HOUGHTON (for himself and Mr. BOEHNER):

H.R. 5242. A bill to amend the Internal Revenue Code of 1986 to encourage the granting of employee stock options; to the Committee on Ways and Means.

By Mr. CARSON of Oklahoma (for himself, Mr. MATHESON, Mr. MORAN of Kansas, and Mr. BAIRD):

H.R. 5243. A bill to promote rural safety and improve rural law enforcement; to the Committee on the Judiciary, 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. DINGELL:

H.R. 5244. A bill to direct the Administrator of the Environmental Protection Agency to carry out certain authorities under an agreement with Canada respecting the importation of municipal solid waste, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ISSA:

H.R. 5245. A bill to study the feasibility and desirability of the formation of regional transmission organizations within the Western Electric Coordinating Council, and for other purposes; to the Committee on Energy and Commerce.

By Mr. LATHAM:

H.R. 5246. A bill to amend title XVIII of the Social Security Act to reform payments to rural and other health care providers under the Medicare Program, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LATHAM (for himself, Mr. GANSKE, Mr. NUSSLE, and Mr. THUNE):

H.R. 5247. A bill to amend the Agricultural Marketing Act of 1946 to increase competition and transparency among packers required to report information on the price and quantity of livestock purchased by the packer; to the Committee on Agriculture.

By Mr. HAYWORTH (for himself, Mr. STUMP, and Mr. SHADEGG):

H.R. 5248. A bill to provide legal exemptions for certain activities of the National Park Service, United States Forest Service, United States Fish and Wildlife Service, or the Bureau of Land Management undertaken in federally declared disaster areas; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LANTOS (for himself, Mr. BROWN of Ohio, Mr. SMITH of New Jersey, Mr. HILLIARD, Ms. WATSON, Ms. LEE, Mr. PALLONE, Mr. STUPAK, Mrs. NAPOLITANO, Mr. BERMAN, Mr. ACKERMAN, Mr. PAYNE, Mr. MEEKS of New York, Mr. HOEFFEL, Mr. SHERMAN, Ms. WOOLSEY, Ms. BERKLEY, Ms. MCKINNEY, and Ms. ROS-LEHTINEN):

H.R. 5249. A bill to promote safe and ethical clinical trials of drugs and other test articles on people overseas; to the Committee on International Relations.

By Mr. SMITH of New Jersey (for himself and Mr. EVANS):

H.R. 5250. A bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care; to the Committee on Veterans' Affairs.

By Mr. MANZULLO:

H.R. 5251. A bill to provide equitable pay to air traffic managers, supervisors, and specialists of the Federal Aviation Administration at regional and headquarters locations, and for other purposes; to the Committee on Government Reform.

By Mr. WAXMAN (for himself, Mr. MATSUI, and Mr. RANGEL):

H.R. 5252. A bill to protect the Social Security trust funds by ensuring that the Government repays its debts to the trust funds; to the Committee on Ways and Means, and in addition to the Committee on the Budget, 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. SANDLIN (for himself, Mr. SHOWS, Ms. EDDIE BERNICE JOHNSON

of Texas, Mr. REYES, Mr. ISRAEL, Mr. DOGGETT, Mr. ROSS, Mr. PASCRELL, Ms. SANCHEZ, Ms. BERKLEY, Mr. GONZALEZ, Mr. HOLT, Mr. MEEKS of New York, and Ms. SOLIS):

H.R. 5253. A bill to modify the antitrust exemption applicable to the business of medical malpractice insurance, to address current issues for health care providers, to reform medical malpractice litigation by making available alternative dispute resolution methods, requiring plaintiffs to submit affidavits of merit before proceeding, and enabling judgments to be satisfied through periodic payments, to reform the medical malpractice insurance market, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, Ways and Means, 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. HASTINGS of Florida:

H.R. 5254. A bill to require the Secretary of Education to provide assistance to the immediate family of a teacher or other school employee killed in an act of violence while performing school duties; to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, and 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. KIRK (for himself, Ms. ROS-LEHTINEN, Mr. SHAYS, Mr. WALSH, Mr. CROWLEY, Mr. GILMAN, Mr. SMITH of New Jersey, Mr. ISSA, Mr. DINGELL, Mr. PETRI, and Mr. DAVIS of Illinois):

H.R. 5255. A bill to endorse expansion of the Peace Corps to 14,000 volunteers by 2007, to authorize appropriations for the Peace Corps for fiscal years 2003 through 2007, and for other purposes; to the Committee on International Relations.

By Mr. FILNER:

H.R. 5256. A bill to redesignate the facility of the United States Postal Service located at 2777 Logan Avenue in San Diego, California, as the ''Cesar E. Chavez Post Office''; to the Committee on Government Reform.

By Mr. FLETCHER (for himself and Mr. CAPUANO):

H.R. 5257. A bill to provide private school parity with public schools in obtaining criminal background checks of employees, volunteers, and applicants, and for other purposes; to the Committee on Education and the Workforce.

By Mrs. KELLY (for herself and Ms. VELAZQUEZ):

H.R. 5258. A bill to amend the Investment Company Act of 1940 to provide incentives for small business investment; to the Committee on Financial Services.

By Mr. RYAN of Wisconsin (for himself, Mr. FLAKE, Mr. SESSIONS, Mr. ROYCE, Mr. AKIN, Mr. TANCREDO, Mr. SHADEGG, and Mr. TOOMEY):

H.R. 5259. A bill to reform Federal budget procedures to restrain congressional spending, foster greater oversight of the budget, account for accurate Government agency costs, and for other purposes; referred to the Committee on the Budget, for a period ending not later than August 31, 2002, and in addition to the Committee on Ways and Means, the committee on Rules and the Committee on Government Reform, for a period to be determined subsequently by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTINGS of Florida:

H.R. 5260. A bill to amend the Small Business Act to include drought in the definition of disaster for purposes of the disaster loan program administered by the Small Business Administration; to the Committee on Small Business.

By Mr. KIRK (for himself, Mr. UPTON, and Mr. KIND):

H.R. 5261. A bill to prohibit the issuance of new source permits under the Clean Air Act for certain sources that would result in the deposition of mercury into the Great Lakes System, and for other purposes; to the Committee on Energy and Commerce.

By Ms. JACKSON-LEE of Texas (for herself, Mrs. JONES of Ohio, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KUCINICH, Mr. PASCRELL, Mr. BRADY of Pennsylvania, Mr. KILDEE, Mr. MENENDEZ, Ms. MILLENDER-MCDONALD, Ms. DELAURO, Ms. BROWN of Florida, Ms. SCHAKOWSKY, Ms. WOOLSEY, Mr. LAMPSON, Ms. BERKLEY, Ms. LEE, Mr. REYES, Mr. WATTS of Oklahoma, Mrs. CLAYTON, Mrs. MORELLA, Ms. ROS-LEHTINEN, Mr. ROHRABACHER, Mr. BRADY of Texas, Mr. BECERRA, Mr. PALLONE, Mr. DAVIS of Illinois, Mr. GREEN of Texas, Mrs. MALONEY of New York, Mr. MEEKS of New York, Mr. LEWIS of Georgia, Mr. RUSH, Mr. FILNER, Mr. RODRIGUEZ, Ms. SOLIS, Mr. GONZALEZ, Mr. HONDA, Mr. PASTOR, Mr. WYNN, Mr. CUMMINGS, Mr. RANGEL, and Mr. HOLT):

H.R. 5262. A bill to create a separate DNA database for violent predators against children, and for other purposes; to the Committee on the Judiciary.

By Mr. DOGGETT (for himself, Mr. WAXMAN, Mr. HANSEN, Mr. BECERRA, Mr. CARDIN, Mr. COYNE, Mr. LEVIN, Mr. LEWIS of Georgia, Mr. MATSUI, Mr. MCDERMOTT, Mr. MCNULTY, Mr. STARK, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ALLEN, Mr. ANDREWS, Ms. BALDWIN, Mr. BENTSEN, Mr. BERMAN, Mr. BLUMENAUER, Mr. BROWN of Ohio, Mrs. CAPPS, Mr. CAPUANO, Mr. CARSON of Oklahoma, Mr. CROWLEY, Mr. DAVIS of Illinois, Mr. DEFAZIO, Ms. DEGETTE, Mr. DELAHUNT, Ms. ESHOO, Mr. EVANS, Mr. FARR of California, Mr. FILNER, Mr. GUTIERREZ, Mr. HINOJOSA, Mr. HOEFFEL, Mr. HOLT, Mr. HONDA, Ms. JACKSON-LEE of Texas, Mr. JACKSON of Illinois, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mr. KIND, Mr. KUCINICH, Mr. LAFALCE, Mr. LAMPSON, Mr. LANGEVIN, Mr. LANTOS, Ms. LEE, Ms. LOFGREN, Mr. LYNCH, Mrs. MCCARTHY of New York, Ms. MCCARTHY of Missouri, Mr. MCGOVERN, Mrs. MALONEY of New York, Mr. MATHESON, Mr. MEEHAN, Mr. MEEKS of New York, Mr. GEORGE MILLER of California, Mrs. MINK of Hawaii, Mr. NADLER, Mrs. NAPOLITANO, Mr. OBERSTAR, Mr. OLVER, Mr. OWENS, Mr. PALLONE, Mr. PASCRELL, Ms. PELOSI, Mr. RODRIGUEZ, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. RUSH, Ms. SANCHEZ, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SERRANO, Mr. SHERMAN, Ms. SLAUGHTER, Ms. SOLIS, Mr. TIERNEY, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Ms. VELAZQUEZ, Ms. WATERS, Ms. WATSON, Mr. WEINER, Ms. WOOLSEY, Mr. WU, and Ms. MILLENDER-MCDONALD):

H.R. 5264. A bill to amend the Internal Revenue Code of 1986 to deter the smuggling of tobacco products into the United States, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. JACKSON-LEE of Texas (for herself, Mr. LEWIS of Georgia, Mr. WYNN, Mr. BISHOP, Mr. RUSH, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FILNER, Mr. STARK, Mr. DAVIS of Illinois, Mrs. CLAYTON, Mr. PAYNE, Mr. SERRANO, Ms. LEE, Mr. BECERRA, Mr. RODRIGUEZ, Ms. SOLIS, Mr. GONZALEZ, Mr. PALLONE, Mr. HONDA, Mr. PASTOR, Ms. WATSON, Mr. CUMMINGS, and Mr. RANGEL):

H.R. 5265. A bill to establish the Cultural Competence Commission; to the Committee on Energy and Commerce.

By Mr. BARTON of Texas (for himself and Mr. TAUZIN) (both by request):

H.R. 5266. A bill to amend the Clean Air Act to reduce air pollution through expansion of cap and trade programs, to provide an alternative regulatory classification for units subject to the cap and trade program, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ACKERMAN:

H.R. 5267. A bill to modify the waiver authority of the President regarding foreign assistance restrictions with respect to Pakistan; to the Committee on International Relations.

By Mr. ANDREWS (for himself, Mr. GILMAN, Mr. BLUMENAUER, Mr. BARTLETT of Maryland, Mr. SMITH of New Jersey, and Mr. TANCREDO):

H.R. 5268. A bill to strengthen enforcement of provisions of the Animal Welfare Act relating to animal fighting, and for other purposes; to the Committee on Agriculture.

By Ms. BALDWIN (for herself and Mr. OBEY):

H.R. 5269. A bill to guarantee for all Americans quality, affordable, and comprehensive health insurance coverage; 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 Mrs. BIGGERT (for herself, Mr. EHLERS, Mrs. TAUSCHER, Ms. WOOLSEY, Mr. GRUCCI, Mr. HOLT, Mr. HONDA, Mr. WAMP, Mr. JOHNSON of Illinois, Mr. ANDREWS, Mr. CALVERT, Mr. HOUGHTON, Mr. HASTINGS of Washington, Mr. RUSH, Mr. CAPUANO, and Mr. BOSWELL):

H.R. 5270. A bill to authorize appropriations for fiscal years 2003, 2004, 2005, and 2006 for the Department of Energy Office of Science, to ensure that the United States is the world leader in key scientific fields by restoring a healthy balance of science funding, to ensure maximum utilization of the national user facilities, and to secure the Nation's supply of scientists for the 21st century, and for other purposes; to the Committee on Science.

By Mr. BONIOR:

H.R. 5271. A bill to waive time limitations specified by law in order to allow the Medal of Honor to be awarded to Gary Lee McKiddy, of Miamisburg, Ohio, for acts of valor while a helicopter crew chief and door gunner with the 1st Cavalry Division during the Vietnam War; to the Committee on Armed Services.

By Mr. BROWN of Ohio (for himself and Mr. WAXMAN):

H.R. 5272. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; to the Committee on Energy and Commerce.

By Mr. CARSON of Oklahoma (for himself and Mr. POMEROY):

H.R. 5273. A bill to reward the hard work and risk of individuals who choose to live in and help preserve America's small, rural towns, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CLAYTON (for herself, Ms. MCKINNEY, Mr. FROST, Mrs. THURMAN, Ms. KAPTUR, Mr. WATT of North Carolina, Mr. LEVIN, Mr. CUMMINGS, Mr. INSLEE, Ms. BROWN of Florida, Mr. DAVIS of Illinois, Mr. HOLDEN, Mr. ANDREWS, Ms. LEE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HILLIARD, Mr. WYNN, Mr. MARKEY, Mr. CLYBURN, Mrs. MEEK of Florida, Mrs. CHRISTENSEN, Mr. SCOTT, Mr. FORD, Mr. BISHOP, Mr. TOWNS, and Ms. WOOLSEY):

H.R. 5274. A bill to direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Northeastern North Carolina Heritage Area in North Carolina, and for other purposes; to the Committee on Resources.

By Mr. COSTELLO:

H.R. 5275. A bill to provide for the external regulation of nuclear safety and occupational safety and health at nonmilitary energy laboratories owned or operated by the Department of Energy; to the Committee on Science, and in addition to the Committees on Energy and Commerce, 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. DINGELL (for himself, Mr. BROWN of Ohio, Mr. WAXMAN, and Mr. STARK):

H.R. 5276. A bill to amend title XIX of the Social Security Act to improve the qualified Medicare beneficiary (QMB) and special low-income Medicare beneficiary (SLMB) programs within the Medicaid Program; to the Committee on Energy and Commerce.

By Mr. ENGLISH (for himself, Mr. POMEROY, and Mr. CAMP):

H.R. 5277. A bill to clarify the tax status of the Young Men's Christian Association retirement fund; to the Committee on Ways and Means.

By Mr. ENGLISH (for himself and Mr. NEAL of Massachusetts):

H.R. 5278. A bill to amend the Internal Revenue Code of 1986 to encourage investment in high productivity property, and for other purposes; to the Committee on Ways and Means.

By Ms. ESHOO (for herself, Mr. SIMMONS, Mrs. MALONEY of New York, Ms. SANCHEZ, Mr. RANGEL, Mr. BORSKI, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MCDERMOTT, Ms. WOOLSEY, Ms. MCCOLLUM, Ms. BROWN of Florida, Ms. DELAURO, Mr. FILNER, Mr. PASCRELL, Ms. PELOSI, Mr. PAYNE, Mr. HALL of Ohio, Mr. MORAN of Virginia, Ms. MCCARTHY of Missouri, Mr. KLECZKA, Mr. MCGOVERN, Mr. HINCHEY, Mr. BOUCHER, Mr. DELAHUNT, Mr. HOLT, Mr. OLVER, Mr. SERRANO, Mr. MOORE, Mr. CAPUANO, Mr. GONZALEZ, Mr. BLAGOJEVICH, Mr. FORD, Ms. LOFGREN, Ms. SOLIS, Mr. ROTHMAN, Mr. WEXLER, Mr. GUTIERREZ, Mrs. MEEK of Florida, Ms. RIVERS, Mr. EVANS, Mrs. CAPPS, Mr. BONIOR, Mr. CLAY, Mr. KUCINICH, Mr. BERMAN, Mr. BROWN of Ohio, Mr. FARR of California, Mr. CONYERS, Ms. BALDWIN, Mrs. MCCARTHY of New York, Mr. GEORGE MILLER of California, Mr. ENGEL, Mr. WEINER, Ms. WATERS, Mrs. LOWEY, Ms. CARSON of Indiana, Mr. DAVIS of Illinois, Mr. REYES, Mr. PALLONE, Mrs. DAVIS of California, Mr. FRANK, Mr. NEAL of Massachusetts, Mr. WAXMAN, Mr. SHERMAN, Mrs. MINK of Hawaii, Mr. MALONEY of Connecticut, Mr. SHAYS, Ms. LEE, Mr. LUTHER, Ms. SLAUGHTER, Mr. FALEOMAVAEGA, Ms. MILLENDER-MCDONALD, Mrs. NAPOLITANO, Mr. HONDA, Mr. LANTOS, Ms. NORTON, Mr. MCNULTY, Mr. TIERNEY, Ms. VELAZQUEZ, Mrs. JONES of Ohio, Ms. ROYBAL-ALLARD, Mr. HOEFFEL, Ms. SCHAKOWSKY, Mr. MEEKS of New York, Mr. CLEMENT, Mr. RUSH, Mr. CARDIN, Ms. BERKLEY, Mr. SANDERS, Mr. COYNE, Mr. WYNN, Mr. TOWNS, Mr. STARK, Mr. KENNEDY of Rhode Island, Mr. LEWIS of Georgia, Mr. UNDERWOOD, Mr. ANDREWS, Mr. LAMPSON, Mr. MEEHAN, Mr. LARSON of Connecticut, Mr. MENENDEZ, Mr. MARKEY, Mr. CLYBURN, Mr. WATT of North Carolina, Mr. JACKSON of Illinois, Mr. LIPINSKI, Mr. ABERCROMBIE, Mr. HASTINGS of Florida, Mr. NADLER, Mr. ISRAEL, Mr. CROWLEY, Mr. SAWYER, Mr. ACKERMAN, Ms. JACKSON-LEE of Texas, Mr. THOMPSON of Mississippi, Mrs. TAUSCHER, Mr. CUMMINGS, Mr. FATTAH, Mrs. CHRISTENSEN, Mr. JEFFERSON, Mr. LYNCH, and Mr. ACEVEDO-VILA):

H.R. 5279. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and related laws to strengthen the protection of native biodiversity and ban clearcutting on Federal lands, to designate certain Federal lands as Ancient Forests, Roadless Areas, Watershed Protection Areas, and Special Areas where logging and other intrusive activities are prohibited, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Resources, 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. FATTAH (for himself, Mr. HOEFFEL, and Mr. BRADY of Pennsylvania):

H.R. 5280. A bill to designate the facility of the United States Postal Service located at 2001 East Willard Street in Philadelphia, Pennsylvania, as the ''Robert A. Borski Post Office Building''; to the Committee on Government Reform.

By Mr. FLAKE (for himself, Mr. SHADEGG, Mr. JONES of North Carolina, Mr. CANNON, and Mr. HAYWORTH):

H.R. 5281. A bill to provide temporary legal exemptions for certain land management activities of the Federal land management agencies undertaken in federally declared disaster areas; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GREENWOOD (for himself and Mr. TOWNS):

H.R. 5282. 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; to the Committee on Energy and Commerce.

By Mr. HAYWORTH:

H.R. 5283. A bill to direct the Secretary of Agriculture to exchange certain land in the State of Arizona; to the Committee on Resources.

By Ms. HOOLEY of Oregon:

H.R. 5284. A bill to direct the President to assess the advisability of requiring each State to use the Death Master File of the Social Security Administration in issuing drivers' licenses to individuals; to the Committee on Ways and Means.

By Mr. INSLEE (for himself, Mr. NETHERCUTT, Mr. BOUCHER, Mr. MANZULLO, Mr. MORAN of Virginia, Mrs. MINK of Hawaii, Mr. LARSEN of Washington, Mr. KUCINICH, Mr. KLECZKA, Mr. LEACH, Ms. LOFGREN, Ms. BROWN of Florida, Mr. DICKS, and Mr. SMITH of Washington):

H.R. 5285. A bill to amend title 17, United States Code, with respect to royalty fees for webcasting, and for other purposes; to the Committee on the Judiciary.

By Mrs. JOHNSON of Connecticut (for herself, Mr. SHAYS, Mr. SIMMONS, and Mr. DAN MILLER of Florida):

H.R. 5286. A bill to amend title 38, United States Code, to require Department of Veterans Affairs pharmacies to dispense medications to veterans enrolled in the health care system of that Department for prescriptions written by private practitioners, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. JONES of North Carolina:

H.R. 5287. A bill to amend title 10, United States Code, to provide for forgiveness of certain overpayments of retired pay paid to deceased retired members of the Armed Forces following death; to the Committee on Armed Services.

By Mr. LAFALCE (for himself, Mr. QUINN, Mr. HOUGHTON, Mr. STUPAK, Mr. OBERSTAR, Mr. LARSEN of Washington, and Mr. MCDERMOTT):

H.R. 5288. A bill to reaffirm the historic treatment of part-time commuter students from Canada and Mexico as temporary visitors for purposes of entry into the United States; to the Committee on the Judiciary.

By Mr. LEVIN (for himself, Mr. BLAGOJEVICH, Mr. BONIOR, Mr. DAVIS of Illinois, Mr. DOGGETT, Mr. ENGEL, Mr. GILMAN, Mr. GUTIERREZ, Mr. HINCHEY, Mr. HOEFFEL, Mr. HORN, Ms. KAPTUR, Mr. KILDEE, Ms. KILPATRICK, Mr. KNOLLENBERG, Mr. KUCINICH, Mr. LANGEVIN, Mr. LANTOS, Mr. LIPINSKI, Mr. MCNULTY, Mrs. MEEK of Florida, Mr. MENENDEZ, Mr. PALLONE, Mr. QUINN, Mr. SCHAFFER, Mr. SHERMAN, Ms. SLAUGHTER, Mr. SMITH of New Jersey, Mr. WEINER, and Mr. WELDON of Pennsylvania):

H.R. 5289. A bill to authorize the Ukrainian Congress Committee of America to establish a memorial on Federal land in the District of Columbia to honor the victims of the Ukrainian famine-genocide of 1932-1933; to the Committee on Resources.

By Mr. MALONEY of Connecticut:

H.R. 5290. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for State and local real and personal property taxes paid by individuals; to the Committee on Ways and Means.

By Mrs. MALONEY of New York (for herself, Mr. GILMAN, Mr. KANJORSKI, Mr. FROST, Mr. GUTIERREZ, Ms. HOOLEY of Oregon, Mr. SANDLIN, Mr. GONZALEZ, Ms. LEE, Mr. ISRAEL, Mr. SHOWS, Mr. CROWLEY, Mr. JACKSON of Illinois, Mr. PAYNE, Mr. SAWYER, Mr. ALLEN, Ms. BERKLEY, and Ms. JACKSON-LEE of Texas):

H.R. 5291. A bill to amend the National Housing Act to authorize the Secretary of Housing and Urban Development to insure mortgages for the acquisition, construction, or substantial rehabilitation of child care

and development facilities and to establish the Children's Development Commission (Kiddie Mac) to certify such facilities for such insurance, and for other purposes; to the Committee on Financial Services.

By Mrs. MALONEY of New York (for herself, Mr. HORN, and Mr. TURNER):

H.R. 5292. A bill to improve Federal agency oversight of contracts and assistance and to strengthen accountability of the governmentwide debarment and suspension system; to the Committee on Government Reform.

By Mrs. MALONEY of New York (for herself, Mrs. MORELLA, Mr. CROWLEY, Mr. DINGELL, Mr. SMITH of Washington, Ms. ROYBAL-ALLARD, Mr. BERMAN, Mr. SANDERS, Ms. LEE, Mr. TOWNS, Mr. UDALL of Colorado, Mrs. LOWEY, and Mr. RANGEL):

H.R. 5293. A bill to amend the Foreign Assistance Act of 1961 to provide for permanent guidelines for United States voluntary contributions to the United Nations Population Fund (UNFPA); to the Committee on International Relations.

By Mrs. MALONEY of New York (for herself, Mr. WEINER, Ms. LEE, Mr. HONDA, Mr. SERRANO, Mr. CROWLEY, Mrs. MINK of Hawaii, Mr. RANGEL, Mr. TOWNS, Mr. FRANK, Mr. OWENS, Mr. ISRAEL, Mr. NADLER, and Mr. FROST):

H.R. 5294. A bill to accord honorary citizenship to the alien victims of the September 11, 2001, terrorist attacks against the United States and to provide for the granting of citizenship to the alien spouses and children of certain victims of such attacks; to the Committee on the Judiciary.

By Mr. DAN MILLER of Florida (for himself, Mr. YOUNG of Florida, and Mr. DAVIS of Florida):

H.R. 5295. A bill to direct the Secretary of the Interior to convey to the State of Florida certain lands under the administrative jurisdiction of the United States Fish and Wildlife Service, for use as a State Park; to the Committee on Resources.

By Mrs. MINK of Hawaii:

H.R. 5296. A bill to revive the system of parole for Federal prisoners; to the Committee on the Judiciary.

By Mrs. MINK of Hawaii:

H.R. 5297. A bill to provide for health care premium assistance; and to amend the Food Stamp Act of 1977 to exclude unemployment compensation for purposes of determining eligibility and benefits under such Act; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Education and the Workforce, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MORELLA:

H.R. 5298. A bill to provide for reform relating to Federal employee career development and benefits, and for other purposes; to the Committee on Government Reform.

By Mrs. MORELLA (for herself and Mr. BRADY of Pennsylvania):

H.R. 5299. A bill to provide for compassionate payments with regard to individuals who contracted human immunodeficiency virus due to the provision of a contaminated blood transfusion, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE (for himself and Mrs. ROUKEMA):

H.R. 5300. A bill to help protect the public against the threat of chemical attacks; to the Committee on Energy and Commerce.

By Mr. PETRI (for himself and Mr. DREIER):

H.R. 5301. A bill to strengthen secondary and post-secondary education programs emphasizing the nature, history, and philosophy of free institutions, the nature of Western civilization, and the nature of the threats to freedom from totalitarianism; to the Committee on Education and the Workforce.

By Mr. RADANOVICH:

H.R. 5302. A bill to facilitate a Forest Service land exchange that will eliminate a private in-holding in the Sierra National Forest in the State of California and provide for the permanent enjoyment by the Boy Scouts of America of a parcel of National Forest System land currently used under a special use permit, and for other purposes; to the Committee on Resources.

By Mr. ROHRABACHER:

H.R. 5303. A bill to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles ''Pete'' Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories; to the Committee on Science.

By Ms. SANCHEZ (for herself, Mr. PAUL, Mr. SHIMKUS, Mr. MCINTYRE, Ms. CARSON of Indiana, Mr. SANDERS, and Mr. HOEFFEL):

H.R. 5304. A bill to amend the Internal Revenue Code of 1986 to allow the deduction for health insurance costs of self-employed individuals to be allowed in computing self-employment taxes; to the Committee on Ways and Means.

By Mr. SANDERS:

H.R. 5305. A bill to authorize the disinterment from the Lorraine American Cemetery in St. Avold, France, of the remains of Private First Class Alfred J. Laitres, of Island Pond, Vermont, who died in combat in France on December 25, 1944, and to authorize the transfer of his remains to the custody of his next of kin; to the Committee on Veterans' Affairs.

By Mr. SANDERS:

H.R. 5306. A bill to provide assistance for the development of indoor disease prevention and health promotion centers in urban and rural areas throughout the United States; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAXTON (for himself and Mr. COBLE):

H.R. 5307. A bill to provide for the use of COPS funds for State and local intelligence officers, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHAFFER (for himself, Mr. UDALL of Colorado, Mr. TANCREDO, Mr. HEFLEY, Ms. DEGETTE, and Mr. MCINNIS):

H.R. 5308. A bill to designate the facility of the United States Postal Service located at 301 South Howes Street in Fort Collins, Colorado, as the ''Barney Apodaca Post Office''; to the Committee on Government Reform.

By Mr. SHADEGG (for himself, Mr. HANSEN, Mr. MCINNIS, Mr. FLAKE, Mr. SCHAFFER, Mr. GIBBONS, Mr. HERGER, Mrs. CUBIN, Mr. KINGSTON, Mr. HOEKSTRA, Mr. DOOLITTLE, Mr. HEFLEY, Mr. TANCREDO, Mr. DEMINT, Mr. BRYANT, Mr. PETERSON of Pennsylvania, Mr. HAYWORTH, and Mr. CANNON):

H.R. 5309. A bill to authorize the Regional Foresters to exempt tree-thinning projects, which are necessary to prevent the occurrence of wildfire likely to cause extreme harm to the forest ecosystem, from laws that give rise to legal causes of action that delay or prevent such projects; to the Committee on Agriculture, and in addition to the Committee on Resources, 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. THUNE (for himself, Mr. MORAN of Kansas, Mr. OSBORNE, Mr. REHBERG, Mr. BEREUTER, Mr. POMEROY, Mr. LUCAS of Oklahoma, Mr. UDALL of New Mexico, Mr. TERRY, Mr. PETERSON of Minnesota, Mr. GIBBONS, Mrs. CUBIN, and Mr. MCINNIS):

H.R. 5310. A bill to provide emergency livestock assistance and emergency crop loss assistance to agricultural producers; to the Committee on Agriculture.

By Mr. THUNE (for himself, Mrs. EMERSON, Mr. KINGSTON, Mr. GUTKNECHT, Mrs. NORTHUP, Mr. MANZULLO, Mr. CALVERT, Mr. GOODE, Mr. BEREUTER, Mr. HOEKSTRA, and Mr. GOODLATTE):

H.R. 5311. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; to the Committee on Energy and Commerce.

By Mr. TIERNEY (for himself, Mr. SAWYER, Mr. SHIMKUS, Ms. BALDWIN, Mr. HORN, Mr. GONZALEZ, Mr. KENNEDY of Rhode Island, Mr. PHELPS, Mr. DAVIS of Illinois, Mr. UDALL of New Mexico, Mr. VISCLOSKY, Mr. SERRANO, Mr. BROWN of Ohio, Mr. HILLIARD, Mr. STARK, Mr. HINOJOSA, Mr. PAYNE, Mr. ANDREWS, and Mr. GEORGE MILLER of California):

H.R. 5312. A bill to support business incubation in academic settings, and for other purposes; to the Committee on Education and the Workforce.

By Ms. WATERS:

H.R. 5313. A bill to provide incentives for States to have in effect laws mandating the reporting of child abuse by certain individuals, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WYNN (for himself, Ms. JACKSON-LEE of Texas, Mrs. CHRISTENSEN, Mr. CUMMINGS, Mr. SCOTT, Mr. DAVIS of Illinois, and Mrs. CLAYTON):

H.R. 5314. 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.

By Mr. DEFAZIO (for himself, Mr. KUCINICH, Mr. CROWLEY, Mr. UDALL of Colorado, Mr. HINCHEY, Mr. GEORGE MILLER of California, Mr. JACKSON of Illinois, Mr. FILNER, Ms. HOOLEY of Oregon, Mr. UDALL of New Mexico, Mr. FARR of California, Ms. SLAUGHTER, Ms. MCKINNEY, Ms. WATERS, Ms. WOOLSEY, and Mr. SHIMKUS):

H.J. Res. 109. 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 International Relations.

By Mr. DAVIS of Illinois:

H. Con. Res. 452. Concurrent resolution supporting the efforts and activities of individuals, organizations, and other entities to honor the lives of enslaved Africans in the United States and to make reparations to

their descendants for slavery and its lingering effects; to the Committee on Government Reform.

By Mr. HYDE (for himself and Mr. ROYCE):

H. Con. Res. 453. Concurrent resolution expressing the sense of Congress relating to the increasingly dire food security situation in Zimbabwe and the failure of the Mugabe regime to take appropriate measures to mitigate the impact of its failed policies on the nutritional well-being of the people of Zimbabwe and of other countries in the Southern Africa region; to the Committee on International Relations.

By Mr. KOLBE (for himself and Mr. HOYER):

H. Con. Res. 454. Concurrent resolution expressing the sense of Congress regarding housing affordability and urging fair and expeditious review by international trade tribunals to ensure a competitive North American market for softwood lumber; to the Committee on Ways and Means.

By Mr. LEACH (for himself, Mr. KIND, Ms. MCCOLLUM, Mr. RAMSTAD, Mr. OBERSTAR, Mr. SABO, Mr. NUSSLE, Mr. LUTHER, Mr. EVANS, Mr. BOSWELL, Mr. MANZULLO, Mr. GUTKNECHT, and Mr. LATHAM):

H. Con. Res. 455. Concurrent resolution to express support for the celebration in 2004 of the 150th anniversary of the Grand Excursion of 1854; to the Committee on Government Reform.

By Ms. MCCOLLUM (for herself, Mr. RAMSTAD, Mr. LUTHER, Mr. OBERSTAR, and Mr. SABO):

H. Con. Res. 456. Concurrent resolution recognizing the occasion of the Sixth World Symposium on Choral Music, to be held August 3-10, 2002, in Minneapolis and Saint Paul, Minnesota; to the Committee on International Relations.

By Mr. SCHAFFER:

H. Con. Res. 457. Concurrent resolution honoring Rick Lee Schwartz and Milt Stollak, who died in a plane crash on July 18, 2002, while fighting the Big Elk fires near Estes Park, Colorado; to the Committee on Government Reform.

By Mr. SMITH of Texas (for himself, Mr. CAPUANO, Mr. LEACH, and Mrs. LOWEY):

H. Con. Res. 458. Concurrent resolution recognizing and commending Mary Baker Eddy's achievements and the Mary Baker Eddy Library for the Betterment of Humanity; to the Committee on Government Reform.

By Mr. REYNOLDS:

H. Res. 509. A resolution waiving points of order against the conference report to accompany the bill (H.R. 3009) an Act to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; considered and agreed to.

By Mr. ARMEY:

H. Res. 510. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. LOBIONDO:

H. Res. 511. A resolution expressing the sense of the House of Representatives that funding should be made available from the Highway Trust Fund to encourage States to require law enforcement officers to impound motor vehicles of those charged with driving while intoxicated and to issue responsibility warnings to those who take custody of suspects of driving while intoxicated; to the Committee on Transportation and Infrastructure.

By Mr. PALLONE (for himself and Mr. BROWN of Ohio):

H. Res. 512. A resolution honoring the Indian American Friendship Council; to the Committee on International Relations.

By Mr. WALSH (for himself, Mr. GILMAN, Mr. GALLEGLY, Mr. NEAL of Massachusetts, Mr. QUINN, Mr. SMITH of New Jersey, Mr. ENGEL, Mr. KING, Mr. KENNEDY of Rhode Island, Mr. CROWLEY, Mr. ACKERMAN, Ms. DUNN, Mr. MCHUGH, Mr. HYDE, and Mr. DELAHUNT):

H. Res. 513. A resolution recognizing the historical significance and timeliness of the United States-Ireland Business Summit; to the Committee on International Relations.

By Mr. WELDON of Florida (for himself, Mr. PENCE, Mr. PITTS, Mr. GUTKNECHT, Mr. KERNS, and Mr. JONES of North Carolina):

H. Res. 514. A resolution expressing serious concern regarding the publication of instructions on how to create a synthetic human polio virus, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Science, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WYNN (for himself, Ms. JACKSON-LEE of Texas, Mrs. CHRISTENSEN, Mr. TOWNS, Mr. CUMMINGS, Mr. SCOTT, Mrs. CLAYTON, Mr. DAVIS of Illinois, Ms. NORTON, and Mr. PAYNE):

H. Res. 515. A resolution expressing the sense of the House of Representatives that small business concerns should continue to play an active role in assisting the United States military, Federal intelligence and law enforcement agencies, and State and local police forces by designing and developing innovative products to combat terrorism, and that Federal, State, and local governments should aggressively seek out and purchase innovative technologies and services from small business concerns to improve homeland defense and aid in the fight against terrorism; to the Committee on Small Business.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

352. The SPEAKER presented a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 703 memorializing the United States Congress to sustain the President's affirmative decision on Yucca Mountain's suitability as a permanent federal repository for high-level radioactive materials; to the Committee on Energy and Commerce.

353. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 841 memorializing the United States Congress to enact legislation requiring providers of cellular telephone service to make priority access to cellular telephone service available to emergency service providers in order to assure its availability during public emergencies; to the Committee on Energy and Commerce.

354. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 659 memorializing the United States Congress to support the admission of the Baltic States of Estonia, Latvia, and Lithuania to the North Atlantic Treaty Organization; to the Committee on International Relations.

355. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 866 memorializing the United States Congress to express appreciation to the President of the United States, George W. Bush, for his condemnation of the vicious terrorist acts committed against the nation of Israel; to the Committee on International Relations.

356. Also, a memorial of the Legislature of the State of Colorado, relative to Senate Joint Resolution No. 02-001 memorializing the United States Congress to demand that the USS Pueblo be returned to the United States Navy; to the Committee on International Relations.

357. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 965 memorializing the United States Congress to enact legislation granting posthumous citizenship to noncitizen servicemen killed in action while serving our nation in the armed forces of the United States; to the Committee on the Judiciary.

358. Also, a memorial of the Senate of the State of Oklahoma, relative to Senate Resolution No. 59 petitioning the President and the United States Congress to adopt a National Intercity Passenger Rail Policy that would include dedicated funding for the High-Speed Rail Corridor System; to the Committee on Transportation and Infrastructure.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. WYNN introduced a bill (H.R. 5315) for the relief of Web's Construction Company, Incorporated; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 68: Mrs. MORELLA, Mr. PASTOR, Mr. SHOWS, Mrs. MALONEY of New York, Mr. HOSTETTLER, Mrs. JO ANN DAVIS of Virginia, Mr. WELLER, and Mr. PITTS.

H.R. 239: Mr. HOEFFEL.

H.R. 285: Mr. DAVIS of Illinois.

H.R. 294: Mr. CHABOT.

H.R. 348: Mr. RANGEL, Mrs. MORELLA, Mr. CROWLEY, Mr. REYES, Mr. FRANK, Mr. MENENDEZ, Ms. SANCHEZ, and Mr. MCDERMOTT.

H.R. 360: Mr. MENENDEZ and Mrs. THURMAN.

H.R. 488: Ms. WATERS.

H.R. 536: Mr. NEAL of Massachusetts.

H.R. 599: Ms. MCCOLLUM.

H.R. 600: Mr. LARSON of Connecticut.

H.R. 638: Mr. GEPHARDT.

H.R. 690: Ms. KILPATARICK.

H.R. 831: Mr. STRICKLAND.

H.R. 848: Mr. FARR of California.

H.R. 854: Mr. SHAW, Mr. BOYD, and Mr. WEXLER.

H.R. 902: Mr. HOEFFEL and Ms. KAPTUR.

H.R. 951: Mr. NUSSLE, Mr. BILIRAKIS, Mr. FOSSELLA, and Mr. REHBERG.

H.R. 978: Mr. PETERSON of Minnesota.

H.R. 1089: Mr. BECERRA.

H.R. 1109: Mr. OSBORNE.

H.R. 1143: Mr. DEUTSCH.

H.R. 1155: Ms. HARMAN.

H.R. 1182: Mr. BARTLETT of Maryland.

H.R. 1198: Mr. ADERHOLT.

H.R. 1201: Mr. PAYNE.

H.R. 1485: Mr. NEAL of Massachusetts.

H.R. 1490: Mr. SPRATT.

H.R. 1517: Mrs. DAVIS of California.

H.R. 1581: Mr. GOODLATTE.

H.R. 1624: Ms. ROYBAL-ALLARD.

H.R. 1672: Ms. KILPATRICK, Mr. WATT of North Carolina, Mr. NADLER, Mr. PALLONE, Mr. CLYBURN, and Mr. BISHOP.

H.R. 1723: Mr. CLAY.

H.R. 1808: Mr. HONDA and Mr. PETERSON of Minnesota.

H.R. 1841: Mr. LUTHER, Ms. SOLIS, Mr. HONDA, Mr. SHIMKUS, Mr. SABO, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 2041: Mr. PAUL.
H.R. 2063: Mr. SABO and Mr. BARRETT.
H.R. 2098: Mr. SCHROCK.
H.R. 2125: Mr. KANJORSKI and Mr. PICKERING.
H.R. 2142: Mr. BONIOR and Ms. VELÁZQUEZ.
H.R. 2145: Ms. KILPATRICK and Mr. CLYBURN.
H.R. 2160: Mr. BEREUTER.
H.R. 2198: Ms. SANCHEZ.
H.R. 2219: Mr. FRANK.
H.R. 2284: Mr. WOLF and Mr. CAPUANO.
H.R. 2350: Mr. NORWOOD, Mr. DOYLE, Mr. DAVIS of Illinois, and Mr. OSBORNE.
H.R. 2357: Mr. PHELPS and Mr. BARTON of Texas.
H.R. 2380: Mrs. MINK of Hawaii.
H.R. 2527: Mr. GREEN of Wisconsin, Mr. HOUGHTON, and Ms. SCHAKOWSKY.
H.R. 2573: Mr. BOEHLERT, Mr. LANTOS, and Mr. JACKSON of Illinois.
H.R. 2649: Mr. BUYER, Mr. HAYES, Mr. DUNCAN, Mr. PETERSON of Minnesota, and Mr. BASS.
H.R. 2674: Mr. BLUMENAUER.
H.R. 2735: Mr. LUCAS of Oklahoma.
H.R. 2740: Mr. SCHROCK.
H.R. 2874: Ms. DEGETTE.
H.R. 2966: Mr. HONDA and Mr. KENNEDY of Rhode Island.
H.R. 3132: Ms. JACKSON-LEE of Texas, Mrs. CAPPS, Mr. GEORGE MILLER of California, and Mr. REYES.
H.R. 3234: Mr. SNYDER and Mr. HINCHEY.
H.R. 3236: Ms. MCCARTHY of Missouri, Mr. ABERCROMBIE, and Mr. SANDERS.
H.R. 3273: Mr. GREEN of Wisconsin.
H.R. 3320: Mr. GOODLATTE.
H.R. 3324: Mr. WOLF, Mr. DOYLE, and Mr. KINGSTON.
H.R. 3351: Mrs. BONO and Mr. ISTOOK.
H.R. 3368: Mr. SANDERS and Ms. SOLIS.
H.R. 3431: Mr. BOOZMAN, Mr. NETHERCUTT, Mr. LINDER, Mr. CAMP, Mr. WATT of North Carolina, Ms. MILLENDER-MCDONALD, Ms. LOFGREN, Mr. ETHERIDGE, and Mr. BISHOP.
H.R. 3450: Mr. SHAW.
H.R. 3464: Mr. LANGEVIN.
H.R. 3533: Mr. GOODLATTE.
H.R. 3612: Ms. MCCOLLUM, Mr. GEPHARDT, Mr. SANDERS, and Mr. FROST.
H.R. 3630: Mr. FOLEY, Mr. WEXLER, Mr. DAN MILLER of Florida, Mr. DAVIS of Florida, Mr. GOSS, and Mr. CRENSHAW.
H.R. 3659: Mr. PALLONE, Mr. TOWNS, and Ms. EDDIE BERNICE JOHNSON of Texas.
H.R. 3673: Mr. CHAMBLISS.
H.R. 3781: Mr. RANGEL and Mr. LINDER.
H.R. 3794: Ms. SOLIS.
H.R. 3804: Mr. RANGEL Ms. SCHAKOWSKI, and Ms. ROYBAL-ALLARD.
H.R. 3807: Mr. CUMMINGS.
H.R. 3831: Mr. LEWIS of Kentucky.
H.R. 3834: Mr. GOODLATTE.
H.R. 3836: Mr. LANTOS.
H.R. 3884: Mr. WU.
H.R. 3897: Mr. LATHAM.
H.R. 3956: Ms. MCKINNEY.
H.R. 3974: Mr. WATT of North Carolina, Mr. KILDEE, Mr. HAYES, and Mr. NADLER.
H.R. 3992: Ms. BROWN of Florida, Mr. NEAL of Massachusetts, and Mr. DIAZ-BALART.
H.R. 4011: Mr. SMITH of Washington.
H.R. 4017: Mr. JEFF MILLER of Florida.
H.R. 4018: Mr. LAMPSON.
H.R. 4043: Mr. KENNEDY of Minnesota.
H.R. 4051: Mr. KILDEE and Mr. CLEMENT.
H.R. 4066: Mr. FERGUSON.
H.R. 4075: Mr. CARDIN and Mr. BACA.
H.R. 4086: Mr. STUPAK.
H.R. 4089: Ms. MCKINNEY.
H.R. 4091: Ms. MCKINNEY.
H.R. 4102: Ms. BERKLEY.
H.R. 4113: Mr. ALLEN, Mr. BLUMENAUER, Mr. ROTHMAN, Ms. WATERS, and Mr. PAYNE.
H.R. 4205: Mr. BALDACCI.
H.R. 4555: Mr. KERNS, Mr. BEREUTER, Mr. SCHAFFER, Mr. KINGSTON, and Mr. BACHUS.
H.R. 4561: Mr. BLUMENAUER, Mr. CANNON, and Ms. BERKLEY.
H.R. 4582: Ms. MCCOLLUM.
H.R. 4600: Mr. COLLINS, Mr. KNOLLENBERG, and Mr. LEACH.
H.R. 4606: Mr. WAXMAN and Ms. SCHAKOWSKY.
H.R. 4607: Mr. PASCRELL and Mr. MCDERMOTT.
H.R. 4621: Mr. TIERNEY.
H.R. 4641: Ms. MCCARTHY of Missouri and Mr. LARSON of Connecticut.
H.R. 4646: Mr. LUCAS of Kentucky and Mr. MEEHAN.
H.R. 4653: Ms. KAPTUR.
H.R. 4672: Mr. PASCRELL.
H.R. 4676: Mr. FILNER, Mr. FRANK, and Mr. KILDEE.
H.R. 4683: Mr. HONDA.
H.R. 4691: Mr. VITTER, Mr. PENCE, Mr. HAYES, Mr. FLAKE, Mr. JONES of North Carolina, and Mr. LINDER.
H.R. 4696: Mr. COMBEST, Mr. MCKEON, Mr. POMBO, Mr. LUCAS of Oklahoma, Mr. THORNBERRY, Mr. KINGSTON, Mr. CALVERT, Mr. DOOLITTLE, Ms. GRANGER, Mr. SAM JOHNSON of Texas, and Mr. NETHERCUTT.
H.R. 4701: Mr. UDALL of Colorado, Mr. BOSWELL, Mr. HILLEARY, Mr. SABO, Mr. TANNER, Mr. PAYNE, Mr. GRUCCI, Mr. WALSH, Mr. TOM DAVIS of Virginia, Mrs. KELLY, Mr. PETERSON of Pennslyvania, Mr. UPTON, Mr. ROEMER, Mr. RANGEL, Mr. CLAY, Mr. WOLF, and Mr. HOUGHTON.
H.R. 4704: Mr. PRICE of North Carolina.
H.R. 4706: Ms. CARSON of Indiana.
H.R. 4729: Mr. RANGEL and Mr. CLEMENT.
H.R. 4738: Mr. GOODLATTE.
H.R. 4777: Mr. LEVIN.
H.R. 4780: Ms. NORTON, Mr. LANGEVIN, Mr. WAXMAN, Mr. SANDERS, Mr. ACKERMAN, and Mr. ETHERIDGE.
H.R. 4793: Mr. RANGEL, Mr. LARSON of Connecticut, and Mrs. MORELLA.
H.R. 4799: Ms. SCHAKOWSKY.
H.R. 4803: Mr. PLATTS, Mr. LYNCH, Mr. WEXLER, and Mr. SANDERS.
H.R. 4804: Mr. OTTER, Mr. TIAHRT, Mr. GARY G. MILLER of California, Mr. PITTS, Mr. RILEY, and Mr. BALLENGER.
H.R. 4831: Mr. SCOTT, Mr. MCNULTY, and Mr. MCGOVERN.
H.R. 4834: Mrs. MINK of Hawaii.
H.R. 4843: Mr. SMITH of New Jersey and Ms. CARSON of Indiana.
H.R. 4887: Mr. WU.
H.R. 4937: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. CROWLEY.
H.R. 4947: Mr. MORAN of Virginia and Mrs. TAUSCHER.
H.R. 4950: Mr. HOEKSTRA, Mr. EHLERS, Mr. SCHAFFER, Mrs. JO ANN DAVIS of Virginia, Mr. ARMEY, and Mr. BARTLETT of Maryland.
H.R. 4957: Ms. BERKLEY, Mr. COSTELLO, Mr. DOOLEY of California, Ms. ROYBAL-ALLARD, and Mr. STARK.
H.R. 4963: Mrs. MEEK of Florida and Mr. BACA.
H.R. 4964: Mr. MORAN of Virginia and Ms. CARSON of Indiana.
H.R. 5013: Mr. PETERSON of Pennsylvania, Mr. SULLIVAN, and Mr. DOOLITTLE.
H.R. 5023: Mr. UNDERWOOD, Mr. FARR of California, Mr. MCKINNEY, Mr. CROWLEY, Mr. ISRAEL, and Mr. KUCINICH.
H.R. 5035: Mr. WAMP, Mr. PRICE of North Carolina, and Mr. CLEMENT.
H.R. 5040: Mr. SHAYS and Mr. MCNULTY.
H.R. 5057: Mr. WOLF.
H.R. 5060: Mr. BONIOR, Mr. BACA, Mr. CLAY, Mr. EVERETT, and Mr. VISCLOSKY.
H.R. 5064: Mrs. JO ANN DAVIS of Virginia and Mr. SESSIONS.
H.R. 5068: Ms. LEE and Ms. MILLENDER-MCDONALD.
H.R. 5085: Mr. ARMEY, Mr. SWEENEY, Mr. ISRAEL, Mr. JOHNSON of Illinois, Mr. BERMAN and Mr. FROST.
H.R. 5098: Mr. PALLONE.
H.R. 5105: Mr. SANDERS.
H.R. 5116: Mr. BAIRD, Mr. DICKS, Ms. DUNN, Mr. INSLEE, Mr. LARSEN of Washington, Mr. MCDERMOTT, Mr. NETHERCUTT, Mr. SMITH of Washington, and Mr. WALDEN of Oregon.
H.R. 5124: Mr. LYNCH, Mr. SABO, Mr. FROST, Mr. BROWN of Ohio, Mr. TURNER, Mrs. JONES of Ohio, Mr. STARK, Mr. KILDEE, Mrs. CHRISTENSEN, and Mr. BAIRD.
H.R. 5130: Mr. GRUCCI, Mr. WEXLER, Mr. VISCLOSKY, and Ms. RIVERS.
H.R. 5146: Mr. FERGUSON.
H.R. 5147: Mr. ROYCE and Mr. FLETCHER.
H.R. 5157: Mr. SWEENEY and Mr. WATT of North Carolina.
H.R. 5158: Mr. RODRIGUEZ.
H.R. 5185: Mr. REHBERG.
H.R. 5187: Mr. BECERRA, Ms. SANCHEZ, Mr. HOLT, Ms. MCCOLLUM, and Mr. CROWLEY.
H.R. 5191: Mr. FILNER.
H.R. 5193: Mr. UPTON.
H.R. 5196: Mr. FORBES, Mr. KERNS, and Mr. OTTER.
H.R. 5202: Mr. KLECZKA.
H.R. 5207: Mr. GUTKNECHT, Mr. KENNEDY of Minnesota, Ms. MCCOLLUM, Mr. SABO, Mr. LUTHER, Mr. PETERSON of Pennsylvania, and Mr. OBERSTAR.
H.R. 5214: Mr. THUNE, Mr. POMBO, Mr. HANSEN, and Mr. NETHERCUTT.
H.R. 5227: Mr. REHBERG, Mr. MCINNIS, and Mr. BEREUTER.
H.R. 5233: Mr. HOEFFEL.
H.J. Res. 86: Mr. TAYLOR of Mississippi.
H.J. Res. 91: Mr. SESSIONS.
H.J. Res. 105: Mr. GEPHARDT.
H. Con. Res. 20: Ms. ROS-LEHTINEN, Mr. PHELPS, Mr. WEXLER, and Mr. COSTELLO.
H. Con. Res. 46: Ms. WOOLSEY, Mr. LINDER, and Mr. GUTIERREZ.
H. Con. Res. 99: Mr. UNDERWOOD, Mr. FALEOMAVAEGA, and Ms. EDDIE BERNICE JOHNSON of Texas.
H. Con. Res. 297: Mr. UNDERWOOD, Ms. MCKINNEY, Mr. SCHIFF, Mr. CROWLEY, Mr. WEXLER, Mr. SOUDER, and Mr. HALL of Ohio.
H. Con. Res. 345: Ms. WATERS and Mr. SCHIFF.
H. Con. Res. 401: Mr. SHERMAN.
H. Con. Res. 403: Mr. MATSUI.
H. Con. Res. 406: Mr. CHABOT.
H. Con. Res. 432: Mr. ANDREWS, Mr. BURTON of Indiana, Mr. ROHRABACHER, Ms. WATSON, Mr. CRAMER, Mr. JEFFERSON, Mr. KIND, Mr. BISHOP, Mrs. TAUSCHER, Mr. JONES of North Carolina, Mr. GUTKNECHT, Mr. BOEHLERT, Mr. GREENWOOD, Mrs. MEEK of Florida, Mr. HASTINGS of Florida, Mr. FOLEY, and Mr. BLUMENAUER.
H. Con. Res. 437: Mr. CLEMENT.
H. Con. Res. 438: Mr. HILLIARD and Mr. WATT of North Carolina.
H. Con. Res. 445: Mr. ISTOOK, Mr. SOUDER, and Mrs. JO ANN DAVIS of Virginia.
H. Res. 117: Ms. SLAUGHTER.
H. Res. 226: Mr. BACA.
H. Res. 398: Mr. COLLINS, Mr. HAYWORTH, Mr. FRELINGHUYSEN, Mr. BONILLA, Mr. LEWIS of California, Mr. TAUZIN, Mr. SHIMKUS, Mr. MARKEY, Ms. HART, Mr. NORWOOD, Mr. SANDERS, Mr. FORD, Mr. SMITH of New Jersey, and Mr. UPTON.
H. Res. 429: Mrs. MORELLA, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BENTSEN, Mrs. MALONEY of New York, Mr. COMBEST, Mrs. BONO, Mr. TOM DAVIS of Virginia, and Mr. BOOZMAN.
H. Res. 467: Mr. ROHRABACHER and Ms. BERKLEY.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

65. The SPEAKER presented a petition of the Legislature of Westchester County, New

York, relative to Resolution No. 81-2002 petitioning the United States Congress to reject the President's proposal to amend the formula distribution for all CDBG entitlement agencies and to continue the important investment it leverages in local communities; to the Committee on Financial Services.

66. Also, a petition of the Village of Downers Grove, relative to Resolution No. 2002-53 petitioning the United States Congress to immediately pass H.R. 1097 establishing FDA authority over tobacco products; to the Committee on Energy and Commerce.

67. Also, a petition of the Board of Regents, Baylor University, relative to a Resolution petitioning the United States Congress that the Board herby expresses our deepest and most heartfelt sympathy to all families affected by this national tragedy and extend our prayers that faith in God will sustain each individual touched by this immeasurable loss; to the Committee on International Relations.

68. Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 337 petitioning the United States Congress to call for the widespread condemnation of terrorism; to the Committee on International Relations.

69. Also, a petition of the Committee of the Township of Hopewell, Mercer County, relative to Resolution No. 02-198 petitioning the President and the United States Congress to direct the Federal Aviation Administration to include the reduction of aircraft noise as a major goal in the redesign of aircraft traffic patterns over New Jersey; to the Committee on Transportation and Infrastructure.

70. Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 336 petitioning the United States Congress to enact the Next Step in Reforming Welfare Act; to the Committee on Ways and Means.

71. Also, a petition of the Town Board of Ulster, relative to a Resolution petitioning the United States Congress to support and adopt HR 3724 IH to provide a valuable incentive to volunteer firefighters and volunteer ambulance corps members; to the Committee on Ways and Means.

72. Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 342 petitioning the United States Congress to enact the Child Development and Family Employment Act of 2002; jointly to the Committees on Ways and Means and Education and the Workforce.

73. Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 341 petitioning the United States Congress to enact the Leave No Child Behind Act of 2001; jointly to the Committees on Ways and Means, Energy and Commerce, Education and the Workforce, House Administration, the Judiciary, and Financial Services.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:

Petition 9. July 23, 2002, by Ms. CARSON on House Resolution 479, was signed by the following Members: Julia Carson, Hilda L. Solis, Ciro D. Rodriguez, Rush D. Holt, Martin Frost, Barbara Lee, Dennis J. Kucinich, Jane Harman, Jim McDermott, Martin T. Meehan, Sanford D. Bishop, Jr., Grace F. Napolitano, Mark Udall, Robert E. Andrews, Gary L. Ackerman, Tom Sawyer, Carolyn B. Maloney, Steven R. Rothman, Shelley Berkley, Ruben Hinojosa, Dale E. Kildee, Brian Baird, James R. Langevin, Gregory W. Meeks, Bob Clement, Lois Capps, Michael M. Honda, John B. Larson, Joe Baca, Diane E. Watson, John J. LaFalce, James P. McGovern, John W. Olver, Lucille Roybal-Allard, Steny H. Hoyer, Michael R. McNulty, Xavier Becerra, David R. Obey, Nancy Pelosi, Bill Pascrell, Jr., Jerrold Nadler, Albert Russell Wynn, Frank Pallone, Jr., James P. Moran, Wm. Lacy Clay, Eddie Bernice Johnson, Robert Menendez, Nick J. Rahall II, Jerry F. Costello, Bob Etheridge, Robert A. Brady, Betty McCollum, Carolyn McCarthy, Louise McIntosh Slaughter, John Elias Baldacci, Ronnie Shows, Danny K. Davis, Lynn N. Rivers, Lynn C. Woolsey, Tom Lantos, Rosa L. DeLauro, Frank Mascara, Maurice D. Hinchey, Stephen F. Lynch, Nick Lampson, Tammy Baldwin, Juanita Millender-McDonald, Major R. Owens, Susan A. Davis, Zoe Lofgren, Janice D. Schakowsky, Thomas H. Allen, Eva M. Clayton, John F. Tierney, Ted Strickland, James H. Maloney, Vic Snyder, Bernard Sanders, Lane Evans, Sheila Jackson-Lee, Silvestre Reyes, Chet Edwards, Mike Thompson, Jim Davis, Benjamin L. Cardin, Leonard L. Boswell, Dennis Moore, Gary A. Condit, Solomon P. Ortiz, Robert R. Matsui, David E. Price, Rick Larsen, John Conyers, Jr., Earl Pomeroy, Patsy T. Mink, Adam B. Schiff, Donald M. Payne, Charles A. Gonzalez, Henry A. Waxman, Stephanie Tubbs Jones, Elijah E. Cummings, Joseph M. Hoeffel, Sander M. Levin, Steve Israel, Nita M. Lowey, Sherrod Brown, Carrie P. Meek, Brad Carson, Darlene Hooley, John Lewis, Charles B. Rangel, Corrin Brown, Bart Gordon, Barney Frank, Marcy Kaptur, Tom Udall, Baron P. Hill, James E. Clyburn, Maxine Waters, Michael F. Doyle, Edward J. Markey, Karen McCarthy, Luis V. Gutierrez, Nydia M. Velazquez, Thomas M. Barrett, Karen L. Thurman, Bennie G. Thompson, Anthony D. Weiner, Carolyn C. Kilpatrick, Michael E. Capuano, Peter A. DeFazio, Lloyd Doggett, Diana DeGette, Sam Farr, Patrick J. Kennedy, Ed Pastor, Max Sandlin, Marion Berry, Gene Green, Ellen O. Tauscher, Tony P. Hall, William J. Jefferson, Robert A. Borski, Bob Filner, Harold E. Ford, Jr., William O. Lipinski, Fortney Pete Stark, Jay Inslee, Bill Luther, Chaka Fattah, Robert Wexler, Edolphus Towns, David D. Phelps, John D. Dingell, Neil Abercrombie, Howard L. Berman, William D. Delahunt, Joseph Crowley, Alcee L. Hastings, William J. Coyne, and David E. Bonior.

Petition 10. July 23, 2002, by Mr. PHELPS on House Resolution 480, was signed by the following Members: David D. Phelps, Michael R. McNulty, Xavier Becerra, Nancy Pelosi, Bill Pascrell, Jr., James P. McGovern, Jerrold Nadler, Albert Russell Wynn, Frank Pallone, Jr., James P. Moran, Julia Carson, Jim McDermott, Wm. Lacy Clay, John W. Olver, Eddie Bernice Johnson, Robert Menendez, Nick J. Rahall II, Jerry F. Costello, Bob Etheridge, Robert A. Brady, Betty McCollum, Carolyn McCarthy, Dale E. Kildee, Louise McIntosh Slaughter, John Elias Baldacci, Ronnie Shows, Danny K. Davis, Sanford D. Bishop, Lynn N. Rivers, Lynn C. Woolsey, Ciro D. Rodriguez, James R. Langevin, Michael R. Honda, Tom Lantos, Rosa L. DeLauro, Frank Mascara, Maurice D. Hinchey, Lois Capps, Stephen F. Lynch, Nick Lampson, Tammy Baldwin, Juanita Millender-McDonald, Major R. Owens, Susan A. Davis, Gregory W. Meeks, Zoe Lofgren, Janice D. Schakowsky, Joe Baca, Tom Allen, Eva M. Clayton, John F. Tierney, Ted Strickland, Lucille Roybal-Allard, James H. Maloney, Bob Clement, Diane E. Watson, Vic Snyder, Bernard Sanders, Lane Evans, Sheila Jackson-Lee, Silvestre Reyes, Chet Edwards, Brian Baird, Tom Sawyer, Ruben Hinojosa, Robert E. Andrews, Hilda L. Solis, Mike Thompson, Jim Davis, Benjamin L. Cardin, Leonard L. Boswell, Dennis Moore, Gary A. Condit, Solomon P. Ortiz, Robert T. Matsui, David E. Price, Rick Larsen, Grace F. Napolitano, John Conyers, Jr., Earl Pomeroy, Carolyn B. Maloney, Patsy T. Mink, Adam B. Schiff, Donald M. Payne, John B. Larson, Charles A. Gonzalez, Rush D. Holt, Henry A. Waxman, Steven R. Rothman, Stephanie Tubbs Jones, Elijah E. Cummings, Joseph M. Hoeffel, Sander M. Levin, Steve Israel, Nita M. Lowey, Sherrod Brown, Carrie P. Meek, Brad Carson, Darlene Hooley, John Lewis, Charles B. Rangel, Corrine Brown, Barney Frank, Bart Gordon, Marcy Kaptur, Tom Udall, Shelley Berkley, James E. Clyburn, Mark Udall, Maxine Waters, Michael F. Doyle, Edward J. Markey, Karen McCarthy, Luis V. Gutierrez, Nydia M. Velazquez, Thomas M. Barrett, Karen L. Thurman, Bennie G. Thompson, Martin T. Meehan, Anthony D. Weiner, Carolyn C. Kilpatrick, Michael E. Capuano, Peter A. DeFazio, Lloyd Doggett, Diana DeGette, Sam Farr, Patrick J. Kennedy, Ed Pastor, Max Sandlin, Marion Berry, Gene Green, Ellen O. Tauscher, Tony P. Hall, William J. Jefferson, Robert A. Borski, Bob Filner, Harold E. Ford, Jr., William O. Lipinski, Fortney Pete Stark, Jay Inslee, Bill Luther, Chaka Fattah, Robert Wexler, Edolphus Towns, Barbara Lee, John D. Dingell, Neil Abercrombie, Howard L. Berman, William D. Delahunt, Joseph Crowley, Alcee L. Hastings, William J. Coyne, and David E. Bonior.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 8, by Mr. MALONEY on House Resolution 456: David E. Bonior.

The following Member's name was withdrawn from the following discharge petition:

Petition 7 by Mrs. THURMAN on House Resolution 425: Jay Inslee.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

Vol. 148 WASHINGTON, FRIDAY, JULY 26, 2002 No. 104

Senate

The Senate met at 9:55 a.m. and was called to order by the Honorable BILL NELSON, a Senator from the State of Florida.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, You have promised leaders who trust You the gift of discernment. We claim that gift today. Give the Senators x-ray penetration into the deeper issues in each decision they must make. Remind them that You are ready to give them the discernment for what is not only good, but Your best, not only expedient, but excellent. Help them to know that the need before them will bring forth the gift of discernment You have inspired within them. You have done this for the great leaders of our history and we claim nothing less today. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BILL NELSON 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 26, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BILL NELSON, a Senator from the State of Florida, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON of Florida thereupon assumed the Chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Mr. President, we are going to vote in just a minute on the nomination of Julia S. Gibbons to be U.S. Circuit Judge for the Sixth Circuit. There was some question as to whether there would be a vote following that. There will not be. That will be done by voice vote. This will be the first and last vote of today.

Following this vote, we will resume consideration of the prescription drug bill. The minority has an amendment that they are going to offer.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF JULIA SMITH GIBBONS, OF TENNESSEE, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT—Resumed

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session and proceed to the cloture vote on Executive Calendar No. 810.

Under the previous order, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

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. 810, the nomination of Julia Smith Gibbons, of Tennessee, to be U.S. Circuit Judge for the Sixth Circuit.

Harry Reid, Tom Daschle, Charles Schumer, Mitch McConnell, Fred Thompson, Bill Frist, Phil Gramm, Jon Kyl, Charles Grassley, Wayne Allard, Trent Lott, Don Nickles, Larry E. Craig, Craig Thomas, Mike Capo, Jeff Sessions, Pat Roberts, Jim Bunning, John Ensign, Orrin G. Hatch.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call under the rule has been waived.

The question is, Is it the sense of the Senate that debate on Executive Calendar No. 810, the nomination of Julia Smith Gibbons, of Tennessee, to be U.S. Circuit Judge for the Sixth 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 Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Hawaii (Mr. INOUYE,) the Senator from Georgia (Mr. MILLER), and the Senator from Washington, (Mrs. MURRAY), are necessarily absent.

Mr. NICKLES. I announce that the Senator from Missouri (Mr. BOND), the Senator from Texas (Mr. GRAMM), the Senator from North Carolina (Mr. HELMS), the Senator from Texas (Mrs. HUTCHISON) the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from Wyoming (Mr. THOMAS) are necessarily absent.

The PRESIDING OFFICER (Mr. CARPER). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 89, nays 0, as follows:

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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[Rollcall Vote No. 193 Exe.]

YEAS—89

Akaka	Dorgan	McCain
Allard	Durbin	McConnell
Allen	Edwards	Mikulski
Baucus	Ensign	Murkowski
Bayh	Enzi	Nelson (FL)
Bennett	Feingold	Nelson (NE)
Bingaman	Feinstein	Nickles
Breaux	Fitzgerald	Reed
Brownback	Frist	Reid
Bunning	Graham	Roberts
Burns	Grassley	Rockefeller
Byrd	Gregg	Santorum
Campbell	Hagel	Sarbanes
Cantwell	Harkin	Schumer
Carnahan	Hatch	Sessions
Carper	Hollings	Shelby
Chafee	Inhofe	Smith (NH)
Cleland	Jeffords	Smith (OR)
Clinton	Johnson	Snowe
Cochran	Kennedy	Specter
Collins	Kerry	Stabenow
Conrad	Kohl	Stevens
Corzine	Kyl	Thompson
Craig	Landrieu	Thurmond
Crapo	Leahy	Torricelli
Daschle	Levin	Voinovich
Dayton	Lieberman	Warner
DeWine	Lincoln	Wellstone
Dodd	Lott	Wyden
Domenici	Lugar	

NOT VOTING—11

Biden	Helms	Miller
Bond	Hutchinson	Murray
Boxer	Hutchison	Thomas
Gramm	Inouye	

The PRESIDING OFFICER. On this vote, the yeas are 89, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. HATCH. Mr. President, this morning we moved closer to the confirmation of Judge Julia Smith Gibbons of Tennessee to the 6th Circuit Court of Appeals. In so doing, we will bring relief to a Circuit with a 50 percent vacancy rate, with 9 empty seats out of 18, despite the fact that the President nominated 6 fine public servants to fill those seats on May 9, 2001, well over 400 days ago. I look forward to confirming her finally.

I rise this morning to express my most profound concern for the course of judicial confirmations in general and my support for the confirmation of Justice Priscilla Owen of Texas. The Judiciary Committee gave Justice Owen a 5-hour hearing earlier this week, which I am afraid did not do credit to the Committee.

I will comment on Justice Owens' qualifications, and to address some of the deceptions, distortions and demagoguery orchestrated against her nomination, that we have all read in the national and local papers.

I would like first to comment on the two jingos that are being used about her record as if they had substance: namely, that Justice Owen is ''conservative'' and that she is ''out of the mainstream.'' Of course, this comes from the Washington interest groups, in many cases, who think that mainstream thought is more likely found in Paris, France, than Paris, Texas.

I must admit that it's curious to hear it argued that a nominee twice elected by the people of the most populous State in the Circuit for which she is now nominated is ''out of the mainstream.'' Texans are no doubt entertained to hear that.

Listening to some of my colleagues' commentary on judges, I sometimes think that main-stream for them is a northeastern river of thought that travels through New Hampshire early and often, widens in Massachusetts, swells in Vermont, and deposits at New York City. Well, the mainstream that I know, and that most Americans can relate to, runs much broader and further than that.

The other mantra repeated by Justice Owen's detractors is that she is ''conservative.'' I believe that the use of political or ideological labels to distinguish judicial philosophies has become highly misleading and does a disservice to the public's confidence in the independent judiciary, of which the Senate is the steward.

I endorse the words of my friend, and former Chairman of the Judiciary Committee, Senator BIDEN, when he said some years ago that:

''[Judicial confirmation] is not about pro-life or pro-choice, conservative or liberal, it is not about Democrat or Republican. It is about intellectual and professional competence to serve as a member of the third co-equal branch of the Government.''

I believe it is our duty to confirm judges who stand by the Constitution and the law as written, not as they would want to rewrite them. That was George Washington's first criterion for the Federal bench, and it is mine. I also want common sense judges who respect American culture. I believe that is what the American people want.

I believe we do a disservice to the independence of the Federal judiciary by using partisan or ideological terms in referring to judges.

My reason was well stated by Senator BIDEN when he said that: ''it is imperative [not to] compromise the public perception that judges and courts are a forum for the fair, unbiased, and impartial adjudication of disputes.''

We compromise that perception, I believe, when we play partisan or ideological tricks with the judiciary. Surely, we can find other ways to raise money for campaigns and otherwise play at politics, without dragging this nation's trust in the judiciary through the mud, as some of the outside groups continue to do.

All you have to do to see my point is read two or three of the fund-raising letters that have become public over the past couple of weeks that spread mistruths and drag the judiciary branch into the mud, as many recent political campaigns increasingly find themselves.

On a lighter note, while on ideology, let me pause to point out that one of the groups deployed against Justice Owen is the Communist Party of America, but then I don't know that they have come out in favor of any of President Bush's nominees. I suspect after the fall of the Berlin Wall, they must have a lot of time on their hands.

Today I wish to address just why a nominee with such a stellar record, a respected judicial temperament, and as fine an intellect as Justice Owen has, who graduated third in her class from Baylor's law school, a great Baptist institution, when few women attended law school, let alone in the South, who obtained the highest score in the Texas Bar examination, and who has twice been elected by the people of Texas to serve on their Supreme Court, the last time with 83 percent of the votes and the support of every major newspaper of every political stripe, I would like to address just why such a nominee could get as much organized and untruthful opposition from the usual leftist, Washington special interest groups that we see. I will peel through what is at play for those groups. We need to expose and repel what is at play for the benefit and independence of this Senate.

And I would like to address also the reasons why I am confident that she will be confirmed notwithstanding. Not least of which is that, far from being the ''judicial activist'' some would have us believe her to be, she garnered the American Bar Association's unanimous rating of ''well qualified.'' The Judiciary Committee has never voted against a nominee with this highest of ratings.

The first reason for the organized opposition, of course, is plain. Justice Owen is from Texas, and Washington's well paid reputation destroyers could not help but attempt to attack the widely popular President of the United States, at this particular time in an election year, by attacking the judicial nominee most familiar to him. Justice Owen, welcome to Washington.

But as I prepared more deeply for the Hearing earlier this week, the second reason became apparent to me. In my 26 years on the Judiciary Committee I have seen no group of judicial nominees as superb as those that President Bush has sent to us, and he has sent both Democrats and Republicans.

In reading Justice Owen's decisions, one sees a judge working hard to get it right, to get at the legislature's intent and to apply binding authority and rules of judicial construction. It is apparent to me that of all the sitting judges the President has nominated, Justice Owen is the most outstanding nominee. She is, in my estimation, the best, and despite what her detractors say, she is the best judge that any American, any consumer and any parent could hope for.

Her opinions, whether majority, concurrences or dissents, could be used as a law school text book that illustrates exactly how, and not what, an appellate judge should think, how she should write, and just how she should do the people justice by effecting their will through the laws adopted by their elected legislatures. Justice Owen clearly approaches these tasks with both scholarship and mainstream American common sense. She does not

substitute her views for the legislature's, which is precisely the type of judge that the Washington groups who oppose her do not want.

She is precisely the kind of judge that our first two Presidents, George Washington and John Adams, had in mind when they agreed that the justices of the State supreme courts would provide the most learned candidates for the Federal bench.

So in studying her record, the second reason for the militant and deceptive opposition to Justice Owen became quite plain to me. In this world turned upside down, simply put, she is that good.

Another reason for the opposition against Justice Owen is the most demagogic, the issue of campaign contributions and campaign finance reform. Some of her critics are even eager to tie her to the current trouble with Enron.

Well, she clearly has nothing to do with that. Neither Enron nor any other corporation has donated to her campaigns, in fact, they are forbidden by Texas law to make campaign contributions in judicial elections. It was embarrassing to me, as it would be to any American who watched the hearing earlier this week, to see Justice Owen defeat these demagogic allegations, but being a Texas woman, she did so with style, elegance, and grace—and without embarrassing her questioners.

Not that there was even a need for more questions. The Enron and campaign contributions questions were amply clarified in a letter to Chairman LEAHY and the Committee dated April 5 by Alberto Gonzales. I will ask unanimous consent, to place this and other related letters into the RECORD. And I would place into the RECORD a retraction from The New York Times saying that they got their facts wrong on this Enron story. Such retractions don't come often, not as often as the invention of facts by the smear groups. And despite the retraction, CNN was repeating the same wrong facts just this week!

Notably, at the hearing Justice Owen received no questions from my Democrat colleagues on her views on election reform and judicial reform, of which she is a leading advocate in Texas. She is also a leader in Gender Bias Reform in the courts and a reformer on divorce and child support proceedings. But my colleagues seemed to take little interest in this, nor in her acclaimed advocacy to improve legal services and funding for the poor.

All of these are aspects of her record her detractors would have us ignore, I certainly did not read these positive attributes in those fancy documents, or should I say booklets, released prior to the hearing by the Washington radical special interests lobby.

I will also ask unanimous consent, to place into the RECORD letters from leaders of the Legal Society and 14 past presidents of the Texas Bar Association, many of whom are leading Texas Democrats.

The fourth reason for the opposition to Justice Owen is the most disturbing to me. For some months now, a few of my Democrat colleagues have strained to point out when they believe they are voting for judicial nominees that they believe to be pro-life. I have disputed this when they have said it because the record contains no such information of personal views from the judges we have reported favorably out of the Judiciary Committee.

Each time they assert it, my staff has scoured the transcripts of hearings and turned up nothing. What does turn up is that each time my colleagues have asserted this, they have done so only for nominees who are men.

I am afraid that the main reason Justice Owen is being opposed, is not that personal views, namely on the issue of abortion, are being falsely ascribed to her, they are, but rather because she is a woman in public life who is believed to have personal views that some maintain should be unacceptable for a woman in public life to have.

Such penalization is a matter of the greatest concern to me because it represents a new glass ceiling for women jurists. And they have come too far to suffer now having their feet bound up just as they approach the tables of our high courts after long-struggling careers.

I am deeply concerned that such treatment will have a chilling effect on women jurists that will keep them from weighing in on exactly the sorts of cases that most invite their participation and their perspectives as women.

The truth is that Justice Owen has never written or said anything critical of abortion rights. In fact, the cases she is challenged on have everything to do with the rights of parents to be involved in their children's lives, and nothing to do with the right to an abortion.

Ironically, the truth is that the cases that her detractors point to as proof of apparently unacceptable personal views are a series of fictions. This is what I mean about exposing the misstatements of the left-wing activist groups in Washington. I will illustrate just three of these fictions.

The first sample fiction is the now often-cited comment attributed to then Texas Supreme Court Justice Alberto Gonzales, written in a case opinion, that Justice Owen's dissent signified ''an unconscionable act of judicial activism.'' Someone should do a story about how often this little shibboleth has been repeated in the press and in several websites of the professional smear groups. The problem with it is that it isn't true. Justice Gonzales was not referring to Justice Owen's dissent, but rather to the dissent of another colleague in the same case.

The second sample fiction is the smear group's misrepresented portrayal of a case involving buffer zones and abortion clinics. In that case, the majority of the Texas Supreme Court ruled for Planned Parenthood and affirmed a lower court's injunction that protected abortion clinics and doctor's homes and imposed 1.2 million dollars in damages against pro-life protestors. In only a few instances, the court tightened the buffer zones against protestors. Justice Owen joined the majority opinion and was excoriated by dissenting colleagues, who were, by that way, admittedly pro-life.

When describing that decision then, abortion rights leaders hailed the result as a victory for abortion rights in Texas. Planned Parenthood's lawyer said the decision ''isn't a home run, it's a grand slam.''

Of course, that result hasn't changed, but the characterization of it has. This is how Planned Parenthood describes this same case in their fact sheet on Justice Owen: ''[Owen] supports eliminating buffer zones around reproductive health care clinics . . .''

In fact, her decision did exactly the opposite.

The third and most pervasive sample fiction concerns Justice Owen's rulings in a series of Jane Doe cases which first interpreted Texas' then-new parental involvement law. The law, which I think is important to emphasize was passed by the Texas legislature, not by Justice Owen, with bipartisan support, requires that an abortion clinic give notice to just one parent 48 hours prior to a minor's abortion. Unlike States with more restrictive laws such as Massachusetts, Wisconsin, and North Carolina, consent of the parent is not required in Texas. A minor may be exempted from giving such notice if they get court permission.

Since the law went into effect, over 650 notice bypasses have been requested from the courts. Of these 650 cases, only 10 have had facts so difficult that two lower courts denied a notice bypass, only 10 have risen to the Texas Supreme Court.

Justice Owen's detractors would have us believe that in these cases, she would have applied standards of her own choosing. Ironically, in each and every example they cite, whether concurring with the majority or dissenting, Justice Owen was applying not her own standards but the standards enuniciated in the Roe v. Wade line of decisions of the United States Supreme Court, which she followed and recognized as authority.

For example, detractors take pains to tell us that Justice Owen would require that to be sufficiently informed to get an abortion without a parent's knowledge, that the minor show that they are being counseled on religious considerations. They appear to think this is nothing more than opposition to abortion rights. They are so bothered with this religious language that various documents produced by the abortion industry lobby italicize the word religious. But this standard is not Justice Owen's invention, but rather the words of the Supreme Court's pro-choice decision in Casey.

Should she not follow one Supreme Court decision, but be required to follow another? Is that what we want our judges to do, pick and choose which decisions to follow? That appears to be the type of activist judge these groups want, and this Senate should resist all such attempts.

The truth is that rather than altering the Texas law, Justice Owen was trying to effect the legislator's intent. No better evidence of this is the letter of the pro-choice woman Texas Senator stating her ''unequivocal'' support of Justice Owen.

Senator Shapiro says of Justice Owen: ''Her opinions interpreting the Texas [parental involvement law] serve as prime example of her judicial restraint.'' I understand why the Washington left-wing groups don't like that in a judge, but the Senate and the Judiciary Committee should applaud and commend such restraint and temperament.

The truth is that, rather than being an activist foe of Roe, Justice Owen repeatedly cites and follows Roe and its progeny as authority. She has to, it's what the Court has said is the law. Compare this to Justice Ruth Bader Ginsburg who wrote in 1985 that the Roe v. Wade decision represented ''heavy handed judicial intervention'' that was ''difficult to justify.''

In relation to this, I would like briefly to comment on the mounting offensive of some to change the rules of judicial confirmation by asking nominees to share personal views or to ensure that nominees share the personal views of the Senator on certain cases.

To illustrate my view, I'll tell you that many people have recently called on the Judiciary Committee to question nominees as to their views on the pledge of allegiance case. My full-throated answer to this is no, as much as I think that that case was wrongly decided. I also happen to think that the recent School Voucher case is the most important civil rights decision since Brown but I am not going to ask people what they think about that case either.

Such questions threaten the heart of the independent judiciary and attempt to accomplish by hidden indirection what Senators cannot do openly by constitutional amendment. It is an attempt to make the courts a mere extension of the Congress.

I speak against this practice in the strongest terms, and, in my view, any nominee who answers such questions would not be fit for judicial office and would not have my vote.

The truth is that there are many who, like Justice Ginsburg, think that cases like Griswold or Roe were wrongly decided as a constitutional matter even if they agree with the policy result, just as the great liberal Justice Hugo Black did in his dissent in Griswold.

A few weeks ago we heard testimony from Boyden Gray, a former White Counsel and a former Supreme Court clerk, that Chief Justice Warren though that Brown v. Board of Education was his worst ruling as matter of constitutional law, but not his least necessary to end desegregation.

Some of Justice Owen's detractors have made much about the fact that she is not afraid to dissent. Of course, they fail to mention dissents like her opinion in Hyundai Motor v. Alvarado, in which Justice Owens' reasoning was later adopted by the United States Supreme Court on the same difficult issue of law.

They also overlooked here dissent in a repressed memory/sexual abuse case where she took the majority to task with these words: ''This is reminiscent of the days when the crime of rape went unpunished unless corroborating evidence was available. The Court's opinion reflects the attitudes reflected in that era.''

Perhaps, they thought that this dissent showed her too representative of American women. Despite deceptive opposition I think that Justice Owen should be confirmed.

I will ask unanimous consent to place into the RECORD an editorial of earlier this week from The Washington Post, a liberal publication, calling on us to be fair and calling on this Senate to confirm Justice Owen.

I have hope that my Democrat colleagues on the Judiciary Committee will be led by the time-tested standards well-stated by Senator BIDEN, and look again to qualifications and judicial temperament, not base politics. Whether the Biden standard will survive past our time, will be tested now.

If we fail the test we will breach our responsibility as auditors of the Washington special interest groups and the Judiciary's stewards on behalf of all the people, and not just some.

Mr. President, I ask unanimous consent that the documents to which I have referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, April 5, 2002.

Hon. PATRICK J. LEAHY,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY: In our recent conversations, you suggested that the White House should examine whether contributions Justice Owen received for her campaigns for the Texas Supreme Court raise any legitimate issue with respect to her fitness to serve on the Fifth Circuit. We have done as you have suggested, and I see no basis to question Justice Owen's fitness to serve on the Fifth Circuit. The record reflects that she has at all times acted properly and in complete compliance with both the letter and the spirit of the rules relating to judicial campaign finance.

I am certain you will agree that it was entirely proper for Justice Owen's campaign to receive contributions. Article 5 of the Texas Constitution provides that candidates for the state judiciary run in contested elections, which are partisan under Texas election law, and Canon 45(1) of the Texas Code of Judicial Conduct provides that the candidates may solicit and accept campaign funds. Like Senators, therefore, candidates for the state judiciary in Texas may receive contributions to finance their campaigns.

To be sure, Justice Owen and many others would prefer a system of appointed rather than elected state judges. In fact, Justice Owen has long advocated appointment of judges (coupled with retention elections). She has written to fellow Texas attorneys on the issue, committed to a new system in League of Women Voters publications, and appeared as a pro-reform witness before the Texas Legislature. She has explained even to partisan groups why judges should be selected on merit. But the people in some states, including Texas, have chosen a system of contested elections for judges. Elected state judges certainly are not barred from future appointment to the federal judiciary; on the contrary, some notable federal appellate judges whom President Clinton nominated and you supported were state judges who had run and been elected in contested elections—Fortunato Benevides and James Dennis, for example, from the Fifth Circuit.

I am also certain you would find nothing inappropriate about the sources from which Justice Owen's campaign received contributions. In her 1994 and 2000 elections, Justice Owen's campaign quite properly received contributions from a large number of entities and individuals, with no single contributor predominating. In the 1994 election cycle, her campaign received approximately $1.2 million in contributions from 3,084 different contributors. Included in that total was $8,800 from employees of Enron and its employee-funded political action committee. Employees of Enron thus contributed less than 1% of the total contributions to her campaign. And Justice Owen's campaign, of course, received no corporate contributions from Enron or any Enron-affiliated corporation, as such corporate contributions are not permissible under Texas law. Notably, in the 1994 election, not only did Justice Owen comply with all campaign laws, she went beyond what the law required and voluntarily limited contributions when many other judicial candidates did not do so.

In the 2000 election cycle, Justice Owen's campaign received approximately $300,000 in contributions from 273 different contributors. In that cycle, her campaign received no contributions from Enron or its affiliates, from employees of Enron, or from Enron's political action committee. In addition, Justice Owen ultimately had no Democratic or Republican opponent in the 2000 election cycle, and she closed her campaign office and returned most of her unspent contributions, an act that I believe is unusual in Texas judicial history.

It was entirely proper for Justice Owen's campaign to receive campaign contributions, including the contributions from Enron employees. Indeed, seven of the nine current Texas Supreme Court Justices received Enron contributions, and several of them received more than Justice Owen's campaign received. As this record demonstrates, elected judges certainly did not act improperly in the past, before anyone knew about Enron's financial situation, by receiving contributions from employees of Enron—any more than it could be said that Members of Congress acted improperly in the past by receiving contributions from Enron.

If, as is evident from the foregoing discussion, there was nothing amiss with the fact that Justice Owen received donations or with the sources from which she received them, the only other possible area of concern with her conduct relating to campaign contributors would be her decisions from the bench. Texas Code of Judicial Conduct Cannon 3(B)(1) provides that a judge ''shall hear and decide matters assigned to the judges except those in which disqualification is required or recusal is appropriate.'' And it is

well-established that judicial recusal is neither necessary nor appropriate in cases involving parties or counsel who contributed to that judge's campaign. See Public Citizen, Inc. v. Bomer, 274 F.3d 212, 215 (5th Cir. 2001); Apex Towing Co., v. Tolin, 997 S.W.2d 903, 907 (Tex. App. 1999), rev'd on other grounds, 41 S.W.3d 118 (Tex. 2001); Aguilar v. Anderson, 855 S.W.2d 799, 802 (Tex. App. 1993); J–IV Invs. v. David Lynn Mach., Inc., 784 S.W.2d 106, 107 (Tex. App. 1990). Indeed, in any state with elected judges, any other rule would be unworkable. The primary protections against inappropriate influence on judges from campaign contributions are disclosure of contributions and adherence to the tradition by which judges explain the reasons for their decisions. If the people of a state deem those protections insufficient, the people may choose a system of appointed judges rather than elected judges, as Justice Owen has advocated for Texas.

Surmising that the concerns you raised would likely focus on her sitting in cases in which Enron had an interest, we have undertaken a review of her decisions in such cases. We have reviewed Texas Supreme Court docket records and Enron's 1994–2000 SEC Form 10Ks to determine the cases in which Enron or affiliates of Enron were parties to proceedings before the Court since January 1995 (when Justice Owen took her seat). The decisions of the Texas Supreme Court since January 1995 in proceedings involving Enron have been ordinary and raise no questions whatsoever.

A judge's decisions are properly assessed by examining their legal reasoning, not by conducting any kind of numerical or statistical calculations. But even those who would attempt to draw conclusions based on such calculations would find nothing in connection with these Enron cases. To begin with, we are aware of no proceeding involving Enron in which Justice Owen cast the deciding vote. In six proceedings in which we know that Enron was a party, Justice Owen's vote can be characterized as favorable to Enron in two cases and adverse in two cases. With respect to the remaining two, one cannot be characterized either way, and she did not participate in the other case because it had been a matter at her law firm when she was a partner. Eight other matters came before the Court in which we know that Enron or an affiliate was a party, but the court declined to hear them. In those matters, the Court's actions could be characterized as favorable to Enron in four cases, adverse in three cases, and one was dismissed by agreement of the parties. We will supply the Judiciary Committee copies of the cases on request.

There has been some media attention on one case involving Enron in which Justice Owen wrote the opinion for the Court. See Enron Corp. v. Spring Creek Independent School District, 922 S.W.2d 931 (Tex. 1996). The issue in that case concerned the constitutionality of an ad valorem tax statute that allowed market value of inventory to be set on one of two different dates. The Court held that the statute did not violate the state constitution—and the decision was unanimous. I understand that two Democratic Justices who sat on the Court at that time (Justice Raul Gonzalez and Rose Spector) have written to you to explain the case, indicating that Justice Owen's participation in the case was entirely proper. Moreover, the lawyer who represented a part opposing Enron in this case (Robert Mott) recently was quoted as saying that criticism of Justice Owen for her role in this case is ''nonsense'' Texas Lawyer (April 1, 2002). In my judgment, this case raises no legitimate issue with respect to Justice Owen's confirmation.

Finally, I am informed that, if confirmed, Justice Owen will donate all of her unspent campaign contributions to qualify tax-exempt charitable and educational institutions, as is contemplated under section 254.205(a)(5) of the Texas Election Code.

I trust that the foregoing will resolve all questions concerning the propriety of Justice Owen's activities in relation to financing her campaigns. As you know, I served with Justice Owen, and I am convinced from my work with her that she is a person of exceptional integrity, character, and intellect. Both Senators from Texas strongly support her nomination. The American Bar Association has unanimously rated Justice Owen ''well qualified,'' and one factor in that rating process is the nominee's integrity.

Despite her superb qualifications and the ''Judicial emergency'' in the Fifth Circuit declared by the Judicial Conference of the United States, Justice Owen has not received a hearing for nearly 11 months since her May 9, 2001, nomination. We respectfully request that the Committee afford this exceptional nominee a prompt hearing and vote.

Sincerely,

ALBERTO R. GONZALES,
Counsel to the President.

APRIL 1, 2002.

Re Justice Priscilla Owen.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: We served on the Texas Supreme Court with Justice Priscilla Owen when the case of Enron Corporation et al. v. Spring Creek Independent School District, 922 S.W.2d 931 (Tex. 1996) was decided. The issue in this case was the constitutionality of an ad valorem tax statute that allowed market value of inventory to be set on two different dates. In a unanimous opinion, all justices, Democrats and Republican alike, agreed with the opinion authored by Justice Owen that the choice of the valuation date in ad valorem tax statute did not violate a provision of the State Constitution requiring uniformity and equality in ad valorem taxation. We found the decision of the United States Supreme Court and other states instructive on this issue.

In our ruling, we agreed with the rulings of the Harris County Appraisal District and the trial court.

Cordially,

RAUL A. GONZALEZ,
Justice, Texas Supreme Court, 1984–1998.
ROSE SPECTOR,
Justice, Texas Supreme Court, 1992–1998.

PERDUE, BRANDON,
FIELDER, COLLINS & MOTT, L.L.P.,
Houston, TX, July 1, 2002.

Re Justice Priscilla Owen.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Russell Senate Office Building, Washington, DC

DEAR CHAIRMAN LEAHY: My name is Robert Mott. I was the legal counsel for the Spring Independent School District in the case of Enron Corporation et al. v. Spring Independent School District, 922 S.W.2d 931 (Tex. 1996). We were the losing party in this case.

I have been disturbed by the suggestions that Justice Priscilla Owen's decision in this case was influenced by the campaign contributions she received from Enron employees. I personally believe that such suggestions are nonsense. Justice Owen authored the opinion of a unanimous court consisting of both Democrats and Republican. While my clients and I disagreed with the decision, we were not surprised. The decision of the Court was to uphold an act of the Legislature regarding property valuation. It was based upon United States Supreme Court precedent, of which we were fully aware when we argued the case.

I firmly believe that there is absolutely no reason to question Justice Owen's integrity based upon the decision in this case.

Sincerely,

ROBERT MOTT.

DE LEON, BOGGINS & ICENOGLE,
Austin, TX, June 26, 2002.

Re nomination of the Honorable Priscilla Owen to the U.S. Court of Appeals for the Fifth Circuit.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: This correspondence is sent to you in support of the nomination by President Bush of Texas Supreme Court Justice Priscilla Owen for a seat on the U.S. Court of Appeals for the Fifth Circuit.

As the immediate past President of Legal Aid of Central Texas, it is of particular significance to me that Justice Owen has served as the liaison from the Texas Supreme Court to statewide committees regarding legal services to the poor and pro bono legal services. Undoubtedly, Justice Owen has an understanding of and a commitment to the availability of legal services to those who are disadvantaged and unable to pay for such legal services. It is that type of insight and empathy that Justice Owen will bring to the Fifth Circuit.

Additionally, Justice Owen played a major role in organizing a group known as Family Law 2000 which seeks to educate parents about the effect the dissolution of a marriage can have on their children. Family Law 2000 seeks to lessen the adversarial nature of legal proceedings surrounding marriage dissolution. The Fifth Circuit would be well served by having someone with a background in family law serving on the bench.

Justice Owen has also found time to involve herself in community service. Currently Justice Owen serves on the Board of Texas Hearing and Service Dogs. Justice Owen also teaches Sunday School at her Church, St. Barnabas Episcopal Mission in Austin, Texas. In addition to teaching Sunday School Justice Owen serves as head of the altar guild.

Justice Owen is recognized as a well rounded legal scholar. She is a member of the American Law Institute, the American Judicature Society, The American Bar Association, and a Fellow of the American and Houston Bar Foundations. Her stature as a member of the Texas Supreme Court was recognized in 2000 when every major newspaper in Texas endorsed Justice Owen in her bid for re-election to the Texas Supreme Court.

It has been my privilege to have been personally acquainted with various members of the U.S. Court of Appeals for the Fifth Circuit. The late Justice Jerry Williams was my administrative law professor in law school and later became a personal friend. Justice Reavley has been a friend over the years. Justice Johnson is also a friend. In my opinion, Justice Owen will bring to the Fifth Circuit the same intellectual ability and integrity that those gentlemen brought to the Court.

I earnestly solicit your favorable vote on the nomination of Justice Priscilla Owen for a seat on the U.S. Court of Appeals for the Fifth Circuit.

Thank you for your attention to this correspondence.

Very truly yours,

HECTOR DE LEON.

TEXAS ASSOCIATION
OF DEFENSE COUNSEL, INC.,
Austin, TX, June 19, 2001.

Re nomination of Justice Patricia Owen for the United States Fifth Circuit of Appeals.

Senator PATRICK LEAHY,
Senate Judiciary Committee,
Washington, DC.

DEAR SENATOR LEAHY: I have had the privilege of knowing Justice Patricia Owen of the Texas Supreme Court, both personally and professionally, for many years. I cannot imagine a more qualified, ethical, and knowledgeable person to sit on the United States Fifth Circuit Court of Appeals.

I accept the reality that politics is a part of our culture, but I know that when it comes to appointing federal judges, we must transcend politics and look to character and ability. Patricia Owen has the character and ability to make all of us, Democrat and Republican, proud.

I ask that your Committee act swiftly to confirm her nomination to the United States Fifth Circuit Court of Appeals.

Thank you.

Sincerely,

E. THOMAS BISHOP.

HUGHES/LUCE, LLP.,
Dallas, TX, July 15, 2002.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY: As past presidents of the State Bar of Texas, we join in this letter to strongly recommend an affirmative vote by the Judiciary Committee and confirmation by the full Senate for Justice Priscilla Owen, nominee to the United States Court of Appeals for the Fifth Circuit.

Although we profess different party affiliations and span the spectrum of views of legal and policy issues, we stand united in affirming that Justice Owen is a truly unique and outstanding candidate for appointment to the Fifth Circuit. Based on her superb integrity, competence and judicial temperament, Justice Owen earned her *Well Qualified* rating unanimously from the American Bar Association Standing Committee on the Federal Judiciary—the highest rating possible. A fair and bipartisan review of Justice Owen's qualifications by the Judiciary Committee certainly would reach the same conclusion.

Justice Owen's stellar academic achievements include graduating cum laude from both Baylor University and Baylor Law School, thereafter earning the highest score in the Texas Bar Exam in November 1977. Her career accomplishments are also remarkable. Prior to her election to the Supreme Court of Texas in 1994, for 17 years she practiced law specializing in commercial litigation in both the federal and state courts. Since January 1995, Justice Owen has delivered exemplary service on the Texas Supreme Court, as reflected by her receiving endorsements from every major newspaper in Texas during her successful re-election bid in 2000.

The status of our profession in Texas has been significantly enhanced by Justice Owen's advocacy of pro bono service and leadership for the membership of the State Bar of Texas. Justice Owen has served on committees regarding legal services to the poor and diligently worked with others to obtain legislation that provides substantial resources for those delivering legal services to the poor.

Justice Owen also has been a long-time advocate for an updated and reformed system of judicial selection in Texas. Seeking to remove any perception of a threat to judicial impartiality, Justice Owen has encouraged the reform debate and suggested positive changes that would enhance and improve our state judicial branch of government.

While the Fifth Circuit has one of the highest per judge caseloads of any circuit in the country, there are presently two vacancies on the Fifth Circuit bench. Both vacancies have been declared ''judicial emergencies'' by the Administrative Office of the U.S. Courts. Justice Owen's service on the Fifth Circuit is critically important to the administration of justice.

Given her extraordinary legal skills and record of service in Texas, Justice Owen deserves prompt and favorable consideration by the Judiciary Committee. We thank you and look forward to Justice Owen's swift approval.

DARRELL E. JORDAN.

On behalf of former Presidents of the State Bar of Texas: Blake Tartt; James B. Sales; Hon. Tom B. Ramey, Jr.; Lonny D. Morrison; Charles R. Dunn; Richard Pena; Charles L. Smith; Jim D. Bowmer; Travis D. Shelton; M. Colleen McHugh; Lynne Liberato; Gibson Gayle, Jr.; David J. Beck; and Cullen Smith.

[From the Washington Post, July 24, 2002]

THE OWEN NOMINATION

The nomination of Priscilla Owen to the 5th Circuit Court of Appeals creates understandable anxiety among many liberal activists and senators. The Texas Supreme Court justice, who had a hearing yesterday before the Senate Judiciary Committee, is part of the right flank of the conservative court on which she serves. Her opinions have a certain ideological consistency that might cause some senators to vote against her on those grounds. But our own sense is that the case against her is not strong enough to warrant her rejection by the Senate. Justice Owen's nomination may be a close call, but she should be confirmed.

Justice Owen is indisputably well qualified, having served on a state supreme court for seven years and, prior to her election, having had a well-regarded law practice. So rather than attacking her qualifications, opponents have sought to portray her as a conservative judicial activist—that is, to accuse her of substituting her own views for those of policymakers and legislators. In support of this charge, they cite cases in which other Texas justices, including then-Justice Alberto Gonzales—now President Bush's White House Counsel—appear to suggest as much. But the cases they cite, by and large, posed legitimately difficult questions. While some of Justice Owen's opinions—particularly on matters related to abortion—seem rather aggressive, none seems to us beyond the range of reasonable judicial disagreement. And Mr. Gonzales, whatever disagreements they might have had, supports her nomination enthusiastically. Liberals will no doubt disagree with some opinions she would write on the 5th Circuit, but this is not the standard by which a president's lower-court nominees should be judged.

Nor is it reasonable to reject her because of campaign contributions she accepted, including those from people associated with Enron Corp. Texas has a particularly ugly system of judicial elections that taints all who participate in it. State rules permit judges to sit on cases in which parties or lawyers have also been donors—as Justice Owen did with Enron. Judicial elections are a bad idea, and letting judges hear cases from people who have given them money is wrong. But Justice Owen didn't write the rules and has supported a more reasonable system.

Justice Owen was one of President Bush's initial crop of 11 appeals court nominees, sent to the Senate in May of last year. Of these, only three have been confirmed so far, and six have not even had the courtesy of a hearing. The fact that President Clinton's nominees were subjected to similar mistreatment does not excuse it. In Justice Owen's case, the long wait has produced no great surprise. She is still a conservative. And that is still not a good reason to vote her down.

[From the New York Times, January 25, 2002]

CORRECTIONS

An article in Business Day on Tuesday about criticism of Justice Priscilla Owen of the Texas Supreme Court, a nominee for a federal judgeship who accepted campaign donations from Enron, misstated the amount of money saved by the company because of a decision she wrote, dealing with taxes owed to a local school district. It was $224,988.65, not $15 million. The larger sum, cited in her opinion as the district's revenue loss, was the amount by which the value of a piece of the company's land was lowered.

NOMINATION OF CHRISTOPHER C. CONNER, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE

Mr. REID. Mr. President, under the previous order, the Senate will now proceed to the consideration of Executive Calendar No. 826.

The PRESIDING OFFICER. The clerk will state the nomination.

The legislative clerk read the nomination of Christopher C. Conner, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Pennsylvania be recognized for up to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Pennsylvania is recognized for 3 minutes.

Mr. SANTORUM. Mr. President, I thank the Senator from Nevada for agreeing to recognize me.

Now that the nomination has been confirmed by the Senate, I congratulate Kit Conner from outside of Harrisburg, PA, for filling the vacancy in the Middle District. Judge Conner is one of six members from Pennsylvania who are on the Executive Calendar in the Senate. Including him, there are five district judges and one Third Circuit nominee, and I am very gratified we have been able to unlock the logjam on judges and begin the process of moving forward.

Kit Conner is a very distinguished member of the bar in the Middle District in Pennsylvania. He is a tremendous lawyer and advocate, someone who has made substantial contributions to his community and is going to be an excellent Middle District judge. I look forward to his swearing in ceremony very soon.

If we go down the listing of judges in the order in which they appear on the calendar, the next judges to be confirmed are also Pennsylvania judges, at least nominees for judicial vacancies, and they would be Joy Flowers Conti from the Western District of Pennsylvania, John Jones from the Middle District, and then D. Brooks Smith, who is

a judge from the Western District who has been nominated for the Third Circuit. Hopefully next week, maybe as early as Monday or Tuesday, we can get to these nominations in the order in which they appear on the calendar. That seems to be the way the Senate is proceeding, and so we can begin to fill some of these vacancies we have in Pennsylvania, and in particular the Judge Brooks Smith vacancy to the Third Circuit, so we can begin to get the expeditious justice that people in Pennsylvania and the Third Circuit deserve.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Christopher C. Conner, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table, and the President will be notified of the Senate's action.

Mr. LEAHY. Mr. President, with today's confirmation of Mr. Christopher Conner to the District Court for the Middle District of Pennsylvania, the Democratic-led Senate will have confirmed a total of 60 judicial nominees since the change in Senate majority a little over one year ago and 49 district court nominees.

Today's nominee has not proven to be very controversial and the Senate has acted quickly on this nomination.

Mr. Conner was nominated in March of this year to a relatively recent vacancy and received a hearing in May, shortly after his paperwork was completed.

With today's confirmation, the Judiciary Committee will have held hearings for a total of 10 District Court nominees from Pennsylvania, including Judge Davis, Judge Baylson and Judge Rufe, who were confirmed in April. Those confirmations illustrate the progress being made under Democratic leadership and the fair and expeditious way this President's nominees are being treated.

With today's confirmation, we will have confirmed four nominees to the District Courts in Pennsylvania. I think that the Senate Judiciary Committee and the Senate as a whole have done well by Pennsylvania, despite some of the obstructionist practices during Republican control of the Senate, particularly regarding nominees in the Western half of the State.

Nominees from Philadelphia were not immune from Republican obstructionist tactics, despite the best efforts and diligence of my good friend from Pennsylvania, Senator SPECTER, to secure confirmation of all of the judicial nominees from all parts of his home State, without regard to which party controlled the White House.

For example, Judge Legrome Davis was first nominated to the position of U.S. District Court Judge for the Eastern District of Pennsylvania by President Clinton on July 30, 1998. The Republican-controlled Senate took no action on his nomination and it was returned to the President at the end of 1998. On January 26, 1999, President Clinton renominated Judge Davis for the same vacancy. The Senate again failed to hold a hearing for Judge Davis and his nomination was returned after two more years.

Under Republican leadership, Judge Davis' nomination languished before the Committee for 868 days without a hearing.

Unfortunately, Judge Davis was subjected to the kind of inappropriate partisan rancor that befell so many other nominees to the district courts in Pennsylvania and to the Third Circuit during the Republican control of the Senate. I want to note emphatically, however, that I know personally that the senior Senator from Pennsylvania, strongly supported Judge Davis's nomination and worked hard to get him a hearing and a vote.

The lack of Senate action on Judge Davis's initial nominations are in no way attributable to a lack of support from the senior Senator from Pennsylvania. Far from it.

In fact, I give Senator SPECTER full credit for getting President Bush to renominate Judge Davis earlier this year and commended him publicly for all he has done to support this nomination from the outset.

This year we moved expeditiously to consider Judge Davis, and he was confirmed within a few months of his renomination by President Bush. The saga of Judge Davis recalls for us so many nominees from the period of January 1995 through July 10, 2001, who never received a hearing or a vote and who were the subject of secret anonymous holds by Republicans for reasons that were never explained.

At Judge Davis' recent confirmation hearing Senator SANTORUM testified that Judge Davis did not get a hearing because local Democrats objected. I was the ranking Democrat on the Judiciary Committee during those years and never heard that before. My understanding at the time, from July 1998 until the end of 2000, was that Judge Legrome Davis would have had the support of Senator SPECTER as well as every Democrat on the Judiciary Committee and in the Senate. Despite that bipartisan support, he was not included by the then-Chairman of the Committee in the May 2000 hearing for a few other Pennsylvania nominees.

In contrast, the hearing we had earlier this year for Ms. Conti was the very first hearing on a nominee to the Western District of Pennsylvania since 1994, in almost a decade, despite qualified nominees of President Clinton. No nominee to the Western District of Pennsylvania received a hearing during the entire period that Republicans controlled the Senate in the Clinton Administration. One of the nominees to the Western District, Lynette Norton, waited for almost 1,000 days, and she was never given the courtesy of a hearing or a vote. Unfortunately, Ms. Norton died earlier this year, having never fulfilled her dream of serving on the Federal bench.

Large numbers of vacancies continue to exist, in large measure because the recent Republican majority was not willing to hold hearings or vote on more than 50 of President Clinton's judicial nominees, many of whom waited for years and never received a vote on their nomination. It is the Democrats, not the Republicans, who have broken with that history of inaction from the Republican era of control, delay and obstruction.

With today's confirmations of Mr. Conner to the Federal district courts in Pennsylvania, the Senate will have confirmed 49 district court nominees, meaning that more than 8 percent of the district court nominees confirmed so far are from Pennsylvania.

Mr. HATCH. Mr. President, I rise to support the nomination of Christopher Conner to be U.S. District Judge for the Middle District of Pennsylvania.

I have enjoyed looking over the record of Mr. Conner's broad litigation background, and I have concluded that he will bring to the bench the necessary legal experience and temperament for an effective Federal judge.

Christopher Conner is a native of Harrisburg, PA, and a highly respected civil litigator. Upon graduation from Dickinson School of Law in 1982, Mr. Conner joined the Harrisburg firm today known as Mette, Evans and Woodside. He was named a shareholder in 1988.

He currently serves as chair of his firm's Corporate & Commercial Litigation Practice Group. His practice has focused on civil litigation, primarily business litigation, employment law, mediation, and Federal civil rights litigation. He has handled contract disputes, employment discrimination suits, Lanham Act claims, large-scale class-action cases, sexual harassment cases, and insurance coverage matters.

Mr. Conner is certified as a mediator in Federal and State courts, and he has experience in providing human resources training for businesses and associations, including diversity training.

The ABA has awarded him a unanimous Well Qualified rating, and I rate him highly as well. I strongly believe Mr. Conner will make an excellent Federal judge in Pennsylvania.

The PRESIDING OFFICER. The Senator from Nevada.

NATIONAL DEFENSE AUTHORIZATION ACT, 2003

Mr. REID. Mr. President, as in legislative session, I ask that the Chair lay before the Senate a message from the House with respect to H.R. 4546.

There being no objection, the Presiding Officer (Mr. CARPER) laid before the Senate the following message from the House of Representatives:

JULY 25, 2002.

Resolved, That the House insist upon its amendment to the amendment of the Senate to the bill (H.R. 4546) entitled ''An Act to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes'', and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on Armed Services, for consideration of the House amendment and the Senate amendment, and modifications committed to conference: Mr. Stump, Mr. Hunter, Mr. Hansen, Mr. Weldon of Pennsylvania, Mr. Hefley, Mr. Saxton, Mr. McHugh, Mr. Everett, Mr. Bartlett of Maryland, Mr. McKeon, Mr. Watts of Oklahoma, Mr. Thornberry, Mr. Hostettler, Mr. Chambliss, Mr. Jones of North Carolina, Mr. Hilleary, Mr. Graham, Mr. Skelton, Mr. Spratt, Mr. Ortiz, Mr. Evans, Mr. Taylor of Mississippi, Mr. Abercrombie, Mr. Meehan, Mr. Underwood, Mr. Allen, Mr. Snyder, Mr. Reyes, Mr. Turner, and Mrs. Tauscher.

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 11 of rule X: Mr. Goss, Mr. Bereuter, and Ms. Pelosi.

From the Committee on Education and the Workforce, for consideration of sections 341–343, and 366 of the House amendment, and sections 331–333, 542, 656, 1064, and 1107 of the Senate amendment, and modifications committed to conference: Mr. Isakson, Mr. Wilson of South Carolina, and Mr. George Miller of California.

From the Committee on Energy and Commerce, for consideration of sections 601 and 3201 of the House amendment, and sections 311, 312, 601, 3135, 3155, 3171–3173, and 3201 of the House amendment, and modifications committed to conference: Mr. Tauzin, Mr. Barton, and Mr. Dingell.

From the Committee on Government Reform, for consideration of sections 323, 804, 805, 1003, 1004, 1101–1106, 2811, and 2813 of the House amendment, and sections 241, 654, 817, 907, 1007–1009, 1061, 1101–1106, 2811, and 3173 of the Senate amendment, and modifications committed to conference: Mr. Burton, Mr. Weldon of Florida, and Mr. Waxman.

From the Committee on International Relations, for consideration of sections 1201, 1202, 1204, title XIII, and section 3142 of the House amendment, and subtitle A of title XII, sections 1212–1216, 3136, 3151, and 3156–3161 of the Senate amendment, and modifications committed to conference: Mr. Hyde, Mr. Gilman, and Mr. Lantos.

From the Committee on the Judiciary, for consideration of sections 811 and 1033 of the House amendment, and sections 1067 and 1070 of the Senate amendment, and modifications committed to conference: Mr. Sensenbrenner, Mr. Smith of Texas, and Mr. Conyers.

From the Committee on Resources, for consideration of sections 311, 312, 601, title XIV, sections 2821, 2832, 2841, and 2863 of the House amendment, and sections 601, 2821, 2823, 2828, and 2841 of the Senate amendment, and modifications committed to conference: Mr. Duncan, Mr. Gibbons, and Mr. Rahall.

From the Committee on Science, for consideration of sections 244, 246, 1216, 3155, and 3163 of the Senate amendment, and modifications committed to conference: Mr. Boehlert, Mr. Smith of Michigan, and Mr. Hall of Texas.

From the Committee on Transportation and Infrastructure, for consideration of section 601 of the House amendment, and sections 601 and 1063 of the Senate amendment, and modifications committed to conference: Mr. Young of Alaska, Mr. LoBiondo, and Ms. Brown of Florida.

From the Committee on Veterans' Affairs, for consideration of sections 641, 651, 721, 723, 724, 726, 727, and 728 of the House amendment, and sections 541 and 641 of the Senate amendment, and modifications committed to conference: Mr. Smith of New Jersey, Mr. Bilirakis, Mr. Jeff Miller of Florida, Mr. Filner, and Ms. Carson of Indiana.

Mr. REID. Mr. President, I ask unanimous consent that the Senate disagree to the House amendment to the Senate amendment, agree to the request for a conference, and that the Chair be authorized to appoint conferees on the part of the Senate, without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Presiding Officer (Mr. CARPER) appointed Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LIEBERMAN, Mr. CLELAND, Ms. LANDRIEU, Mr. REED, Mr. AKAKA, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mrs. CARNAHAN, Mr. DAYTON, Mr. BINGAMAN, Mr. WARNER, Mr. THURMOND, Mr. MCCAIN, Mr. SMITH of New Hampshire, Mr. INHOFE, Mr. SANTORUM, Mr. ROBERTS, Mr. ALLARD, Mr. HUTCHINSON, Mr. SESSIONS, Mr. COLLINS, and Mr. BUNNING conferees on the part of the Senate.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session and resume consideration of S. 812, which the clerk will report.

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.

AMENDMENT NO. 4326 TO AMENDMENT NO. 4299

(Purpose: To provide for health care liability reform)

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I am about to send to the desk an amendment. I understand from discussions with the other side, we will be allowed to vote on or in relation to this amendment sometime Tuesday morning, with the time prior to that equally divided. I say to my friend from Nevada, what was he thinking of, a couple of hours equally divided on Tuesday morning before the vote or in relation thereto?

Mr. REID. I say to my friend, we will probably come in at about 9:30, have an hour of morning business, with the vote to occur around noon, which would allow us to do our party conferences. So I suggest 90 minutes equally divided.

Mr. MCCONNELL. That would certainly be agreeable to me. I thank the assistant majority leader.

Mr. REID. Staff is putting that in writing. Before the day is out, we will try to iron out something like that. We will get it worked out between the two leaders.

Mr. MCCONNELL. I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 4326 to amendment No. 4299.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. DURBIN. Reserving the right to object, and I will not object, if the Senator could give me a copy of his amendment.

Mr. MCCONNELL. I say to my friend from Illinois, I will be happy to do that. Of course, it will be out there from now until Tuesday morning so people will have ample opportunity to take a look at it. As soon as the clerk can Xerox a copy, I am sure he will be glad to give it to the Senator from Illinois.

Mr. DURBIN. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

The PRESIDING OFFICER. Who yields time?

The Senator from Kentucky.

Mr. MCCONNELL. The Senate last voted on the issue of medical malpractice back in 1995. It was an amendment I offered at that particular time. There were 53 votes in support of the amendment, including Senators FEINSTEIN and LIEBERMAN on the Democratic side who are still Members of the Senate. In addition, Senator Nunn, Senator Exon, and Senator JEFFORDS also supported that medical malpractice amendment back in 1995, which was, as I said, the last time we had a vote on this issue.

I will briefly describe what the amendment at the desk would do, and then I want to talk for a few minutes about the growing crisis. I know Senator HATCH is anxious to speak on judges, but I do want to at least describe what the amendment does and make a few observations about the growing crisis in the country.

First, let me make it clear that the amendment at the desk is pro-victim and pro-consumer. This amendment does not cap noneconomic—that is, pain and suffering—damages at all, not one penny. So compensatory damages—economic as well as pain and suffering—those kinds of damages are not

in any way adversely impacted by a cap under the McConnell amendment.

We do place reasonable caps on lawyers' fees. By doing so, it ensures that the injured victim, not the victim's lawyer, gets the majority of the award. After all, that is only fair. It is the victim who has suffered the injury and not the lawyer.

This amendment also allows punitive damages, even though we know, all of us who understand punitive damages, that they are not designed to enrich the plaintiff but, rather, to punish the defendant. We allow punitive damages under a cap, a reasonable limit of twice compensatory damages. So no limits on compensation for pain and suffering, but a limit on punitive damages of twice compensatory damages, twice the economic and noneconomic damages.

Essentially, what we are doing is guaranteeing the injured victim full compensation. In addition to guaranteeing the injured victim full compensation, we are also ensuring that they get more of the money to which they are entitled by providing a reasonable cap on the fee for the lawyer. In order to bring some certainty to the system and drive the costs of insurance down, the amendment caps punitive damages at twice the sum of the compensatory damages awarded. It provides some certainty. This is a very pro-victim, pro-consumer amendment.

When we voted on this back in 1995, one of the arguments made, I recall, was that there was no crisis, what is the problem? Frankly, we thought it was a growing crisis at that point. Today, it is a perfectly apparent crisis. The Nevada Governor has called a special session beginning Monday on this very issue. This crisis is sweeping the country.

We have a map that I think is useful. The red States are States that are currently experiencing a medical liability crisis; States such as Nevada that I mentioned, the State of Washington, the States of Oregon, Texas, Mississippi, Georgia, Florida, and the cluster in the Northeast—New York, Pennsylvania, West Virginia, and Ohio. My own State of Kentucky is a State with problem signs.

To give an example, we have doctors moving to Indiana, across the Ohio River, because Indiana has reasonable caps on recovery, and therefore they do not have a medical malpractice crisis and the doctors are not bailing out. In States that have enacted a reasonable approach, the crisis does not exist.

Another interesting chart gives a sense of what has happened since we last voted on this issue in 1995. The median jury award then was around $500,000; today it has gone up to $1 million. I don't think anybody believes that doctors and nurses and health care professionals are any more negligent today than they were then. I don't suppose anyone would suggest there has been some kind of dramatic deterioration in their behavior over the last 7 years, but in fact the awards have gone up dramatically, and of course, as we know, the insurance rates along with it, leading to an exodus from this field across America. The crisis has arrived. It is here.

To give an example from my own State, a few weeks ago in Corbin, KY, the Corbin Family Health Center was forced to shut the doors because the doctors were unable to find an affordable insurance policy. Dr. Richard Carter and his four colleagues deliver about 250 babies a year and have never lost a malpractice claim. Yet when their insurance company, the St. Paul Companies, decided to leave the medical malpractice business, the Corbin Family Health Doctors lost their coverage—a group that had never lost a claim. The remaining few insurance companies that were willing to provide coverage were only willing to do so for $800,000 to $1 million, a whooping 465 percent increase.

This is going on all across America. Tuesday we will have an opportunity to elaborate. There are a number of Senators on my side of the aisle who want to speak to this national crisis.

I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this amendment has nothing to do with the price of prescription drugs, the cost of health care, or even the insurance premiums of doctors. It has everything to do with the profits of the insurance industry. At a time when Americans want greater corporate accountability, in this time of Enron, WorldCom, and other corporate scandals, it is unbelievable that our Republican friends cozy up to big insurance corporations to give them a break.

Let me remind my colleagues that the legislation before the Senate is about the high price of prescription drugs and providing a Medicare prescription drug benefit. Now the Republican side is trying to divert attention from this important debate by offering this amendment. It is an attack on the very people the underlying legislation was designed to help, those in need of quality medical care.

The McConnell amendment is designed to shield health care providers from the basic accountability for the care they provide. While those across the aisle like to talk about doctors, the real beneficiaries will be the insurance companies. This amendment enriches the insurance industry at the expense of the most seriously injured patients—men and women and children whose entire lives have been devastated by medical negligence and corporate abuse. This proposal also shields HMOs that fail to provide needed care, drug companies with medicine that has toxic side effects, and manufacturers of defective medical equipment.

In recent months, the entire Nation has been focused on the need for greater corporate accountability. The McConnell amendment does the reverse. It dramatically limits the financial responsibility of the entire health care industry to compensate injured patients for the harm they have suffered. When will the Republican Party start worrying about injured patients and stop trying to shield big business from the consequences of its wrongdoing? Less accountability will never lead to better health care.

This amendment places major new restrictions on the right of seriously injured patients to recover fair compensation for their injuries. These restrictions only serve to hurt those patients who have suffered the most severe, life-altering injuries, and to have their cases proven in court. If we were to arbitrarily restrict the compensation which seriously injured patients can receive, as the sponsor proposes, what benefits would result? Certainly, less accountability for health care providers will never improve the quality of health care. It will never even result in less costly care.

The cost of medical malpractice premiums constitutes less than two-thirds of 1 percent. Do we understand that? The cost of medical malpractice premiums constitutes two-thirds of 1 percent of the Nation's health care expenditures each year. Malpractice premiums are not the cause of the high rate of medical inflation.

Over the decade from 1988 to 1998, the cost of medical care rose 13 times faster than the cost of malpractice insurance. This chart reflects that: The growth of health care costs plus 74 percent; and the medical malpractice costs, 5.7 percent.

These restrictions are not only unfair to patients but an effective way to control medical malpractice claims. There is scant evidence to support the claim that enacting limits will lower insurance rates. There is substantial evidence to the contrary. There are other much more direct, effective ways to address the costs of medical malpractice insurance that do not hurt patients.

The supporters of the McConnell amendment have argued that restricting an injured patient's right to recover fair compensation will reduce malpractice premiums. They cite a report released just yesterday by the Department of Health and Human Services. However, that data is neither comprehensive or persuasive. It looks at only 10 of the 27 States that do not currently have a cap on malpractice damages, and it looks at the rate of increase in those States for only 1 year. In essence, that report cherry-picks the data to support a politically preordained conclusion.

Let's look at the facts: 23 States currently have a cap on medical malpractice damages. Most have had those statutes for a substantial number of years. And 27 States do not have a cap on malpractice damages. The best evidence of whether such caps affect the cost of malpractice insurance is to compare the rates in those two groups of States. Based on the data of medical

liability monitored on all 50 States, the average liability premium in 2001 for doctors practicing internal medicine was slightly less, 2.2 percent for doctors in States without caps on malpractice, $7,715; and in States with caps on damages, $7,887. Internists actually pay more for malpractice insurance in the States that have the caps.

The average liability premium in 2001 for general surgeons was also slightly less. For doctors in States without caps, $26,144; in States with caps, it was $26,746. Surgeons are also paying more in States that have caps.

The average liability premium on OB/GYN physicians in 2001 was only 3.3 percent more for doctors in States without caps, $44,485; and States with caps, $43,000—a very small difference.

This evidence clearly demonstrates that capping malpractice damages does not benefit the doctors it purports to help. Their rates remain virtually the same. It only helps the insurance companies earn bigger profits.

This chart over here indicates the States without the cap on damages, States with a cap on damages. I think the proof is in the pudding.

Since malpractice premiums are not affected by the imposition of caps on recovery, it stands to reason that the availability of physicians does not differ between States that have caps and the States that do not. Do we understand that? We are talking about comparing the number of available physicians between the States that do have caps and the States that do not. AMA data show that there are 233 physicians per 100,000 residents in States that do not have medical malpractice caps and 223 physicians per 100,000 residents in States with caps.

Looking at the particularly high cost of obstetrics and gynecology, States without caps have 29 OB/GYNs per 100,000 while States with caps have 27.4 per 100,000. Clearly, there is no correlation.

California, the State that has the lowest caps the longest, set a $250,000 cap on noneconomic damages in the mid-1970s, which has not been adjusted for inflation since. If the tort reformers are correct, you would expect California to have had a smaller percent of growth in premiums since those caps were enacted. Between 1991 and 2000, premiums in California actually grew more quickly, 3.5 percent, than did the premiums nationwide.

The State with the caps shows the malpractice insurance actually went up.

If this amendment were to pass, it would sacrifice fair compensation for injured patients in a vain attempt to reduce medical malpractice premiums. Doctors would not get the relief they are seeking. Only the insurance companies, which created recent market's instability, would benefit.

Even supporters of the industry acknowledge that enacting tort reform will not produce lower insurance premiums.

Sherman Joyce, the president of the American Tort Reform Association, told the Liability Week publication:

> We wouldn't tell you or anyone that the reason to pass tort reform would be to reduce insurance rates.

This is the president of the American Tort Reform Association, telling Liability Week:

> We wouldn't tell you or anyone that the reason to pass tort reform would be to reduce insurance rates.

Victor Schwartz, the association's general counsel, told Business Insurance:

> . . . many tort reform advocates do not contend that restricting litigation will lower insurance rates and ''I've never said that in 30 years.''

The American Insurance Association even released a statement earlier this year, March 13, 2002, acknowledging:

> [T]he insurance industry never promised that tort reform would achieve specific premium savings.

Listen to that. The American Insurance Association even released the statement on March 13:

> [T}he insurance industry never promised that tort reform would achieve specific premium savings.

A National Association of Insurance Commissioners study shows that in 2000, the latest year for which data is available, total insurance industry profits as a percentage of premiums for medical malpractice insurance was nearly twice as high—13.6 percent—as overall casualty and property insurance profits—7.9 percent.

Do we understand that now? The insurance industry commissioners are now saying that the insurance industry profits, as a percentage of premiums for medical malpractice, are twice as high as overall casualty and property insurance profits.

In fact, malpractice was a very lucrative line of insurance for the industry throughout the 1990s. Recent premium increases have been an attempt to maintain high profit margins despite sharply declining investment earnings.

Insurance industry practices are responsible for the sudden, dramatic premium increases which have occurred in some States in recent months. The explanation for these premium spikes can be found, not in legislative halls or in courtrooms, but in the boardrooms of the insurance companies themselves. There have been substantial increases in recent months in a number of insurance lines, not just medical malpractice. In 2001, rates for small commercial accounts have gone up 21 percent, rates for midsize commercial accounts have gone up 32 percent, and rates for large commercial accounts have gone up 36 percent. These increases were attributable to general economic factors and industry practices, not medical liability tort law.

Insurers make much of their money from investment income. During the time when investments offer a high profit, companies compete fiercely with one another for market share. They often do so by underpricing their plans and insuring poor risks. When investment income dries up because interest rates fall, the stock market declines, or cumulative price cuts lower profit, the insurance industry then attempts to increase its premiums and reduce its coverage. This is a familiar cycle which produces a manufactured crisis each time their investments turn downward.

For example, St. Paul, one of the largest medical malpractice insurers, which has been experiencing serious financial difficulties lately, actually released $1.1 billion in reserves between 1992 and 1997 to enhance its bottom line and make those dollars available for investment. Some of the company's investments did not go well. It lost $108 million in the collapse of Enron alone. When claims became due, those reserves were not available to pay them.

A recent study of the Consumer Federation of America, presented at a hearing of the Health Subcommittee of the House Committee on Energy and Commerce last week, documented this industry's trend:

> It is the hard insurance market and the insurance industry's own business practices that are largely to blame for the rate shock that physicians have experienced in recent months.

The Consumer Federation's findings are highly enlightening:

> Medical malpractice rates are not rising in a vacuum. Commercial insurance rates are rising overall. The rate problem is caused by the classic turn in the economic cycle of the industry, sped up—but not caused—by terrorist attacks. Insurers have underpriced malpractice premiums over the last decade. It would take a 50 percent hike to increase inflation-adjusted rates to the same level as 10 years ago. Further limiting patients' right to sue for medical injuries would have virtually no impact on lowering overall health care costs. Medical malpractice insurance costs as a proportion of the national health spending are minuscule, amounting to less than 60 cents per hundred dollars spent. Insurer losses for medical malpractice have risen slowly in the last decade by just over the rate of inflation. Malpractice claims have not exploded in the last decade. Closed claims, which include claims where no payout was made, have remained constant, while paid claims have averaged just over $110,000. Medical malpractice profitability over the last decade has been excellent, at just over 12 percent per year despite a decline in profits in the last 2 years.

That is the profit they have been making over the last decade.

This analysis of why we are seeing a sudden spike in premiums was basically confirmed by a June 24, 2002, Wall Street Journal article describing what happened to the malpractice insurance industry during the 1990s:

> Some of these carriers rushed into malpractice coverage because an accounting practice widely used in the industry made the area seem more profitable in the early 1990s than it really was.

Does that have a ring to it, Mr. President? Carriers rushing in because an accounting practice widely used in

the industry made the area seem more profitable in the early 1990s than it really was? And now we are going to take it out on the individuals who are most vulnerable and most severely hurt in our society?

A decade of shortsighted price slashing led to industry losses of nearly $3 billion last year.

I continue the quote from the Wall Street Journal:

I don't like to hear insurance company executives say it's the tort system—it's self-inflicted—says Donald Zuk, chief executive of SCPIE Holdings, Inc., a leading malpractice insurer in California.

This is what he said:

I don't like to hear insurance companies say it's the tort system—it's self-inflicted. . . .

Zuk then continues:

Then it continues:

The losses were exacerbated by carriers' declining investment returns. Some insurers had come to expect that big gains in the 1990s from their bond and stock portfolios would continue, industry officials say. When the bull market stalled in 2000, investment gains that had patched over inadequate premium rates disappeared.

Let's look back at the type of severely injured patients who would be denied fair compensation under the McConnell amendment. These are the people who are being asked by those across the aisle to pay for the mismanagement of the insurance industry and the wrongdoing of health care providers:

Leyda Uuam—from Massachusetts—underwent surgery to correct a protruding belly button when she was 5 weeks old. Leyda will never walk, talk, move, or have any normal function after she suffered brain injury due to a series of errors by anesthesiologists, nurses, and a transport team.

When Mrs. Oliveira's unborn baby showed fetal distress her doctor failed to perform a timely caesarean birth as common sense would indicate. Instead, he attempted a forceps delivery. When this didn't work, he made three attempts at vacuum extraction, which were also unsuccessful. A different physician then attempted a second forceps delivery, which also failed. Finally, Olivera underwent a caesarean section, yet her son died within an hour of his birth. An autopsy report identified the cause of death asphyxia. The hospital, in an attempt to cover its negligence, amended the report falsely, listing the cause of death as probably fetal sepsis.

Twelve year-old Steven Olsen is blind and brain damaged today because of medical negligence. When he was hiking, he fell on a stick in the woods. The hospital refused his parents' request for a CAT scan, and instead pumped Steven full of steroids and sent him home with a growing brain abscess. The next day, Steven Olson became comatose and wound up back in the hospital. Had he received the $800 CAT scan, which would have detected the brain mass growing in his skull, Steven would be perfectly healthy today. The jury awarded Steven $7.1 million in non-economic damages for his life-sentencing of serious illness and disability.

Harry Jordan, as man from Long Beach, underwent surgery to remove a cancerous kidney. The surgeon took out his healthy kidney instead. Jordan had been living for years on 10 percent kidney function, and he is now no longer able to work.

Elizabeth, a former fashion model, went to the emergency room complaining of nausea, vomiting, and ''the worse headache of her life.'' The doctor misdiagnosed her as having an acute neck sprain and sent her home. Unfortunately, he failed to diagnose her symptoms as the warning leak of a brain aneurysm even though he had written a textbook which included an entire chapter on warning leaks. Ten days after her hospital visit, Elizabeth's aneurysm ruptured and she had a stroke. The bleeding destroyed brain tissue, requiring the removal of ⅓ of the frontal lobe of her brain. Elizabeth was left paralyzed as a result of her misdagnosed aneurysm.

Philip Lucy's nasal cancer was misdiagnosed by doctors as high blood pressure and nerve damage for 2 years, although he continued to complain of pain. It was finally discovered that his left sinus was completely filled with a cancerous mass. This necessitated the removal of his left palate, left cheek, left orbit and his left eye.

LeVern Dostal, a recent retiree, died a slow and painful death after her surgeon failed to give her antibiotics before her gallbladder surgery. She developed sepsis and was hospitalized for a lengthy period of time, during which she underwent 3 more surgeries, as her condition slowly deteriorated.

Ms. Keck, 63, was admitted to the hospital for pneumonia. She sustained brain injuries because a nurse failed to monitor her oxygen level as instructed, and failed to notify the doctors of her worsening condition. She now suffers from paralysis and cannot speak. The hospital was purposefully understaffed to increase profits.

As we debate this amendment, let us all remember that we are dealing with people's lives—many of them have suffered life-altering injuries as a result of substandard medical care. The law is there to protect them, not to shield those who caused their injuries.

I hope the Senate will not accept the McConnell amendment for the reasons I have outlined. As we have seen on so many different occasions, the neediest, the youngest, and the most vulnerable individuals in our society are often those who suffer the greatest kinds of neglect and negligence.

If we are going to have accountability in our society, we ought to have accountability.

One of the extraordinary things I heard was yesterday during the President's statement in North Carolina when he talked about accountability by victims, but not accountability by the insurance companies and not accountability by the others—not accountability by others even in the corporate world but accountability by schoolchildren. If they are not able to learn and be successful, then they are not included in terms of the completion of their studies. And now they are being held accountable. We are not getting the resources for them in order to give them the fair chance.

It seems to me we are being asked to protect the strongest elements in terms of our society. We have seen that during the course of this whole debate. Now we see it with regard to an amendment to protect the insurance companies. When we look at any piece of legislation, we should ask: Who is going to benefit, and who is going to lose? The answer is very simple with this amendment. The people who are going to benefit are going to be the insurance companies themselves, and the people who are going to pay the price are going to be our most vulnerable in our society who need our protection.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I listened with interest to the speech of my good friend from Massachusetts, although I must say that it must have been drafted to address a different amendment other than the one the Senator from Kentucky sent to the desk. None of the victims that Senator KENNEDY recounted would have lost a penny of economic or noneconomic damages under the amendment that is at the desk—not a penny. We don't cap either pain and suffering, or economic damages. There is no cap at all.

I did not hear my friend from Massachusetts talk about the legal fees.

Let us go back and take a look at what this amendment does before yielding to my friend, the only doctor in the Senate, to address this issue.

This is a pro-victim amendment. There are no caps on economic and noneconomic damages in this amendment. Two things are capped: Punitive damages, which are designed to punish the defendant and not enrich the plaintiff, are capped at twice the rest of the damages. There is a very reasonable cap on attorney's fees. And the reason for that is the plaintiffs—the victims—the senior Senator from Massachusetts is talking about are only getting about 52 percent of the money. Those grievously injured parties are not getting enough of the awards.

Let us in this debate talk about the amendment that is before us—not the amendment that might have been before us.

The AMA supports the amendment—frankly, somewhat tepidly. They would like to go further. But the AMA does support my amendment. Obviously, they think it would make a difference in being able to continue to provide health care for our American citizens.

Mr. President, the amendment I offer would make needed reforms to medical malpractice litigation.

There are few challenges facing this body that are more complex than improving the quality and affordability of health care in America. This week, we will have debated competing proposals to expand Medicare and create a prescription drug benefit. Over the past year, the Senate has passed legislation to strengthen our Nation's defenses against the threat of bioterrorism and provide new resources to the researchers at the National Institutes of Health, NIH. While all of these proposals are worthy of this body's consideration, the Senate has not yet addressed one of the fundamental problems limiting the accessability and affordability of quality care: reforming our Nation's flawed medical malpractice system.

These reforms are essential to ensuring that quality health care is available and affordable to all Americans. After all, what good is a Medicare drug benefit if you can't find a doctor to write a prescription or a pharmacist to fill it? Our current medical malpractice system encourages excessive litigation, drives up costs, and literally scares care-givers out of the medical profession. All too often, these lawsuits result in exorbitant judgements that benefit personal injury lawyers more than they compensate injured patients.

Enacting reasonable medical malpractice reforms will reduce health care costs and improve access to care, while allowing legitimate victims full access to the courts. My amendment would take a modest, but important, first step at reforming this flawed medical malpractice system in a manner which I believe will attract significant bipartisan support.

I have long championed strong, medical malpractice reform legislation. I believe debate on the Greater Access to Affordable Pharmaceuticals Act, provides us not only the opportunity, but the obligation, to enact meaningful malpractice reforms.

Much like the issue of a Medicare drug benefit, medical malpractice reform is not a new topic for the Senate. During debate on the Product Liability Fairness Act of 1995, I offered an amendment to enact reasonable reforms to our Nation's medical malpractice laws. After debating the amendment for several days, I was proud to have the support of 53 Senators and my amendment was agreed to by the Senate. Among those 53 supporters were some prominent Democrats and Independents: Senators LIEBERMAN, FEINSTEIN, JEFFORDS, NUNN and Exon.

Today I offer the same amendment the Senate agreed to in 1995. For the benefit of my colleagues who have joined the Senate since we last debated this issue, my amendment would do the following: The McConnell amendment would limit punitive damages to two times the sum of compensatory damages, economic and non-economic. This provision would help end the litigation lottery, where punitive damages are awarded out of all proportion to the underlying conduct. The threat of being unreasonably held responsible for millions and millions of dollars in damages hangs like the sword of Damocles over the heads of our medical professionals.

My amendment would eliminate joint liability for non-economic and punitive damages. As a result, defendants would only be liable for their own proportionate share for the harm that occurred. It is unfair for an injured person to be found 99 percent liable for his injury, and his doctor to responsible for only 1 percent, yet the doctor has to pay for all of the damages.

The amendment places modest limits on attorneys' contingency fees in medical malpractice cases. Specifically, the amendment would only allow personal injury lawyers to collect 33 percent of the first $150,000 of an award and 25 percent of the award on all amounts above $150,000.

My amendment encourages States to develop alternative dispute resolutions mechanisms to help resolve disputes before they go to court.

As I noted earlier, the amendment I offer today is the same one that the Senate agreed to in 1995. Unfortunately, as we all know, it is impossible to pass contentious legislation in this body without the 60 votes necessary to invoke cloture. Therefore, in the interests of preventing a filibuster against the larger product liability bill, I withdrew my medical malpractice amendment, and it has never been signed into law.

In 1995, the Senate considered our medical malpractice system to be so flawed that it required the Federal Government to enact these exact reforms. In the period since then, the system has gotten dramatically worse, not better.

I might not be so passionate about enacting medical malpractice reforms if these lawsuits were an accurate mechanism for compensating patients who had been truly harmed by negligent doctors. Unfortunately, the data shows just the opposite. In 1996, researchers at the Harvard School of Public Health performed a study of 51 malpractice cases which was published in the New England Journal of Medicine. In approximately half of those cases, the patient had not even been harmed, yet in many instances the doctor settled the matter out of court, presumably just to rid themselves of the nuisance. In the report's conclusion, the researchers found that, ''there was no association between the occurrence of an adverse event due to negligence or an adverse event of any type and payment.'' In everyday terms, this means that the patient's injury had no relation to whether or not they received payment in their malpractice case.

While the research showing that litigation's effectiveness at compensating the injured hasn't stopped the personal injury lawyers from rushing to the courthouse to file more lawsuits, the jackpots in the personal injury lawyers' litigation lottery have increased dramatically since we considered this issue in 1995. As my first chart shows, the Jury Verdict Research Service reports that the median award made by a jury has more than doubled since 1996, from $474,000 to $1,000,000 in 2000. Not surprisingly, the increase in jury awards has led to a similar increase in the dollar value of settlements reached out of court. Since 1995, the median settlement has increased from $350,000 to $500,000 in 2000.

These escalating settlements might make one wonder, ''Are our doctors, nurses and hospitals twice as negligent as they were just 6 years ago?'' The answer is, of course, no: the doctors haven't gotten worse, but the system has. In fact, plaintiffs only won 38 percent of the medical malpractice claims that went to trial, essentially the same as it was in 1995, 35 percent.

I think this bears repeating. In 1995, the Senate considered our medical malpractice system to be so flawed that it required the federal government to enact limits on the contingency fees charged by personal injury lawyers and punitive damages. In the period since then, the system has gotten worse, not better.

This litigation explosion is manifested in the premiums which doctors pay for their malpractice insurance. In the 7 years since we last debated medical malpractice reform on the Senate floor, doctors on Main Street USA have seen dramatic increases in their insurance premiums. Since 1995, obstetricans, OB-GYN's, have seen their premiums increase an average of almost 12 percent a year, each and every year. The same is true for the general surgeons who have seen their malpractice premiums increase 13 percent each year. Let me be perfectly clear, I am not talking about a thirteen percent increase over seven years, these premiums are increasing 13 percent EVERY year.

This may make people wonder, ''Why should I care about how much doctors pay for malpractice insurance premiums?'' The answer is access. Doctors are less likely to provide those services for which they are likely to be sued.

This is particularly true in rural areas of this Nation. While many doctors are willing to set up practices in rural areas, they cannot forgo malpractice insurance. Therefore, many doctors are forced to establish practices in more urban and suburban areas where they can earn the fees necessary to cover their malpractice premiums.

This has certainly been the case in Kentucky this year. Just a few weeks ago, the Corbin Family Health Center in Corbin, KY was forced to shut its doors because its doctors were unable to find an affordable insurance policy. Dr. Richard Carter and his four colleagues at Corbin Family Health deliver about 250 babies a year and have never lost a malpractice claim. Yet

when their insurance company, The St. Paul Cos., decided to leave the medical malpractice business, Corbin Family Health's doctors lost their coverage. The remaining few insurance companies that were willing to provide coverage will only do so for $800,000 to $1 million a whopping 465 percent increase.

This is a tragedy. Fifty of the clinic's patients are due to give birth in the next 2 months, and 130 more are due by the end of this year.

Fortunately for the families of Corbin, KY, the clinic's doctors were able to secure coverage last week, and the clinic reopened. However, their premium is twice what they paid previously. In addressing his clinic's predicament, the clinic's director, Steven Sartori, noted, ''Even though you're relieved, it's not over because this malpractice problem is not going to go away . . . There's more doctors who are going to be in the same predicament I was in.''

This problem is not limited to Kentucky. On July 1 of this year, Atmore Community Hospital in Atmore, AL, was forced to close its obstetrics program because it could not afford the 282 percent increase in malpractice insurance from $23,000 to $88,000. Now, expecting mothers must travel either to the hospital in Brewton, AL, 30 miles away, or to the big city hospitals in Mobile or Pensacola. That's more than an hour and a half drive.

Nor is the problem limited to the South. The administrators at Copper Queen Community Hospital in Brisbee, AZ were recently forced to close their maternity ward because their family practitioners were looking at a 500 percent premium increase. Expectant mothers must now travel more than 60 miles to the closest hospital in Sierra Vista or Tucson. According to a recent article in Forbes magazine, four women have since delivered babies en route.

In New Jersey, the director of Obstetrics and Gynecology at Holy Name Hospital was forced to lay off six employees from his practice when his malpractice premiums doubled. He told the New York Times ''The issue is, we can't stay open. It's going to restrict access to care. It's going to change the way OB is delivered to the population, and they're not going to like it.''

While our flawed medical malpractice system may be hitting obstetricians particularly hard, it is negatively impacting nearly every aspect of the medical profession. Many radiologists in Georgia are no longer reading mammograms, Atlanta Business Chronicle, 6/21/2002, because of the liability associated with the service. These lifesaving mammograms may only make up 5 percent of a radiologist's practice, but are responsible for a whopping 75 percent of their insurance liability. Officials at Memorial Hospital and Manor in Bainbridge, GA faced a staggering 600 percent increase in premiums despite a ''nearly spotless claims history,'' Modern Healthcare, 4/1/2002.

However, no one should be fooled into thinking that this medical malpractice crisis is limited to the small hospitals of rural America. Perhaps the most publicized case involves the closure of the trauma unit at the University of Nevada Medical Center, UMC. Trauma centers are frequently referred to as ''super emergency rooms'' because they are staffed with highly trained surgeons and specialists who are qualified to treat the highest risk cases. Nearly all of the highly skilled surgeons and orthopedists who worked in the UMC unit decided they could no longer risk the liability exposure and resigned. UMC's director Dr. John Fildes explained that, ''We want to be here, that's the sad thing. These physicians want to take care of patients, but they are withdrawing from high-risk activities to protect their families and livelihoods'', Washington Post 7/4/2002.

What does the closing of UMC's Trauma Center mean to the people of southern Nevada? It means that those patients who are most seriously injured in car accidents must either be treated at less prepared emergency rooms or transferred out of state to the nearest trauma center. Fortunately, UMC has reached a temporary arrangement that will allow the unit to re-open by classifying its physicians as State employees for the next 45 days.

Pennsylvania has faced a similar crisis. I would like to read from a recent article that appeared in the Allentown Morning Call:

Thomas DiBenedetto is a marked man.

He feels the bull's-eye on his back every time someone is wheeled into Lehigh Valley Hospital's emergency room with broken, mangled bones.

It's his job to put people back together. DiBenedetto is an orthopedic surgeon in the Level One trauma center, and he loves what he does. Or, at least, he did.

Large medical malpractice awards and increasingly litigious patients have made it difficult for him to enjoy the job he's been doing for 13 years. He has been sued four times.

He won all four cases. Yet, his malpractice insurance costs this year went up nearly a third, to $44,000. Even though his record is clean, he expects the bill to continue to climb.

Now, I am tempted to take issue with the AMA's finding in that I think some of these States have crossed the line from having serious problems to being in a crisis. I know how bad the situation is in Kentucky, and I think Kentucky ought to be listed as a crisis State. I noted the closure of the Corbin Family Health Center earlier, and we see daily reports of how Kentucky physicians are packing their medical bags and heading to Indiana, which has more reasonable tort laws.

For those doctors who choose to stick with the profession they love, they will inevitably be forced to pass these higher malpractice costs along to consumers in the form of higher fees. Several years ago the Hudson Institute conducted a study in which it estimated that liability costs added $450 to the cost of each patient admission to a hospital and accounted for 5.3 percent of their medical expenditures. In 1994, the Towers-Perrin Research firm estimated that malpractice expenses added $12.7 billion to the cost of health care in America. To put that into terms many Senators can understand, that is more money that Medicare spent on nursing home care in 1994 and almost as much as was spent on the Medicare Home Health benefit. I don't think anyone would argue that these dollars would be better spent improving patient care rather than lining the pockets of the personal injury lawyers.

I will be the first person to admit that the reforms I propose today are modest. As many of my colleagues know, I have authored even stronger reforms contained in free-standing legislation, the Common Sense Medical Malpractice Reform Act of 2001. Our Nation's health care is staring down the barrel of a medical malpractice crisis, and it must be addressed soon. Therefore, I have chosen to offer this amendment which the Senate already agreed to in 1995. At its heart, this amendment merely assures that patients, not personal injury lawyers, receive the vast majority of any jury award or settlement. By establishing proportional liability, the amendment ensures that damages are paid by those parties who actually inflict the harm. I believe these are common sense steps the Senate can take to address, and I urge my colleagues to support it.

I yield 20 minutes to the distinguished Senator from Tennessee, the only physician in the Senate who is well versed on this issue. I yield 20 minutes to the Senator from Tennessee.

Mr. DURBIN. Mr. President, parliamentary inquiry: As I understand it, we have a time agreement in terms of the allocation of time.

The PRESIDING OFFICER. We are under a time agreement. The time is limited and under the control of the Senator from Kentucky and the Senator from Massachusetts.

The Senator from Tennessee.

Mr. KENNEDY. Mr. President, I think we were trying to go back and forth. I know the Senator has to leave. I don't know what the Senator's time limitation is. Could he take 7 minutes?

Mr. FRIST. Mr. President, I have a time constraint. I have been on the floor since last night waiting to make my opening statement.

I would be happy to yield 3 minutes, if the Senator has to make an airplane or something.

Mr. KENNEDY. Mr. President, I want the record very clear—then we are not going from side to side? I thought we were going from side to side. I withdraw that.

(Laughter)

Senator MCCONNELL had two speeches.

We have followed the side-to-side rule. Now we are making it clear that on this legislation we no longer have to follow it. If that is the way it is going to be—we have respected that since the start of this debate. This is the first time I have been on the floor for 7 days that we have not done that.

I am prepared to yield to the Senator.

The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. FRIST. How much time has been used by each side?

The PRESIDING OFFICER. The Senator from Massachusetts has used 23 minutes. The Senator from Kentucky has used 11 minutes.

The Senator from Tennessee.

Mr. FRIST. Mr. President, I want to change the topic and focus where I believe the impact is most being felt today. It really has not been discussed on the floor thus far; and that is, at the level of the doctor-patient relationship, at the level where care is actually delivered. We heard a lot about the budget numbers and the insurance companies and the like, but what I would like to do is focus on where the impact actually is.

Yesterday, I was at a hospital, not as a physician, but I was there with someone in my family. I was in an emergency room 2 nights ago and then yesterday. Again, I was not there as a doctor or as a U.S. Senator. It was a local hospital, George Washington University Hospital.

On a side table, I picked up a newsletter. Again, it was not intended for me. The newsletter is called the ''GW Medicine Notes.'' I have it in my hand. It is written by their medical staff for their medical staff and, I guess, for people in the hospital. The letter is from the chairman, Dr. Alan G. Wasserman. The whole front page really tells the story that much of the debate will be about today and on Tuesday.

I will open with just one sentence or two sentences from this letter, again not intended for me, but to really express the sentiment, the impact of what is happening all across America because what we are seeing today is, indeed, a crisis.

The words, again, from Dr. Wasserman, in what is called the ''GW Medicine Notes,'' a monthly publication of GW, the George Washington Department of Medicine:

What we have is a runaway train that isn't stopping. The malpractice problem is not just a physician problem. It is beginning to affect the ability of patients to get proper care in a timely manner.

I may refer back to this letter because I found it fascinating, sitting there yesterday waiting for an MRI scan, just to see the sentiment that patients are actually being hurt. When I saw the words: ''What we have is a runaway train that isn't stopping,'' the imagery, I think, is very appropriate.

We cannot do little things. This train is barreling through, and patients are being hurt. Forget all the rhetoric, the dollars and cents, the bad insurance companies and the profits. Patients are being hurt by the current tort system that we have in effect today. The good news is, there is something we can do about it, and it starts right here with the McConnell amendment that is on the floor today.

I want my colleagues to listen very carefully. I hope, in the expanded reach, people are listening, because we have an opportunity, in this amendment, to improve patient care, and to reverse this runaway train, which is hurting patients today.

How can I say so definitively that patients are being hurt? You can look in the media. You can go into hospitals. I encourage everybody to ask their doctor. The next time you see your doctor or see a nurse or go into a hospital or interact with your health care system, just ask: What are these malpractice premiums doing?

We will talk a little bit about why premiums are going up.

What is being said around the country? Pick up the newspaper any day all across the country. Allentown, PA; Beckley, WV; New York, NY; Kansas City, KS; Jackson, MS.

Jackson, MS, November 23, 2001:

Costs Lead Rural Doctors to Drop Obstetrics.

That is because of the cost of the malpractice insurance. OB/GYNs are refusing to deliver babies and are dropping obstetrics.

Allentown, PA:

CARE CRISIS: Malpractice premiums crippling doctors. The emergency has stricken physicians in southeastern Pennsylvania, forcing some to leave their practices and patients behind.

Beckley, WV:

The situation may be more acute in West Virginia than anyplace else, but doctors across the board and around the country are facing double-digit hikes in malpractice premiums, something many hadn't seen since the 1980s.

Kansas City, KA:

Insurance rates reach crisis level for doctors. Some physicians have been forced to leave practices.

Again, we are talking about access to health care and costs of health care.

Dayton, OH:

WOMEN'S HEALTH CARE CRISIS LOOMS. . . . Rising malpractice premiums may force some doctors to stop delivering babies.

Buffalo, NY:

Soaring costs of medical malpractice insurance have caused fears among doctors that they will be forced to either quit their profession or practice in another state.

We all recognize this problem. I think both sides are going to state, again and again, that medical liability insurance premiums are skyrocketing. Why? The facts are there. We know it. We see it. Our physicians tell us why. We can look at what our insurance companies are having to charge today. The question is, why?

Medical liability claims and damage awards are exploding, and when they explode, that ends up being translated into increased premiums. People think those increased premiums are paid for by the doctor. When the doctor pays $50,000 or $100,000 in malpractice insurance, it is not really paid by the doctor, because the doctor is going to pass that straight back to the patients.

When you go to a doctor for a particular procedure part of that procedure is going just to buy the insurance. These costs ultimately increase premiums. First of all, increased jury awards increase premiums. They are eventually passed back to the patient.

We saw a chart earlier today. Let me just show it again. It is not just in George Washington Hospital, where I happened to find this newsletter and talked to the doctors and nurses there, and not just at Vanderbilt but all throughout the local and national medical community. The problem is all over the United States of America.

This is from the AMA. Basically, it outlines, in red, those States that are in crisis. You can see, it is not just on the east coast, and it is not just in the South, and it is not just in the Northwest. Shown in red are States in crisis: New York, Pennsylvania, Texas, Nevada, and Washington. Shown in yellow, including my home State, are States with problem signs. As these rates increase 15, 16, 17 percent, sometimes 20 percent, sometimes 30 percent, they will force more states into the red, unless we act.

The end product of all this, all those articles, the end product of the newsletter—this is what is circulating in hospitals and clinics all over the United States of America—is that patients are suffering.

Why do I say that? No. 1, access to care. It is not just a matter of the costs, but it is access to care. If you are in a motor vehicle accident and you need a trauma center, we have seen trauma centers close because of these escalating, out-of-sight, skyrocketing premiums, which no longer can be tolerated. If you are one of those individuals who needs that care, the access is not there, and you are going to be hurt.

If you need an obstetrician—in many ways, it is a woman's issue—and your former gynecologist-obstetrician is one who gave up that interest in delivering babies because the malpractice insurance was so high, your access to obstetrics care, the delivery of babies, and the prenatal and perinatal care all of a sudden disappears.

Why? Ask your obstetrician. It is because the malpractice insurance has gone sky-high, from $10,000, $20,000, $30,000, $50,000, $100,000 up to $150,000, and it can no longer be sustained over time.

So physicians are dropping services. They have no choice. They are moving away from procedures that have a higher challenge rate because of the risk of the procedures. But if you are one who needs that procedure, you suffer from a lack of access to care. Those procedures that are a little bit higher

risk, physicians are beginning to leave and not do them.

We have had letters read about malpractice insurance. All of us understand that malpractice insurance needs to be addressed. It is the only way to improve the system itself. Malpractice does occur. There is nothing in the McConnell amendment that in any way lowers the standards on malpractice. You will have the other side reading a whole series of letters from people who have been injured. And as the Senator from Kentucky pointed out, there is nothing in his amendment that lowers the standards in any way in addressing true malpractice.

My colleagues who are physicians are now demanding action by Congress. Why? Because they took that Hippocratic oath to take care of patients, to do no harm. To illustrate this runaway train concept that Dr. Wasserman mentioned in his newsletter, things are at a crisis, we have level 1 trauma centers closing. Thank goodness they are not closing permanently but closing for this very reason—not for a whole broad range of reasons of cost increases but for this very reason—the high costs of liability insurance.

A level 1 trauma center is a big deal. It is not just an emergency room, and emergency rooms are terribly important, but it is not just an emergency room that sutures cuts or takes care of serious headaches. This is where you go if you are in a severe motor vehicle accident, have severe head trauma, multiple injuries, bleeding in the abdomen. This is where you go where you have trained specialists 24 hours a day to save your life. That is what a level 1 trauma center is.

The only level 1 trauma center facility at the University of Nevada Medical Center closed on July 3 after 57 orthopedic surgeons basically resigned because medical malpractice insurance rates made it too costly for them to treat high-risk patients.

Luckily, fortunately, the trauma center reopened when the surgeons agreed to return for at least 45 days. People can look at that case and say it was for this reason or that. The bottom line is, we have a group of people in a community who took an oath to take care of patients, but basically said this is such a severe, fast-moving, heavy, runaway train that we can't sustain what we do professionally because of this crisis.

This particular trauma center is one of the 10 busiest in the country and is the only one in Las Vegas. When it closed, the nearest trauma center was roughly an hour and 20 minutes away.

Therefore, when we talk dollars and cents and insurance companies making money, we need to address all of that. But let's recognize that we have to fix the system which has now gotten so bad, so severe that premiums are skyrocketing. That increase is passed on to patients. Patients cannot afford increases in health care costs. We have known that for a long time.

Now what is happening, the actual care expected by the American people and that the American people deserve is less available. We call it less access. But whether it is a trauma center closing, whether it is a woman who wants to keep her obstetrician, but the obstetrician says he can't afford to keep delivering babies because of these premiums, because of these excessive lawsuits, these frivolous lawsuits today, he can't afford his old specialty that he was trained to do. Then there is the third component of access. You have physicians leaving parts of the country. Basically, some parts of the country, these red areas where you have this crisis level, malpractice insurance has gotten so high that a physician can either quit—and they are doing that; they have no choice. Ask your physicians.

Mr. MCCONNELL. Will the Senator yield?

Mr. FRIST. I am happy to yield.

Mr. MCCONNELL. In response to his observation, what is happening in my State is they are going across the river to Indiana which, as you will note, is a State which has modest caps on recovery; therefore, affordable rates.

Mr. FRIST. I thank the Senator from Kentucky. He is exactly right. We have people moving from a yellow State, such as Kentucky, to a white State. The white means States that are currently OK. You see California. I will come back to California and comment on that. We have people from Mississippi, that already has fewer physicians, moving up to Tennessee. And who knows, they may end up moving to Wisconsin or Indiana or out to California for the same reason.

What is important, in response to the Senator from Kentucky's question, is that physicians are making decisions not on places they either like to practice to deliver the care they are trained to do, but now they are making decisions because of this exorbitant, runaway train. It is almost like a litigation lottery, malpractice lawsuit premiums that they are having to pay. They tell you that. That is the reason they are moving.

So we have the cost issue. We have the specialty issue. We have physicians changing specialties, not because of their individual practice, what kind of care they are giving, but because the premiums are that higher for obstetricians versus gynecologists. Obstetricians deliver the baby; the gynecologists takes care of many other women's issues. Then you have the geographic movement to other States.

There is a reason for all of this. It is a litigation problem. We need to fix the problem, and it can be fixed. The numbers are staggering. Between 1995 and the year 2000, the average injury award jumped over a 5-year period more than 70 percent to $3.5 million. That is the average. More than half of all injury awards today top $1 million of all the awards. The payouts aren't the only problem.

Simply defending a malpractice claim, whatever the claim is, is more than $20,000, whether or not the doctor is at fault or the hospital is at fault. So there is an incentive through these exorbitant contingency fees where the trial lawyers, the personal injury lawyers, may make 40 percent. If there is a jury award, the trial lawyer, the personal injury lawyer gets 40 percent of the cut. Thus the personal injury lawyer has the incentive, the economic incentive to go out and engage in lawsuits, in frivolous lawsuits.

Each one of those which comes forward, no matter what, just to defend costs at least $20,000. In 2001, physicians in many States saw their liability premiums for these frivolous lawsuits, excessive lawsuits that go to the millions and millions of dollars, with the trial lawyers taking off 40 percent—and Senator MCCONNELL's amendment addresses this contingency fee very directly to put some sort of control on the incentive that trial lawyers have to dig up these cases, then the physicians, because of the tremendous cost, whether the case is frivolous or not, they tell their insurance company to settle the case. They don't want to be tied up in a court. They want to deliver care. That is what physicians are trained to do. That is what they are obligated to do.

The solution: Intelligent, reasonable tort reform, sensible reform with fair and equitable compensation for those negligently injured. California has addressed this. Hopefully, over the next several days or hours we will address their experience. We have seen California put very reasonable controls and caps and incentives addressing things broadly, and they have been able to control their costs. So we know it can be done.

I see my time is about over. I look forward to coming back Monday to talk a little bit more about this issue. The bottom line is, the McConnell amendment will help patients. That is what it is about. Patients are suffering today. We know sensible tort reform works. We have seen it in California, in those States that have been progressive enough to do that. Now we have a duty to make sure these red States become yellow States and eventually become white States where we don't have this crisis today.

Sensible tort reform works. Let's act now to protect patients, their accessibility to quality care, the premiums that physicians have to pay which are ultimately translated down to cost to that individual patient.

I urge support of the underlying amendment.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I thank the Senator from Tennessee. He has a unique perspective as the only physician in the Senate for lending his voice to this most important cause. I might say to my friend, to those on the other side of the aisle, we may or may not win Tuesday morning, but this is not going

away. We will be back, and we will some day address this problem because it is a national problem. Some on the other side will argue for States rights, which I always find interesting coming from very liberal Members of the Senate, that somehow this is not a Federal problem. I intend to outline in my full remarks exactly why it is a national problem and can only be corrected at the national level. I thank my friend for his outstanding comments this morning and look forward to continued discussion next week.

Mr. FRIST. Mr. President, I ask the Senator from Kentucky to allow me to enter three sentences in the RECORD, and then I will close.

First, I thank the Senator for his comments. This does give us an opportunity to point to the fact that this is a national crisis that has to be addressed. We have an obligation to address this crisis.

Dr. Frank Boehm, who is a good friend of mine, writes a newspaper article in the Nashville Tennessean. Though I do not have one of his articles, he keeps a really good feel of what is going on around the State of Tennessee and around the country and is also one of the preeminent high-risk obstetrical doctors in the United States of America. I communicated with him the other day.

I close with two or three sentences of what he said. He sees a lot of these high-risk cases coming through and reviews a lot of cases. He says:

> What this has taught me is that doctors, hospitals and nurses are being sued in large numbers, in large part because of the possibility of a settlement or trial judgment of a large amount of money.

Then he talks about some of the things we can do, many of which are in the underlying McConnell amendment.

He closes with this:

> Doctors need tort reform and so do our patients. With many physicians leaving States to practice elsewhere, or just closing up shop, patients are suffering from a lack of access to medical care in many parts of our country.

That was in an e-mail in response to my question of what is the lay of the land.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I thank the Senator from Tennessee particularly for his fine observation. There has been an effort on the part of some—and I am sure we will hear it again Tuesday—to say this is about insurance companies. This is not about insurance companies. It is about doctors, and it is about patients.

The AMA does support the McConnell amendment. I ask unanimous consent that a letter indicating their support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN MEDICAL ASSOCIATION,
Chicago, Illinois, July 25, 2002.

Re Medical Liability Reform Amendment

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: The American Medical Association (AMA) commends you for your leadership and initiative in offering an amendment to S. 812 (''Greater Access to Affordable Pharmaceuticals Act of 2001'') that would bring several common-sense reforms to our nation's broken medical liability litigation system.

Many states in our nation are experiencing an emerging medical liability insurance crisis. Due to large jury awards and the burgeoning costs of defending against lawsuits (including frivolous claims), medical liability insurance premiums are skyrocketing. In many cases, physicians are finding that liability insurance is no longer available or affordable. The media now reports on almost a daily basis that the situation has become so critical in some states that physicians are forced to limit services, retire early, or move to another state where the medical liability system is more stable.

The most troubling aspect of our unrestrained medical liability system is the effect on patients. Access to care is seriously threatened in states such as Florida, Mississippi, Nevada, New Jersey, New York, Ohio, Oregon, Pennsylvania, Texas, Washington, and West Virginia. In other states, including Kentucky, a crisis is looming. Emergency departments are losing staff and scaling back certain services such as trauma care. Many OB/GYN's have stopped delivering babies, and some advanced and high-risk procedures are being postponed because surgeons cannot find or afford insurance.

Your amendment includes key building blocks to effective reforms, such as allowing injured patients unlimited economic damages (e.g., past and future medical expenses, loss of past and future earnings, cost of domestic services, etc.), establishing a ''fair share'' rule that allocates damage awards fairly and in proportion to a party's degree of fault, preventing double recovery of damages, allowing periodic payment of future damages, and preventing excessive attorney contingent fees (thereby maximizing the recovery of patients).

In addition to these necessary reforms, we urge you to include a reasonable limit of $250,000 for non-economic (e.g., pain and suffering) damage awards, while allowing states the flexibility to establish or maintain their own laws limiting damage awards that have proven effective as stabilizing the medical liability insurance market. Multiple studies have shown that a limit on non-economic damages is the most effective reform to contain run-away medical liability costs. Such reform has also been proven effective at the state level. We also urge you to include a reasonable cap on punitive damages, such as the greater of 2 times economic damages or $250,000.

By enacting meaningful medical liability reforms, Congress has the opportunity to increase access to medical services, eliminate much of the need for medical treatment motivated primarily as a precaution against lawsuits, improve the patient-physician relationship, help prevent avoidable patient injury, improve patient safety, and curb the single most wasteful use of precious health care dollars—the costs, both financial and emotional, of health care liability litigation.

The proposals in your amendment are an important step in the right direction to strengthen our health care system. The AMA looks forward to working with you regarding a reasonable reform on non-economic damages.

Sincerely,
MICHAEL D. MAVES, MD, MBA.

Mr. MCCONNELL. Mr. President, I see the Senator from Ohio in the Chamber. I will be happy to yield him such time as he may need.

Mr. VOINOVICH. Mr. President, about 10 minutes will do it.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise today as a Senator from a State that is on the edge of becoming one of those red areas on that national map. This Senator does not want his State to become one of those red States. I rise in strong support of Senator MCCONNELL's medical liability amendment.

The litigation tornado that continues to sweep the Nation does not seem to be losing strength. In fact, at the rate lawsuits continue to be filed, the only entity that stands to lose strength is our economy.

The cost of malpractice insurance has had an enormous impact on the rising costs of health care and the cost of health care insurance to the extent that more and more of my constituents are complaining that the cost of insurance is so high that they can no longer afford to buy it.

In particular, the effect of rampant litigation has really had a disastrous impact on the health care industry. When a pharmaceutical company decides not to develop and produce a new drug because the cost of possible litigation could erase any profit, who really loses?

When physicians choose not to perform certain procedures, such as delivering babies, because malpractice insurance rates are too high, who loses?

Even worse, when a physician stops practicing medicine because he or she no longer can afford the insurance premiums or is so fearful of malpractice being filed against them, who loses?

Recently, the American Medical Association released an analysis which found that medical liability has reached crisis proportion—I underscore ''crisis proportion''—in 12 States. One of those 12 States is Ohio.

In addition, the American College of Obstetrics and Gynecology, the ACOG, issued a red alert and warned that without State and Federal reforms, chronic problems in the Nation's medical liability system could severely jeopardize the availability of physicians to deliver babies in the United States of America.

The good news for Ohioans is that Ohio did not make the ACOG's list of nine hot States, those in which a liability insurance crisis currently threatens the number of physicians available to deliver babies.

The bad news is that Ohio is only one step short of that mark. It is one of three States where a crisis is brewing. In fact, signs of the crisis are already beginning to show.

Currently, in Hancock County in northwest Ohio, they have only one physician to deliver babies. Think about it, a county with a population of

over 70,000 people has 1 physician to deliver babies. He has indicated that if his insurance premiums continue to climb at the current rate, he will have to close up shop.

That sounds like a crisis to me, and I am sure it sounds like a crisis to the women in Hancock County who need someone there to deliver their babies.

I believe this amendment that Senator MCCONNELL has before us gets us on our way to enacting meaningful medical liability reform. It limits attorney's fees so that the money awarded in court goes to the injured parties, who are the people who really need the money. It also allows physicians to pay any large judgments against them over a period of time to avoid bankruptcy and requires all parties to participate in alternative dispute resolution proceedings, such as mediation or arbitration, before going to court. It limits punitive damages to twice the sum of compensatory damages. These are all reasonable limitations.

One of the growing areas in the legal profession is mediation and arbitration. In fact, the Michael Moritz School of Law at Ohio State University, of which I am a graduate, is one of the leaders of that initiative in the legal profession.

When I was Governor of Ohio, I joined the chief justice of the supreme court and wrote to all the businesses in our State encouraging them to agree to a mediation and arbitration in order to reduce litigation costs and, frankly, improve the economic environment in our State.

Why shouldn't we do this in medical malpractice cases? Doesn't it make sense? Providing a commonsense approach to our medical liability problems is certainly a win-win situation. Patients would not have to give away large portions of their judgments to their attorneys and physicians could focus on doing what they do best: practicing medicine and providing health care.

I know there are differences of opinion about how to approach this, but we do have a crisis in this country. If those who are opposed to Senator MCCONNELL'S amendment are concerned about this problem, then it would serve us well to sit down and figure out some way we can address this problem. We need to do it now, not tomorrow, not next month. I can tell you, if we do not do something about this problem, we are going to see more and more people in this country do without medical care. We are going to see a lot more of our physicians dropping out of the practice of medicine. And we truly will have something we never experienced in this great country, and that is a health care crisis.

I thank the Chair. I yield back any time to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I thank the Senator from Ohio, who represents one of those red States in crisis, for his important contribution to this debate. I thank him so much.

Mr. President, I ask unanimous consent that Senator FRIST be allowed to control the remainder of the time we have for the morning on this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee.

Mr. FRIST. Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER. The Senator has 50 minutes under his control.

Mr. FRIST. And the other side?

The PRESIDING OFFICER. Sixty-seven minutes.

Mr. FRIST. Mr. President, I mentioned in comments a few minutes ago the fact that I was in the hospital yesterday and two nights ago with a family member and I will go there in a few minutes. Being there as a patient's family is a different perspective than being there as a physician or Senator.

As one walks those halls and sees people working hard, day in and day out, 24 hours a day, as one watches the shift change at 7 or 8 at night, fresh people coming in and starting, and see physicians coming in at 9, 10 at night, starting early in the morning, seeing the emergency room and trauma centers going on around-the-clock, when one sees that and recognizes that we can do something that will make that better when the trends, especially in the last 3 to 4 years, are getting worse, it makes one feel very passionately about that.

When I see doctors leaving the practice of medicine for this reason, these exorbitant, skyrocketing, out of control—this runaway train which I mentioned earlier, such good imagery—it makes me want to passionately come to this body and make sure that people understand, make sure that my colleagues understand, that physicians are leaving the practice of medicine because of these exorbitant malpractice suits.

A physician who gets up every morning to take care of patients who come through that door is being charged $100,000 not for what they do but to cover the legal system and these out-of-control malpractice suits, which I will say are in many cases driven by the trial lawyers, there is no question in my mind, and if you talk to people broadly they will say lawyers have the incentive.

When one sees that happening and sees that patients are going to suffer, they want to act. That is what this McConnell amendment allows us to do, to do something that does not solve the problem; it does not go as far as I want to go. As the Senator from Kentucky said, does not go so far as the American Medical Association, which represents so many tens of thousands of doctors, would go, but it is a first step. It puts the issue back on the table, and we ought to talk about this issue in this body.

It has been 7 years since we have actually addressed this issue, an issue that patients are being hurt by, that is driving physicians out of the practice of medicine, that is driving physicians from Kentucky to Indiana, from Mississippi to Tennessee, out of New York City, out of New York, out of Texas, out of Florida, that is driving the price of health care up unnecessarily. It is unnecessary. In fact, it is hurting patients unnecessarily; it is not helping patients.

If there is malpractice, there needs to be appropriate punishment. There needs to be appropriate economic compensation. It needs to be fair. It needs to be equitable. But these skyrocketing lawsuits, many of them frivolous, need to be brought under some sort of moderation and some sort of control.

I mentioned that Dr. Wasserman, who is chairman of the Department of Medicine at George Washington University, who is in the hospital working right now—we did not even really talk about this specifically in any detail, but in the newsletter that I quoted earlier, which is pretty good reflection of what is going on in every hospital around the country, it is important for my colleagues to know that sentiment.

In that same newsletter, I read one sentence earlier saying that what we are facing, in terms of this lack of tort reform, a medical liability crisis being a runaway train, a beautiful analogy. He said, and I quote from the second paragraph of the letter:

> Malpractice rates are increasing at a rapid rate across this nation. Insurance companies are going out of business, refusing to write new policies, or raising rates 50 to 200 percent.

People say, why? Some say it is the bad insurance companies that are making profits and taking advantage of people broadly, and that is where the problem is. Well, I disagree. It may be part of the problem that may need to be addressed, but the fundamental problem is the frivolous lawsuits, with no sort of restraint, with out-of-control incentives for the personal injury lawyers to take a 40 percent cut, to increase the number of cases, to bring these suits, again with no limits, no caps, not a $100,000 cap, a $500,000 cap, a $1 million cap, $5 million cap or $10 million—it does not matter what it is, they take away 40 percent of whatever it is so they are going to drive it high.

The McConnell amendment stops short of what I would really like to do, and it does not have any sort of limitation of payments. It looks at limits on attorney's fees, establishes proportional liability, looks at both scopes, such as collateral service reform, which we will be able to talk about, but it is a good first step.

Dr. Wasserman, in his newsletter—and this will be the last time I will quote from it, but it captures it—says: Be patient. There is a coming crisis. Already, there is a shortage of physicians in certain medical specialties in certain areas. Do not try to have a baby in Las Vegas. There are no obstetricians. Try to find a rheumatologist

in Florida in the winter with less than a 3-month wait.

At some point, this will be politically important when more people are denied immediate access to health care, and then maybe change will come.

That hurts me in many ways, because it basically says we do not have the guts to face an issue that is not just dollars and cents and profits and all of this class warfare that we hear about, but an issue that is hurting patients, where the patients suffer.

The example is right before our eyes, and I do not see how we cannot address it. The example I mentioned earlier in the great State of Nevada, where physicians actually had to close down a trauma center, a level-1 trauma center, which is sophisticated care that can be delivered adequately in no other way, and if you are in that automobile accident, your care is in jeopardy. It does not have to be this way if we can pass this amendment, continue the discussion, again, hopefully improve and strengthen this amendment in the future.

This is not going to go away. It is getting worse. It is getting worse before our eyes. We last talked about it on this floor 7 years ago. This is the first time since then. That is inexcusable. I mentioned the level 1 trauma center having to close, leaving patients for that period of time if they were in an accident having to go an additional hour and a half for proper care.

Let's look at the obstetricians and gynecologists. Again, as I mentioned earlier, an obstetrician/gynecologist is trained to do gynecology, women's health issues. An obstetrician's practice is to deliver babies. It is a good example because as these doctors' insurance premiums go sky high, and when they go sky high, the obstetricians are saying: I cannot deliver babies anymore. I am going to change to the field of gynecology.

Then the mom, who has been going to that obstetrician for 5 years, 10 years or 15 years, goes to see their physician who says: I am not delivering babies anymore, and the reason I am not is because I cannot afford that malpractice insurance. So then all of a sudden there is this problem with access to care affecting the individual. We talked a little bit about costs; we talked about physicians moving.

I again ask women all over this country to ask their obstetrician what is happening to obstetrics care today because of malpractice insurance.

Nationwide, 1 out of 10 OB/GYNs no longer deliver babies because of this high cost of liability insurance. Obstetricians are not just geographically moving but are leaving the practice altogether. Again, I can say that. I can go to a hospital and say that. I can say that as a Senator and as a physician. The best thing is for people to talk to their obstetricians and ask how this malpractice insurance impacts on them.

Earlier today we heard some comments about insurance companies, and I think on Tuesday we will have the opportunity to come back to that as well. Much of my focus is on the individual patient and on the impact on the practice of medicine, which is very real. I do want to at least introduce the fact that these insurance companies, many of which are not-for-profit in the sense that they are mutual funds—and I will use the example of the State Volunteer Mutual Insurance Company in Tennessee. It is owned by the physicians in Tennessee.

Again, it is not a red State yet. It is on the verge of being a crisis State. Eighty percent of the physicians in Tennessee come together and have a mutual insurance company because they can have the input and they can try to keep the rates down in the very best way possible.

I will read from a letter, and I ask unanimous consent to have this printed in the RECORD, dated July 25, from the State Volunteer Mutual Insurance Company.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE VOLUNTEER MUTUAL INSURANCE COMPANY,

Brentwood, Tennessee, July 25, 2002.

Hon. WILLIAM H. FRIST, MD,
U.S. Senate,
Washington, DC.

DEAR SENATOR FRIST: I am writing to urge you to support tort reform legislation currently being considered by the Congress.

According to recent news reports, doctors and hospitals in a number of states are currently facing a true crisis in the cost and availability of professional liability insurance. These states include West Virginia, Pennsylvania, New Jersey, Florida, Nevada and Mississippi and several other states. Access to patient care in those states is being adversely impacted, especially in the area of pre-natal and obstetrical care.

While our situation in Tennessee has not yet reached the crisis experienced in those states, there are many indications that our state could well face the same sort of problems in coming years if we do not act now to make some changes in our civil justice system.

St. Paul Insurance Company, the nation's largest writer of health care professional liability insurance, experienced such losses that it announced last December that it was completely withdrawing from the market, adversely affecting tens of thousands of physicians who carried coverage with that company, some of whom were in Tennessee.

Professional liability premiums for doctors in Tennessee have been steadily rising in recent years. According to State Volunteer Mutual Insurance Company, which covers most practitioners in Tennessee, premiums have increased by 45 percent over the past three years, in order to keep up with rapidly escalating losses in medical malpractice lawsuits. Only approximately 4 percent of this 45 percent increase was related to lower investment yield, with the remainder being due to increasing medical malpractice losses. State Volunteer Mutual Insurance Company is a policyholder owned mutual company with no outside investors.

In recent years both juries and judges in Tennessee have made multi-million dollar awards for non-economic type damages, over and above a plaintiff's actual economic losses. (According to State Volunteer, in one recent case a jury awarded only $25,000 in economic damages but awarded non-economic damages of $1,600,000. Another case resulted in a jury award of $100,000 economic loss and $1,900,000 non-economic damages. A judge in another case awarded $1,062,080 in economic loss and gave $4,500,000 non-economic damages. Another judge awarded $687,691 economic loss and gave $3,000,000 in non-economic damages. One jury awarded $7,811 in economic loss but gave $2,650,000 non-economic damages.)

Awards in personal injury and wrongful death cases in Tennessee are dramatically increasing, according to the latest statistical report of the state's Administrative Office of the Courts. In fiscal year 2001, even though fewer cases were disposed of in our courts than in the previous year, damages awarded statewide were more than $94 million. This represented an increase of more than $51 million over the previous year. The total was the largest since the courts began reporting these statistics. According to the same report, the average award for fiscal year 2001 was $209,284, up $95,064 from the previous year, the largest average since awards have been reported.

Senator Frist, doctors and hospitals in Tennessee are dedicated to providing excellent care to our state's population but at a time when health care reimbursements are shrinking, and professional inability costs are dramatically increasing, doctors in Tennessee believe that the Congress should enact some common sense tort reform that will preserve citizens' access to health care and compensate them for their actual economic damages caused by negligence, while modifying the current system of unlimited liability that doctors and other health care professionals and institutions currently face. Reforms modeled after California's ''MICRA'' law make sense to me. California passed legislation in 1975 that helped solve a crisis in that state. It is my understanding that key provisions in California's civil justice reform included the following:

$250,000 cap on non-economic damages;

reasonable sliding scale for lawyers' contingency fees;

collateral source payment offsets;

periodic payment of future damages.

I believe similar reforms on a national basis will go far toward alleviating the health care crisis now facing much of the country and will help avoid such a crisis from coming to pass in Tennessee.

Thank you for your attention and concern regarding this important issue.

Sincerely,

STEVEN C. WILLIAMS,
President and Chief Executive Officer.

Mr. FRIST. The State Volunteer Mutual Insurance Company is a policyholder owned mutual company with no outside investors.

So I think they don't have a huge incentive to go out and gouge the communities or patients. It is mutually owned by physicians throughout the State.

In the letter to me, I read further:

Senator FRIST, doctors and hospitals in Tennessee are dedicated to providing excellent care to our state's population. But at a time when health care reimbursements are shrinking, and professional liability costs are dramatically increasing, doctors in Tennessee believe that Congress should enact some common sense tort reform that will preserve citizens' access to health care and compensate them for their actual economic damages caused by negligence, while modifying the current system of unlimited liability that doctors and other health care professionals and institutions currently face.

This letter was written by Steven C. Williams, president and CEO of the insurance company, but also representing 80 percent of the physicians in Tennessee, calling for sensible reform, for moderate reform, reform that does not go overboard. That is what the McConnell medical malpractice amendment indeed does.

What is most important is what is happening to patients. Patients are suffering under the current system. It is a runaway train. We all know it is a problem. We have seen it in Las Vegas at the trauma center. We see it in various States. We go in our physician's offices and hear it. The problem is getting worse. It is increasing in its impact and not getting better. That is why we call for action now.

The Tennessee Medical Association, in a letter dated July 24, 2002, to me:

> We have a storm brewing here in Tennessee. While the waves are not yet crashing in on us, as in many states, including our next-door-neighbor, Mississippi, it most certainly is coming. Over the last two years, medical malpractice insurance rates have gone up 32 percent.

Of additional concern is that in Tennessee there is a very clear trend of increasing awards in medical malpractice cases. This, we believe, is fueled in large part by a growing public perception and environment that likens the courtroom to a casino where there appears to be no limit.

That was Michael A. McAdoo, president, Tennessee Medical Association.

The medical liability premiums are skyrocketing. It is because the medical liability claims are exploding. It is because the awards are exploding. The problem is not limited to just the Northeast or the Southeast. But as you can see from this map, the medical liability crisis is all over the United States of America. It has to do with cost and access to care and physicians leaving their profession.

The response to what we do means we have to identify the underlying problem and not just worry around the edges or tinker around the edges. I mentioned earlier, an average jury award over a 5-year period jumped more than 70 percent on average. When more than half of all jury awards top $1 million, we have this field of defensive medicine. That means physicians in the emergency room that I was in two nights ago, attending to a patient, are going to err in going a little bit too far in terms of tests. Why? Because if that headache, which to your exam is just a routine frontal headache treatable by a doctor, if you do not get the CAT scan or MRI scan, the risk, although it is beyond the normal bounds of routine accepted medical practice, a physician, a nurse, or a hospital is going to err on getting the expensive tests, although in your clinical judgment and using the practiced guidelines out there today, you do not need the tests. But you will get that series of more expensive tests that unnecessary testing.

Again, the American people pay for it. Those costs are unnecessary. They are there because of the fear of skyrocketing lawsuits, numbers of lawsuits, awards themselves. No one wants to be in that category. The best protection is to get the range of tests, although you may think they are unnecessary.

What is the effect on the doctor? In 2001, physicians in many States saw their rates rise by 30 percent, and even more. That is just physicians, generally. If you look at the specialists, such as obstetricians or possibly neurosurgeons or neonatal specialists, malpractice insurance is rising by as much as 200 percent, and in some cases 300 percent.

In New York and in Florida, obstetricians—the ones who deliver babies—gynecologists, and surgeons pay more than $100,000 for $1 million in coverage. That $100,000 they pay comes out of their pocket initially, but for them to stay in business and continue what they do, they take that $100,000 and pass it on to the people who are listening to me, the people all across America. That is why this issue is so powerful today.

People for the first time realize one doctor out there, who took an oath to do no harm, to help patients, who trained 4 years in medical school, a year in internship, 5 years in surgical residency, 2 years in specialty training, and a year of fellowship, just to be able to help people, are having to pay $100,000, not to help people, but to protect themselves. That is absurd.

Ultimately, for them to stay in business it gets passed all the way back through the system to that individual patient. It may come in taxes. It may come for those who do not have insurance, and pay retail, who do not have any insurance when the overall prices in health care go up. If you do not have insurance, you are in trouble today because the overall price of health care has skyrocketed. This is an area where through commonsense tort reform we can lower this escalating cost of health care across the board.

For annual premiums, some doctors in Florida and New York pay, again, above $100,000. That is one individual doctor. This is not a big corporation that pays this. It is not a big hospital paying it. These are individual doctors paying this money so they can fulfill that Hippocratic oath of doing no harm.

In Tennessee, which is not yet in the crisis mode, and is not considered to be in crisis, but it has problem signs today, the premiums rose 17.3 percent last year in 1 year. They will rise anywhere from 15 percent to 17 percent this year. What we need to do is ask why. Is there more malpractice today? Are physicians not as well trained today as they were a year ago, or 5 years ago, or 10 years ago? Are they not using the tests appropriately today in order to take care of patients?

If so, we need to debate that issue and look at it and look at the data that is out there.

No, I think the dynamics are because of frivolous lawsuits, because the personal injury trial lawyers have a huge incentive, a huge financial incentive for themselves in order to bring cases forward, which puts physicians in a position where it is easier to settle these cases rather than to spend a year or 2 years, if you have the insurance. So there is this huge settlement, even if you don't have malpractice, even if you know that you are absolutely innocent. It is easier to settle for $1 million or $2 million so you can go back to the practice of medicine.

The system is broken, and it is getting worse.

Can it be fixed? Yes. The McConnell amendment makes a first step there—intelligent, reasonable, balanced tort reform. It will help address it, but it will not solve the entire problem. It is not going to make it go away, but I can tell you, it will help patients because they will not have to be driven to the ranks of the uninsured; because that obstetrician, with whom they have the first baby and second baby, will not have left practice because of that malpractice insurance; because they will be able to see the neurosurgeon for their brain tumor in their region because he or she did not move from Texas to Wisconsin because of these exorbitant malpractice rates.

I mentioned earlier that today is different than 6 years ago when we last addressed it. It is in a lot of different ways because the problem is getting worse. Ask the physicians, ask the people in the hospitals who are working there every day. Read the newspaper, and you will see that every newspaper is going to address this in a direct way. I think we need to go back and look at hard data that is out there today, in terms of what certain States have done and been able to accomplish and what other States have tried, and learn from that.

In California there is what is called MICRA, which is the Medical Injury and Compensation Reform Act. It became law in the mid-1970s. It is a good example of what works. When you look at States, other big States, you see a lot of them are in trouble. You see New York City is in trouble. If you are in New York City, talk to the physicians, talk to the medical community, ask them what has happened in terms of these tort issues recently.

Look at Pennsylvania; it is in trouble. Look at Florida, look at Texas, where there is trouble. This is California in white, meaning they do not have a huge problem there. You do not hear it. I was in California this past weekend and probably talked to six or seven people in the medical profession at academic health care centers, and it is not No. 1 on their list for reform because they say it is not a big issue there.

Why? In the 1970s, California passed MICRA—Medical Injury and Compensation Reform Act. California doctors and patients have been spared much of

the medical liability crisis that we see across the country today. I think it is a good surrogate measure, that California's premium, the premiums they are paying today, are among the lowest medical malpractice insurance premiums in the country. MICRA is the reason.

I have used this example of obstetricians and gynecologists, so I will keep going back to that. It is the reason that the obstetrician, the one who delivers babies in California, may pay about $40,000 for medical liability insurance where, if you took that same obstetrician—same training, same medical school, had done the same number of procedures, delivered the same number of babies—and you put them in, let's say Florida or let's say New Jersey, or you put them in New York, the premiums—here, say, $40,000 for that insurance—it will be above $100,000, maybe up as high as $150,000. The same person, same training, same number of babies, same Hippocratic Oath—''Do no harm''—here paying around $40,000; in these red States, paying upwards to $150,000.

My colleagues have to ask why, but more important, the American people have to ask why. Is there less malpractice in California? I don't think so. Better trained doctors in California? I don't think so. The reason goes back to the tort system, the liability system.

In other States it has been allowed to run out of control, and that is why this McConnell amendment comes in. Again, we have not really talked about all the things that are in the amendment. We will have the opportunity to do that. But that is why it is important to go back and look at what is in the amendment. It doesn't go very far. It doesn't go far enough for me or, I think, for most of my colleagues in the medical profession.

But why does MICRA work? Why does this doctor with the same training pay so much less than these other States?

Let's look at MICRA. What does MICRA do? This is not the McConnell amendment. I don't want to confuse the two, but it shows what commonsense reform in a State that was way ahead of the curve can accomplish. MICRA does limit attorney's contingency fees to a sliding fee scale. This allows the patient, when there is an award, to keep the money.

If it is malpractice and you are trying to compensate the patient, to have the lawyer walk away with 40 percent of the money doesn't make sense to me. I don't think it makes sense to the American people once they really understand that. With this limiting of how much the attorney can take out of what is sent home by the jury to the patient, by limiting that in some way, you have some element of control of this runaway train which is hurting patients.

It is pretty simple. In my mind it is simple. If you look at how much a lot of these personal injury trial lawyers make today, especially in the environment where we are looking a lot more at the corporate world, the numbers are incredible. Ask, if you take the top 50 personal injury trial lawyers in America, what is their take? What do they make? The incentive is there.

If you are in the field of law, you would like to say, I am out just to save the world and do good. But when you take 40 percent of the take after a multimillion malpractice injury—first of all, the patient doesn't get it. That is who it is really about—or that is who it is about in the medical profession. It needs to be about the patient. That is whom you take the oath to serve.

It is hard for me to understand how you could have the huge contingency fees today when you hear physicians are leaving, they are not taking care of patients, they are being forced to close down trauma centers.

MICRA places a statute of limitations on bringing a suit 1 year from discovery or 3 years. This is the California law. This ensures that a suit would be brought in a reasonable amount of time. It protects evidence, and it also keeps people from sort of searching in the bowels of a hospital or advertising for cases 5 years ago, or 20 years ago, or 30 years ago. Again, malpractice occurs at a certain point in time, and we need to punish it, and punish it hard. But to go out and stir up these cases so you can be paid for it, I think is inappropriate.

What MICRA does—and again this is not in the McConnell legislation, and this I hope will come back to the floor again and again and again until we fix it—MICRA, California law, caps future noneconomic damages at $250,000. These are not the economic damages. There is full compensation there. So, under MICRA, patients are fully compensated for their economic loss due to medical malpractice, and they are compensated for lost wages, and they are compensated for the medical care and the future costs of medical care.

I use California as an example because we have not talked about it on the floor of the Senate. We haven't talked about it in committee, because this whole issue has not been addressed. The bottom line is you can have reforms—which the majority of States do not have today, and that is the reason there is a role for this body to act—because the problem is well identified, and the problem is getting worse. The problem has not been adequately addressed by States—California and a handful of others have addressed it—so that we have an obligation to the patients.

The reforms in California have helped the patients. Injured patients receive a larger share of whatever award. If there is malpractice and there is an award, the patient can walk—hopefully, can walk—home with more of that award. In addition, these reforms have helped slow down the overall rising cost of medicine.

There is no question in my mind that physicians are practicing defensive medicine, which the physicians have to practice, and this drives up the overall cost of health care today.

We talk a lot about prescription drugs, about the importance of generics, about the importance of coverage within Medicare, and about having a competitive system—all of which we hope will actually slow down the skyrocketing costs of medical care today. Indeed, the cost of health care in California has been slowed by the slowing and the restraining of these out-of-control, skyrocketing, runaway train costs in liability that other States have.

Mr. EDWARDS. Mr. President, will the Senator yield for a time question?

Mr. FRIST. I would be happy to yield.

Mr. EDWARDS. Does the Senator have an idea how much more time he will take?

Mr. FRIST. Probably 5 minutes, and then I would be happy to yield the floor.

Madam President, how much time do we have on either side?

The PRESIDING OFFICER (Ms. STABENOW). Eighteen and one-half minutes.

Mr. FRIST. Madam President, let me take a couple of minutes, and then I would be happy to sit down and look forward to the opportunity to talk about all of this on Tuesday, which I believe is when we will come back to this.

The McConnell medical malpractice amendment does the following:

It limits punitive damages. It limits punitive damages to two times the sum of what are called compensatory damages. Again, this gets sort of technical. We talk about economic damages and noneconomic damages. It allows punitive damages in those cases where the award has been proven by clear evidence and by convincing evidence.

I mentioned attorney fees. I am critical of that because I don't understand in this day and time why personal injury trial lawyers walk away with so much money that has been awarded to the person who has been injured. But it does limit attorney fees.

The McConnell amendment places very modest limits on attorney's contingency fees and medical malpractice cases. Specifically, the amendment allows personal injury lawyers to collect 33 percent, or a third, of a $150,000 award, and about $25 percent of the award on all amounts above $150,000.

Again, that is pretty modest from my standpoint. The fact that an award to somebody who has been injured is $150,000, it was malpractice, and the fact that a trial lawyer will take away a third of that for their pocket, again, to me—that is what is in the amendment—that is an improvement over today. But, again, in the future I hope we come back and address that.

The statute of limitations—I mentioned California's law—the amendment requires that a medical malpractice complaint must be filed within 2 years of discovering the injury and

the cause. Again, that is when it should be filed.

The McConnell amendment is modest. It identifies the problem. It gives us the opportunity to talk about the problem on both sides of the aisle. It does not include all of the measures I think are necessary to address this problem eventually. But it is a good first step in the right direction.

We have evidence that reasonable tort reform—and we can debate what reasonable tort reform is. I think, again, the McConnell amendment is the first step. It doesn't go quite far enough, but it is a good first step.

We know that by addressing this we are going to hold down health care costs which are skyrocketing. The premiums are going up 15 percent, 17 percent, and 20 percent—last year, this year and next year. That translates down to the patient. Those premiums are eventually going to be passed down to the patient. To my mind, there is no question but that we will put them in the ranks of the uninsured.

On the access issue, the McConnell amendment is a simple amendment. I am convinced. Ask your physician, if you have the opportunity over the weekend. I am absolutely convinced it will improve access when we know that access overall is deteriorating.

We need to look at Las Vegas, and we need to look at the many examples which are in newspapers all across the country of physicians leaving a specialty practice because of malpractice insurance, or leaving a State.

We have an opportunity to do something which protects patients and which improves their access and clearly stops the deteriorating access to quality care before this problem gets worse.

I urge support of this amendment and look forward to coming back to it over the next several days.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Madam President, I yield myself such time as I may use.

Let me say, first, from the discussion that we have been having all over America, and on the floor of the Senate for the last few weeks about trying to reinsert some responsibility and accountability because of the fundamental notion we believe in this country that everybody—every person, every company, big business, small business, and everybody in America—should be responsible and accountable for what they do, one of the reasons we have had such a downslide in Wall Street lately is people have lost confidence in the responsibility of people who run some—I emphasize ''some''—of the companies that have been on the front pages of the newspapers for the last several months. What they want us to do is reimpose some of that corporate responsibility. So we work very hard on that.

At a time when the focus is on trying to make sure we have real responsibility and real accountability in this country, the President yesterday went to my home State to do exactly the opposite. The President went to North Carolina to say: I am going to side with big insurance companies and against victims. I am going to say if a child who has been severely hurt as a result of bad care is trying to get some help for him and his family over a long period of time, I am going to put a limit on that. I am going to put a limit for a very simple reason: The big insurance companies of America will have to pay.

Unfortunately, there is a pattern with this administration. Every time they have a choice between the interests of average Americans, kids, families, and people who do not have lobbyists in Washington, DC, representing them, on the one hand, and on the other hand, the interests of big HMOs, big oil companies, big energy companies, the drug industry, the pharmaceutical drug industry, and big insurance industry in this case—whenever those interests come into conflict with the interests of ordinary Americans, this administration consistently sides with the big interests. They have done it on the Patients' Bill of Rights.

They have prevented us from having a real and meaningful Patients' Bill of Rights. While we try to protect families and patients, they side with the big HMOs. I think we are going to overcome it.

On preventing us from having a meaningful prescription drug benefit for senior citizens and doing something about the costs of prescription drugs in this country, on which the Presiding Officer has worked so hard, we know that is a fight between ordinary Americans and ordinary families who need these prescription drugs and the pharmaceutical industry. The President has stood with the big pharmaceutical industry.

On trying to do something about clean air in this country, the President and his administration have proposed weakening our clean air law—all in the interest of protecting his friends in the oil industry, in the energy industry, and against the interests of ordinary Americans.

So now he adds to that list, going to my home State of North Carolina, to say to the victims: I am going to make sure the big insurance companies of America are protected. At the end of the day, that is all this is about.

The proposal the President made is different from this amendment—which I will talk about in a minute—which is to impose a limit of $250,000 on some of the damages for children can be recovered against these big insurance companies.

For example, in the case of a child who may be born blind or crippled for life or a child who has to be taken care of by his or her parents every single day, 7 days a week, every day of the year for the rest of their lives, the President says: I am going to make sure the insurance companies don't have to pay what they are obligated to pay to that family, to that child.

It is wrong. It is no more complicated than that. And the children and the families, who have been the victims, know it is wrong.

The President held a roundtable yesterday in North Carolina on this subject. How many victims participated in that roundtable? How many people whose lives have been destroyed and who need the help that the insurance company is obligated to provide for them participated? Everybody else was well represented. What about the people who don't have lobbyists? What about the people who aren't represented here in Washington by lobbyists? The families, the kids who are hurt by all this, were they at the roundtable? Were their voices heard?

I invite the President to come back to North Carolina, and this time, instead of talking to these powerful interests, I hope he will sit down with regular folks who have been the victims and listen to what they have to say, listen to what their lives are like.

One of the phrases that was used in the administration proposal was: You have these families who have won the lottery.

Well, I can tell you what the parents of a child who was a victim said yesterday from North Carolina. I know these people because I represent them. The parents said: Our little girl was born, and because of the type of care she got, she couldn't see, she couldn't hear, she couldn't walk. Every day of her life—7 days a week, 24 hours a day—we took care of her. And we loved her so much. There is nothing we wouldn't have done for her. And then she died. And when we go to visit her at her grave, we don't feel much like we won the lottery.

These are the people whom these kinds of proposals affect. These are real people with real lives. We have to look at the consequences, even though they are not up here with powerful, fancy lobbyists representing them. They are the people we have to look out for. And they are the people who expect their President to look out for them. Unfortunately, he continues to stand with big insurance companies, with big pharmaceutical companies, with big HMOs. These people need his help. It is no more complicated than that.

Now, as to this amendment and the purpose of it, first, medical malpractice premiums constitute less than 1 percent of health care costs in this country. So think about the logic. The argument is, we are going to do something about health care costs in this country, and the way we are going to do it is to try to do something misguided—we are going to try to do something about medical malpractice premiums, which constitute about two-thirds of 1 percent of health care costs in this country.

First of all, it is the wrong place to start if you are going to do something

about health care costs in this country. If you want to do something about health care costs, you ought to do what the Presiding Officer and I and so many of us have tried to do—bring the cost of prescription drugs under control in this country, because that will have a real effect on health care costs. They are a driving force in rising health care costs in this country.

This is minuscule by comparison. So, No. 1, it is a misguided effort in terms of what it is focused on. No. 2, it will not work because these kinds of proposals—the President's proposal yesterday in North Carolina, and this amendment, which is different—are proposals that impose limitations on recoveries for victims, for families, to try to get rid of some concepts in the law. They have been used in many places around the country. They do not work. They do not, in fact, have the kind of impact on insurance premiums that these people who are proposing them say they have.

If you look at medical malpractice premiums in this country, and you look at the States that have these provisions that impose limits on the families, and then you look at the States that do not have them, the costs of medical malpractice insurance—I am looking for the year 2001 for internal medicine, for general surgery, for obstetrics and gynecology—are virtually identical.

This all sounds logical. If you impose limits on what the victims and the families can recover, why does that not help bring the cost of the insurance down? Why does it not have an effect on premiums? Because logic would tell you it would because insurance companies have to pay less, theoretically. So as a result, why don't they lower the premiums? Because the insurance company premiums have nothing to do with this. That is the reason.

The insurance company takes the money that they receive in premiums, and they invest it. Where do they invest it? They invest it in that same stock market in which most of the people in America are invested.

You can look at every time they start raising premiums. They come to Washington and say: There is a crisis; we have to do something about this; this is a serious problem; we have these outrageous awards for children and families; we have to stop it. And the way to stop it is to cut off the rights of the victims. That is the way to stop it.

So why? Because they are not doing well in their investments. Every single time, when the stock market falls, and the insurance companies' money that is invested is not bringing back a good return—in fact, they are losing money—they raise premiums.

Who has to pay those higher premiums? The health care providers. They are just as much a victim of this as the kids and the families who are victims of the bad medical care. The insurance companies are the ones that are responsible. You can look at it. It is as sure as the Sun is going to come up tomorrow, if they are doing well on their investments, the premiums stay relatively stable. When they are not doing well on their investments, the premiums go up. That is what this is all about.

While these kinds of proposals are aimed at reducing the rights of victims—which is what they are—instead, what we ought to be doing is looking at what the big insurance companies are doing when they get unhappy with the results of their own investments. That is what drives this.

If you look at what has happened in these States—the Senator from Tennessee talked about California at great length. California has some of the most severe limitations in the country on what victims can recover—severe limitations. They have been in place a long time.

So let's look at what has happened in California.

Between 1991 and 2000, over that about 10 years—a little less than 10 years—the premiums in California went up more than the national premiums. Why? Why in the world, if they have got these serious limitations on recoveries—and they have been in place for years in California—why would their premiums go up? And why would they go up faster than in the rest of the country, many places which do not have these kinds of limitations? Because the rise in premiums, and what is happening in what insurance companies charge people around the country, is in direct relation to how they are doing in their own investments.

In some cases, it is an insurance company or the insurance industry that exists in a region, in some cases it is national, and in many cases, of course, it is connected to the international and the reinsurance markets, but it is clear as day that it is directly related to how they are doing in their investments in the stock market.

So this effort is misguided. Besides that, I do want to point out, though, that the Senators who are proposing this amendment to put limits on what victims can receive, even they are not willing to go as far as the administration is. The administration proposes a $250,000 limit on some damages for children, among others, who have a lifelong disability as a result of bad medical care.

This amendment does not make that proposal. They are not willing to go that far. They know that when you put a limit on those kinds of recoveries, on those kinds of damages, it is like a laser directed at the most severely injured, and usually the youngest, because young children who have severe injuries for life, which they and their parents are going to have to carry for the rest of their lives—and you are limiting them to $250,000 in those kinds of damages—$250,000—nobody in America thinks that makes sense. That is why that is not part, I suspect, of this proposal.

Instead, this proposal goes about it in a different kind of way. What this proposal suggests is a couple things: One, that we get rid of something called joint and several liability. Without going into too much detail about this, we believe in this country—and it has been the law of the land for many years—that if you have a victim, whether it is a victim of criminal conduct or bad medical care, or somebody who has behaved wrongly, and you have a victim, the victim should not be the one held responsible. If you have several people who caused it, they share the responsibility.

What this proposal says is, all right, somebody got hurt as a result of the bad behavior of a group of people. Always remember, you have an amount that has been lost by the victim. Let's say it is $100,000 that has been lost by the victim. If that money has been lost, it is shared among the defendants. What we have always said in America is, as part of our law, the victim should never be the one held responsible for that loss. The loss doesn't go away. The loss is always there; the damages are always there.

This proposal says, if you have five people who are responsible, then among those five people, none of them can be required to pay more than whatever a jury determines is their percentage responsibility. But remember, these are all wrongdoers. So on one side of the equation you have a child who is innocent. On the other side of the equation you have the group of wrongdoers. The amount that has been lost does not change. Somebody has to be responsible for that. So are we going to say that the wrongdoers are responsible or are we going to shift some of that responsibility to the innocent victim?

That is what this proposal does. It says we are going to get rid of what is called joint and several liability, which means you can collect against any one or all of the wrongdoers, and says instead, if there is a wrongdoer you can't get to, for whatever reason, that part of the responsibility goes back to the victim. It violates what we believe in this country. It violates our fundamental notion of responsibility and accountability that the people who ought to be held accountable for they are the people who did wrong, not the innocent victim. That is what is wrong with this specific proposal.

There are other proposals. The next proposal says if there is an award of something called punitive damages, then half of that money will go to the Government. Now, let's talk about that in a real case. Let's explain what the effect of that is.

To get punitive damages, the conduct has to be either criminal or very close to criminal. That is what is required in order for punitive damages to be awarded. So let's say you have a teenage girl who is the victim of this kind of criminal conduct. The jury awards these damages to that young girl. This is what this amendment says to that

victim of essentially criminal conduct: We are going to impose a 50 percent tax on you. That is what we are going to do. We are going to say to the victim of this conduct: There is a 50 percent tax on the damages that a jury, after hearing the whole case, has decided you are entitled to, 50 percent. That is going to go to the Government.

Is that the signal we want to send as a Congress, as the U.S. Senate? Do we want to say to the American people that we as a body want to impose a 50 percent tax on a child who has been the victim of what is essentially criminal conduct? This is crazy. It doesn't make any sense. It also violates our basic notions of fairness and responsibility and accountability.

We have talked a great deal on the floor about doing things about the victims of criminal conduct. This essentially falls in the same category. It makes no sense for the government to impose a 50 percent tax on a child who has been the victim of what amounts to criminal conduct.

These provisions—and there are others—are wrong: getting rid of what is called joint and several liability, which means the wrongdoers don't necessarily have to pay for all of what has happened, while some of it gets shifted to the victim. That is wrong.

Second, to say we are going to impose a 50 percent tax on a victim, a child who has been essentially the victim of criminal conduct, that is wrong.

More important than all of that, this whole effort is misguided. If what we want to do is do something about health care costs, we should not focus on what is well less than 1 percent of health care costs. We ought to focus on the things that really make a difference, such as the rising cost of prescription drugs.

More importantly, the people who need us to look out for them are the very people that this amendment is aimed at—the kids, the families, the victims. We need to stand up for them. They need us to be willing to stand up for them no matter who is outside the floor of the Senate representing the most powerful interests in America.

No matter how many lobbyists the insurance industry has, no matter how many lobbyists the HMOs have, the big energy companies, the big oil companies, who is going to stand up for these kids and these families? If they don't have us to stand up for them, they have nobody.

On all of these fronts, whether we are talking about doing something about the high cost of prescription drugs for people, whether we are talking about kids and families who are the victims of bad medical care, whether we are talking about trying to protect our air for our children and for our families, on all these fronts, we have to stand up for them. The people who voted for us and sent us to the Congress are counting on us because they don't have lobbyists up there. They have nobody here outside the halls of Congress representing them. They count on us to stand up for them.

As we go through these fights, we will stand up for them. This is one of them.

How much time do we have remaining?

The PRESIDING OFFICER. Forty-five and a half minutes.

Mr. EDWARDS. Madam President, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Before the Senator from North Carolina leaves, I would like to ask him a question or two. I am sorry I was not able to hear all of his remarks. Having tried a few cases in my day, one of the concerns I have about this tort debate is the fact that the insurance industry is the only one that I know of, other than baseball, that can sit down in a restaurant in sight of everybody or in some dark room, wherever they want, and knowingly and openly conspire to set prices. There is nothing wrong with that. That is because of the McCarran-Ferguson law passed during the depths of the Depression. They can do this.

Let me say to my friend, to show how unnecessary the debate is here in the Senate, first of all, this is something the States should be doing, as is happening in Nevada.

This coming Monday, the Nevada State legislature is convening in a special session to deal with medical malpractice. I may not agree with what the State legislature does or doesn't do, but that is where this should be settled.

The State of Nevada is different than the State of North Carolina. We have all kinds of different problems with our torts than the Senator does.

I have two questions for my friend. First of all, do you think it would be a good idea for the Congress, after some 70 years, to take a look at McCarran-Ferguson to find out if insurance companies should be exempt from fixing prices, be exempt from the Sherman Antitrust Act? That is my first question.

The second question is, don't you think that tort liability, whether it is medical devices, medical malpractice, or products liability, should be settled by State legislatures?

Mr. EDWARDS. The Senator asked two very good questions. First, I think it is a terrific idea for us to look at the insurance industry, its practices in general, and what effect McCarran-Ferguson has on those practices. The Senator describes a large part of the problem.

The Senator knows as well as I do, you can't move in Washington without bumping into some lobbyist representing the insurance industry. They are so well heard and so well represented. I think it is a very good idea.

As to the second question, we have differences between North Carolina, my State, and the State of Nevada, and differences between us and California. These are the kinds of issues that ought to be resolved at the State level. We have always believed that. There is a little bit of an inconsistency for the administration that normally says these are matters that ought to be left to the States, we trust the States to make these decisions; but in the case where they want to do something on behalf of the insurance industry, which is what this is, they want to take it away from the States; they want to do it at the national level.

What has historically been done in this area is the way it should be done, which is these are matters about State courts, how State courts handle these kinds of cases. They are in touch with it. They know what is happening in their individual States, what the problems are, and they can address them in a responsible and equitable way.

I thank the Senator for his questions.

We reserve the remainder of our time, Madam President.

The PRESIDING OFFICER. Who yields time?

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. REID). In my capacity as a Senator from the State of Nevada, I ask unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

In my capacity as a Senator from the State of Nevada, I ask unanimous consent that the quorum call that will shortly be called for be charged equally against both sides for the time remaining.

Without objection, it is so ordered.

I suggest the absence of a quorum, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SARBANES). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

The PRESIDING OFFICER. The Chair would inform the Senator that it is the Chair's understanding there is running time off of the allocated time on this amendment. I suggest to the Senator that he may want to use the time that has been allocated to his side on the amendment.

Mr. BENNETT. Mr. President, I ask unanimous consent that that be the case, that I be allowed to speak with the time being charged.

The PRESIDING OFFICER. The Senator will be recognized and the time remaining on the amendment will be

charged to his side of the aisle, which is 6½ minutes.

Mr. BENNETT. May I inquire, Mr. President, if the time would be running even if we were in a quorum call?

Mr. SARBANES. Yes, it would.

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to proceed for the next 6½ minutes, with the time charged, as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

STOCK MARKET VOLATILITY

Mr. BENNETT. Mr. President, I have been reading the popular press, as have most of us. As we watched the gyrations that occur in the stock market at the moment, I have been interested at the way people in the press have been portraying what has been happening.

We have been told in the last few weeks that the market went down because President Bush's speech was not tough enough when he spoke to Wall Street. We have been told that the market went up because Chairman Greenspan's presentation to the Banking Committee was encouraging. We have been told that the market went down because the Banking Committee's bill on corporate governance was too tough and was frightening people. Then we were told that the market went up dramatically because the same bill was passed and people were reassured.

The consequence of all of this is to demonstrate to me that the popular press does not have a clue as to why the market does what it does. They do not understand market forces, and they are looking for reasons with little or nothing to do with what happens in the market.

I will make a few comments about the market and what it is we might really do in Congress if we want to have an impact on the market and the economy.

In the short-term, there are two factors that we know about investors in the stock market. No. 1, they hate uncertainty. They hate a situation where they do not know what is going on. This is one of the reasons why they reacted to the recent scandals with respect to accounting: They did not have the certainty that they could depend on the numbers.

Now, as they are beginning to sort through some of the information we have, they are beginning to feel a slight increase in certainty in their reaction to the numbers. That is showing up in some of the stabilization in the market. It has nothing to do with what kind of a speech the President gives or how eloquent we are in the Senate.

No. 2, the market has a herd mentality in the short-term. If everyone is selling, we ought to sell. That is the reaction in many brokerage houses. There are those who say: We are contrarians; if everyone is selling, we are going to buy; we are out of the herd mentality. But they are in a herd mentality among the contrarians.

So there is no careful analysis of what is going on but a flight from uncertainty and a herd mentality, both of which rule the market in the short-term.

In the long term, however, which is what really matters, there are also two factors in the market we must pay attention to. No. 1, in the long term, the market is self-correcting. Errors of judgment that are made on one side of a trade are compensated for by intelligent decisions on the other side of the trade. One brokerage house or one fund manager who overreacts and makes a serious mistake is offset by another fund manager who serendipitously makes the right decision. Over time, the markets are self-corrected so that the frantic headlines we see in Time Magazine or on the front pages of the New York Times, the market this or the market that, on the basis of the President's speech or the Congress's actions, over time they have no relevance to reality whatever. The market over time is self-correcting, goes in the right direction, and rewards people who do the right thing and punishes people who do the wrong thing.

Second, over time, the market depends on fundamentals. There are periods of time when we have froth. There are periods that I call ''tulip time''—remembering the tulip mania of the Netherlands. Over time, these periods of froth are squeezed out, and the market makes its decision on fundamentals.

I say to my friends in the popular press who are trying to sell air time or newspapers: Stop trying to frighten the American people one way or the other. Come back to an understanding that fundamentals in the economy are the things that really matter—not speeches by the President, not actions necessarily by the Congress.

I think we had to act on the corporate governance area, but we didn't drive the market up or down by the action that we took. We added to the question of fundamentals.

How well the Sarbanes-Oxley bill works will play itself out in the fundamentals. If it works in a solidly fundamental way, it will benefit the markets. If it turns out it has flaws, it will hurt the market. But the speeches we imagine as we pass the bill have little or no impact.

One final comment. If we were serious about doing something to change the culture in corporate America, we ought to consider removing taxation on dividends. We have had a lot of conversation about options and managing earnings. If dividends become a reason why people buy stocks, as they once were, that would change the nature of corporate governance fairly fundamentally.

If a CEO knew his stock price would go up if his dividend were increased and if his investors knew if they get an increase in dividends it would not be eaten up in taxes, there would be a change in the corporate boardrooms of this country that would be salutary.

I don't have the time to go into this, but at some future time I will explore it. I raised this with Chairman Greenspan when he testified before the Banking Committee and asked him about the propriety of removing taxation from dividends. That was the beginning of a conversation that I want to have over time.

As we go through the experience of the present economic difficulties and the gyrations of the market, it is time to reflect on fundamental things we can do that will change the nature of the corporate culture. Addressing stock options and expensing stock options is something we can talk about. Dealing with corporate compensation is something we can talk about.

Back to my earlier point. Over time, the market responds to fundamentals, and, over time, we ought to look at some fundamental changes. That means we have to look at the tax laws. There is nothing that government does that affects corporate activity more than the Tax Code. That is where we ought to look for serious cultural changes.

I yield the floor.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I ask to speak on another subject.

The PRESIDING OFFICER. The time would be charged against the time remaining on this side for debate on the amendment. There are 32 minutes remaining. I suggest the Senator speak as in morning business but we continue to charge the time against the time remaining on the pending amendment.

Mr. CORZINE. I ask unanimous consent to speak in morning business and that the time I use be charged against the time allocated for debate on the amendment. I expect to use up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOCIAL SECURITY

Mr. CORZINE. Mr. President, I bring up a subject that I have been speaking about frequently. That is our Social Security system, one that I believe the American people deserve to have a debate about before the election in November.

There have been many attempts to put off this debate until after the election so we can decide policy that will truly impact the American people for many, many years and decades to come. It is extremely disappointing we have had a hard time engaging in that debate. This week we actually made some progress, at least with regard to debate, not necessarily with regard to the content of the debate.

I express my great disappointment and, frankly, my utter amazement

about comments made this past week by the President's press secretary, Mr. Ari Fleischer, with respect to the privatization of Social Security. I will read the beginning of an article from the Washington Post on Thursday on the press secretary's remarks, and I will ask unanimous consent to have this article printed in the RECORD.

The article is titled: ''Bush Continues to Back Privatized Social Security.''

It reads:

The White House yesterday stood firmly behind President Bush's plan for workers to divert some of their social security payroll taxes into the stock market, despite the dramatic drops suffered in recent months.

Basically, for the past 2½ years.

White House Press Secretary Ari Fleischer took a swing at the existing Social Security Program, calling it ''dangerous'' to let the people pay a lifetime of high taxes for a Social Security benefit that under current projections they'll never receive.

Let me repeat:

. . . calling it ''dangerous'' to let people pay a lifetime of high taxes for a Social Security benefit that under current projections they'll never receive.

Often we hear people talking about trying to scare seniors and all kinds of hyperbolic commentary about Social Security, but this tops it.

Yesterday, the Congress, under your leadership, took the leadership with regard to corporate reform to help make sure corporate America, the Nation's accounting profession, those who are responsible for managing corporate America, are more responsible. But after reading Mr. Fleischer's remarks, I think we should consider a similar initiative to make the administration's statements on Social Security equally responsible.

It is inconceivable that we would be talking to the American people in terms that, under current projections, they will never receive their benefits.

Let me take a moment to review where things stand on this issue of Social Security, which I do believe truly needs a full debate—maybe not in context that Mr. Fleischer is talking about, but we do need a debate in front of the election.

Last December, President Bush's Social Security Commission proposed plans to privatize Social Security that would require deep cuts in guaranteed benefits—not eliminate, deep cuts. For workers now in their twenties, those cuts would exceed 25 percent. From younger workers and future generations, those cuts could be much deeper, up to and beyond 45 percent.

Unfairly, and in my view inappropriately, these cuts would apply to everyone, even those who choose not to risk their Social Security benefits in privatized accounts. For those who do participate in privatized accounts, the cuts in their guaranteed benefits would even be larger than those I just mentioned.

Incredibly, for the disabled and for surviving children and family members, the cuts in their benefits would be especially disastrous, more extreme than the numbers that are cited for retirees.

These deep cuts would undermine the fundamental purpose of Social Security, which is about providing a basic level of security to those who have worked hard, contributed to our Nation, paid into the Social Security system, and they did it in good faith that the system would be available, and those resources would be available for their retirement. Social Security promises Americans a basic level of security on which they can count. It is the bedrock of a social insurance program that our Nation overwhelmingly supports, has for generations—70 years—and that retirees can depend on for a rock solid guarantee regardless of what the stock market does or what asset markets of all kinds do, regardless of inflation and regardless of one's lifespan. Social Security will be there and that fundamental guarantee is what the program is all about.

By contrast, privatizing Social Security would shred, would break that guarantee, and in my view we must not let that happen. It is one of the most important issues our Nation should be debating as we face this election this fall. The lines are very clearly drawn. Mr. Fleischer suggested they stand firm in their belief that the privatization of Social Security is the direction we should take.

The huge volatility in the stock market over the past several months should make clear to all Americans that equity investments by their nature cannot offer the same security that Social Security provides. Being an old market hand, markets go up, they go down, they go sideways. They are volatile through time. Sometimes they have serious erosions in value.

In the past 2½ years, stocks have lost nearly $8 trillion in value. The S&P index has declined by about 45 percent. This year alone, stocks have lost close to $3 trillion. That translates to real undermining of retirement security for those who were dependent on it, primarily focused on a 401(k) in the stock market. Many of those losses have been suffered in our pension systems. They have been suffered in IRAs, 401(k)s, personal savings accounts. Those have truly undermined the security that one might draw from them.

But through all of that, Social Security stands firm. The guaranteed benefits are in place. One doesn't have to wonder whether those resources for one's retirement security are going to be available. Basic, critical benefits will be there for the beneficiaries, regardless of the state of the stock market.

In light of that dramatic volatility, I had hoped that President Bush would reconsider his support for privatizing Social Security. As I said, Mr. Fleischer was crystal clear. The President's position had not changed.

For me, this is extremely disappointing, and I certainly call on the President to rethink his position. On these matters of great national import—whether it was the corporate reform activity that we had a debate about for 3 or 4 months, leading up to yesterday's successful passage of corporate reform; whether it is with regard to the fiscal policy that has seen us move from substantial surpluses, 3 years of surpluses into substantial deficit; and now, on Social Security—we see this continual sense of inflexibility.

Leadership is about thoughtful respect for the facts, changing realities that might require a change in one's position. I hope the President will consider that in the context of Social Security, taking into account the kind of market volatility we have seen, taking into consideration the kind of risk that might be brought to bear on those who have had their investments in the stock market over long periods of time.

Having said that, my concern about Mr. Fleischer's statement Wednesday goes beyond his reaffirmation of this administration's continuing support for privatizing Social Security. He went much further. Let me just read again from the story I cited from the Washington Post. Mr. Fleischer claimed that Social Security was ''going bankrupt,'' and that it was dangerous to:

. . . let people pay a lifetime of high taxes for a Social Security benefit that under current projections they'll never receive.

''Going bankrupt,'' if that is not scare language, I can't imagine how one could otherwise categorize it.

This statement is simply outrageous. It is simply outrageous to suggest that people now paying into the system will never receive a Social Security benefit. It is not just misleading, it is absolutely factually wrong. I am afraid it is part of a concerted effort by those advocates of privatization to scare Americans, especially younger Americans, into believing that the only way they are ever going to get a retirement benefit out of Social Security is to invest it in personal accounts, to invest it in privatized accounts, to invest it in the stock market.

I am not against investing private funds beyond Social Security in all kinds of assets. But we are talking about a guaranteed benefit for all of Americans. In the 1930s, before we had Social Security, or before 1930, almost 50 percent of senior Americans lived in poverty. Because of the benefit of Social Security, now we are down to about 10 percent. It is a fundamental, solid program. People know that our Government has created a situation where they can have security in their retirement. It is a sacred trust with the American people. It is based on a promise that if you work hard and contribute to your country, you will enjoy a very basic level of security in retirement.

By the way, this is not exactly a princely sum that people get out of Social Security. I wish we could make it better.

Last year, the average retiree benefit was about $10,000—not exactly what

some of the salaries of big corporate executives are about—and about $9,000 for women. That is not exactly a princely sum, as I suggested, in my part of the country. In New Jersey, the average rental payment for an individual is about $1,200 a month. I don't think $10,000 matches up with what you even have to pay for rent in many parts of the country. It is not exactly as if our Social Security system is providing excessive amounts of resources for individuals in their retirement. But it does provide that bedrock safety.

Unfortunately, I guess there are those who seem to think $10,000 is too much. They want to break Social Security's promise to seniors in the future by cutting those benefits by 25 percent, or 45 percent. Those are big numbers. That is hard to put together against the cost of retirement for most Americans.

One way they justify such claims is by arguing that the current system will leave today's workers high and dry. We heard Mr. Fleischer's remarks. They seem to be hoping that will be a self-fulfilling prophecy, that somehow or another they can scare people into believing we ought to undermine Social Security. I stand here today quite confident that folks on this side of the aisle, if we have anything to say on the matter, are not going to let that happen.

That is why we need to have this debate about Social Security privatization before people go to the polls this November. It is one of those defining issues for the American people to express themselves about. It is very clear: Do you want privatization of Social Security that puts the responsibility and the risk on the shoulders of Americans or do you want a guaranteed system that provides benefits if you have paid into that system when you retire? It is very clear, it is not a complicated concept—guaranteed benefits versus risk.

For those concerned about the future of Social Security, let me remind my colleagues that Social Security benefits are established in the United States Code and represent a legal commitment—I think we call it an entitlement—by the Federal Government and with the full faith and credit of the United States.

Unlike many other programs, Social Security is not subject to a yearly appropriations process. The entitlement and benefit is not dependent on future congressional action. Mr. Fleischer is just flat out wrong.

As a purely legal matter, this entitlement would remain a binding obligation of the Government even if Congress were to allow the Social Security trust fund to become insolvent. However, as a practical matter, the point is moot. First, the nonpartisan actuaries at the Social Security Administration project that the trust fund will be fully solvent for 40 years; that is, 2041. After that, there still would be enough funding for three-quarters of the benefits to the actuarial life on which they are making the calculations.

But there is nothing in the law to prohibit Congress from replenishing the funds or changing some of the terms and conditions. We can do a number of things to establish the security of that trust fund.

We ought to start by balancing our budget so we are not spending the Social Security trust fund on everything under the Sun other than for what it is intended. But we could take actions here on the floor of the Senate with the Congress and the President working together to flush that up. As a matter of fact, we have a legal obligation to do that.

I think it is absolutely essential that Mr. Fleischer review the context in which he says we are going to have a bankruptcy because we have written into law that that is not going to happen. I am confident that long before 2041, the Congress and the White House will come together in a bipartisan way, as they have in history in different periods of time, move beyond privatization proposals which would actually worsen the Social Security financial system, and work together to solve the program's long-term funding needs. It can be done. It is not beyond the realm of a lot of reasonable people. We ought to talk to the American public about that.

But the reality is that privatization is not the direction that is going to provide the kind of security that I think most Americans are looking for in their retirement.

I think we ought to get away from giving blatantly false and misleading arguments and scaring people about the solvency of Social Security, as Mr. Fleischer did on Wednesday. I think we need to stop the scare tactics for young people and talk about real solutions for a real problem, that I think can be addressed if we are thoughtful, in the way we have addressed a number of issues in the Senate.

I conclude by again urging the Bush administration to reconsider their position on privatization, particularly in light of the dramatic events of recent weeks. Just as September 11 led to fundamental changes in Americans' perceptions about the risks of terrorism, I think the recent volatility of this market has captured the reality of what markets can provide as far as undermining security is concerned, and we have developed a much greater appreciation as a nation about the uncertainties of the market. I hope the Bush administration will face up to that reality and readjust its attitude and its views on its policies accordingly.

Mr. President, I ask unanimous consent the article to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 25, 2002]

BUSH CONTINUES TO BACK PRIVATIZED SOCIAL SECURITY

(By Amy Goldstein)

The White House yesterday stood firmly behind President Bush's plan for workers to divert some of their Social Security payroll taxes into the stock market, despite the dramatic drops Wall Street has suffered in recent months.

White House press secretary Ari Fleischer took a swing at the existing Social Security program, calling it ''dangerous'' to ''let people pay a lifetime of high taxes for a Social Security benefit that under current projections they'll never receive.''

Fleischer made clear that Bush continues to favor permitting Americans to take a portion of the taxes they ordinarily contribute to Social Security trust fund and invest it on their own. ''That would include markets,'' Fleischer said. ''Nothing has changed his views about allowing younger workers to have those options.''

However, Fleischer recalibrated his sale pitch for private retirement accounts, deemphasizing earlier arguments that such investments would generate more retirement savings through higher rates of return. Instead, he said that the current system is ''going bankrupt'' and that the government should grant people more control over their money. He used the word ''options'' a dozen times.

The White House's reminder that Bush wants to overhaul Social Security comes as the administration is redoubling its efforts to draw attention to strong points in the economy. The remarks about the retirement system, on a day when the stock market rose after nine weeks of historic declines, typify an administration that has prized consistency in its policy positions, rather than shifting with changed circumstances.

Bush's position on Social Security was a major tenet of his 2000 campaign. Last year, he assigned a commission to recommend such a system, and the panel responded in December with three proposals. Each would require at least $2 trillion to convert to the new approach, the commission found. It also concluded that the program, destined to face enormous economic strains by the middle of the next decade as the baby boom generation retires, will require reductions in benefits, money from elsewhere in the federal budget—or both.

For now, the White House essentially is speaking into a legislative vacuum. Republicans, fearing that the volatile issue could prove damaging in the elections this fall, persuaded Bush last winter that Congress should not consider any Social Security reforms until 2003. Now some in the party are suggesting that debate should be deferred until after the 2004 presidential election.

House Republicans have distanced themselves from Bush's ideas—at least rhetorically—by passing a bill that promised not to ''privatize'' the retirement system, although many in the party still favor what they now call ''individual investments.'' House Democrats are trying to force a vote on the president's proposal, believing that a debate may prove politically advantageous during a season of investment losses and corporate scandals.

In the absence of legislation, the most ardent proponents of individual accounts continue to press their cause. This week, the Cato Institute, a libertarian think tank, issued a poll it sponsored suggesting that two-thirds of voters support that arrangement. Andrew Biggs, who works on Social Security at Cato and was a staff member of the White House commission, said the findings are striking because the survey was conducted during an interval earlier this month

when the stock market fell 700 points. ''Nobody can claim we had the environment stacked in our favor,' he said.

A Washington Post-ABC News poll this month found that about half the public supports investing some of their Social Security contributions in the stock market, significantly less than two years ago, but about the same proportion as last year.

Democrats and other opponents of the change have been raising the issue particularly in congressional campaigns. ''There is a link between the rising crisis of confidence in corporate America and the scheme to privatize Social Security and cut Social Security benefits as Republicans are still seeking to do,'' House Minority Leader Richard A. Gephardt (D–Mo.) said this month.

Mr. CORZINE. 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. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORZINE). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. SARBANES. Mr. President, I ask unanimous consent to be able to proceed as if in morning business, with the time to be charged against the time that was allocated for debate on the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOCIAL SECURITY

Mr. SARBANES. Mr. President, I want to take the floor for a moment or two to commend the able Senator from New Jersey for the statement that was just made about Social Security privatization, and for focusing on this absolutely outrageous statement made by the White House Press Secretary earlier this week. To terrify people with that kind of statement is absolutely irresponsible. I think it is very important that be put on the RECORD.

I thank the Senator from New Jersey for the analysis and focus he is bringing to this issue of privatizing Social Security. It is an extraordinarily important issue. I agree with the Senator that it ought to be fully debated.

The President and his advisers apparently have not abandoned their bad idea of privatizing Social Security. If that is the case, then we need to lay out in front of the country exactly what is involved. The biggest thing involved, in my judgment, is the very point which the able Senator from New Jersey was making just a few moments ago; that is, the question of the guaranteed benefit.

Under the existing Social Security system, we seek to provide an assured benefit level in Social Security. So when someone stops working, and they start drawing their Social Security, they are told, you will get X amount of dollars per month in your Social Security check. In addition, of course, we also provide for a cost-of-living adjustment in that check.

So the beneficiary, in planning their retirement, and their standard of living under retirement, knows that each month the Social Security check will come, and it will be in this amount—a guaranteed benefit—and that they can count on that.

The privatization, first of all, undercuts the guaranteed benefit concept, and carries with it the risk that your monthly benefit check may be far less. It also carries the risk it may be far more. But who knows? Who knows?

Can you imagine the trauma of senior citizens all across the country if the amount of their Social Security check had been linked to the movement of the stock market in recent months? You would have some elderly person, for whom Social Security is their only source of income, reading stories about the drop in the Dow Jones and the Nasdaq and all the rest of it, thinking to themselves: How much is going to be in my next monthly check? How am I just going to get through the necessities of life if the amount of my Social Security check is going to drop, because of it now being tied to the movements in the market?

Any responsible discussion about this has been that you would have an add-on over and above Social Security that might then be placed in the market, so at least you would guarantee to the person sort of the minimum retirement upon which they could absolutely plan and absolutely count. And that is what needs to be laid out and debated.

The Senator from New Jersey has pinpointed that concern. I commend him for doing it. It is very important. People need to focus on this issue. We need to have this debate. We ought not to be in a situation where the White House Press Secretary can make the kind of statements he is making, seek to undercut confidence in the system, and then use that as an argument for some fundamental change which would jeopardize the guaranteed benefit aspect of the Social Security system which is an extremely important part of it.

I thank the Senator for the excellent job he is doing in bringing this issue to the attention of the Nation.

Mr. 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. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SARBANES). Without objection, it is so ordered.

REVISED ALLOCATION TO SUBCOMMITTEES FOR FISCAL YEAR 2003

Mr. BYRD. Mr. President, on Thursday, June 27, the Senate Committee on Appropriations, by a unanimous roll-call vote of 29 to 0, approved the allocation to subcommittees for fiscal year 2003.

On Wednesday, July 24—just this past Wednesday—Congress adopted the conference report to accompany H.R. 4775, the fiscal year 2002 supplemental appropriations bill.

Today, I submit a revised allocation which has been modified, primarily, to conform outlays for each subcommittee with the outcome on the supplemental.

These revised allocations were prepared in consultation with my colleague, Senator STEVENS, the distinguished ranking member of the committee, who stands with me committee to presenting bills to the Senate consistent with the allocations.

Furthermore, we stand committed to oppose any amendments that would breach the allocations.

I ask unanimous consent that a table setting forth the revised allocation to subcommittees be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE ON APPROPRIATIONS—REVISED FY 2003 SUBCOMMITTEE ALLOCATIONS DISCRETIONARY SPENDING

[In millions of dollars]

Subcommittee	Budget authority	Outlays
Agriculture	17,980	18,273
Commerce	43,475	43,174
Defense	355,139	350,549
District of Columbia	517	586
Energy & Water	26,300	26,060
Foreign Operations	16,350	16,657
Interior	18,926	18,610
Labor-HHS-Education	134,132	126,373
Legislative Branch	3,413	3,467
Military Construction	10,622	10,127
Transportation	21,300	62,101
Treasury, General Gov't	18,501	18,231
VA, HUD	91,434	97,314
Deficiencies	10,000	12,369
Total	768,089	803,891

Revised on July 25, 2002.

Mr. BYRD. Mr. President, I thank the Chair and 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. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WYDEN). Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE HISTORY OF TITLE VIII OF HR 2673: THE SARBANES-OXLEY ACT OF 2002

Mr. LEAHY. Mr. President, yesterday during my floor remarks on the final passage of H.R. 2673, the Sarbanes-Oxley Act, I requested unanimous consent that a section by section analysis and discussion of Title VIII, the Corporate and Criminal Fraud Accountability Act, which I authored, be included in the CONGRESSIONAL RECORD as part of the official legislative history of those provisions of H.R. 2673. That unanimous consent request was granted, but due to a clerical error, this essential legislative history was not printed in yesterday's CONGRESSIONAL RECORD.

It is my understanding that this document will appear in yesterday's CONGRESSIONAL RECORD when the historical volume is compiled. However, in order to provide guidance in the legal interpretation of these provisions of Title VIII of H.R. 2673 before that volume is issued, I ask unanimous consent that the same document be printed in today's CONGRESSIONAL RECORD and be treated as legislative history for Title VIII, offered by the sponsor of these provisions, as if it had been printed yesterday.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS AND DISCUSSION OF THE CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY ACT (TITLE VIII OF H.R. 2673)

Title VIII has three major components that will enhance corporate accountability. Its terms track almost exactly the provisions of S. 2010, introduced by Senator Leahy and reported unanimously from the Committee on the Judiciary. Following is a brief section by section and a legal analysis regarding its provisions.

SECTION-BY-SECTION ANALYSIS

Section 801.—Title. ''Corporate and Criminal Fraud Accountability Act.''

Section 802. Criminal penalties for altering documents

This section provides two new criminal statutes which would clarify and plug holes in the current criminal laws relating to the destruction or fabrication of evidence and the preservation of financial and audit records.

First, this section would create a new 20–year felony which could be effectively used in a wide array of cases where a person destroys or creates evidence with the intent to obstruct an investigation or matter that is, as a factual matter, within the jurisdiction of any federal agency or any bankruptcy. It also covers acts either in contemplation of or in relation to such matters.

Second, the section creates a new 10-year felony which applies specifically to the willful failure to preserve audit papers of companies that issue securities. Section (a) of the statute has two sections which apply to accountants who conduct audits under the provisions of the Securities and Exchange Act of 1934. Subsection (a)(1) is an independent criminal prohibition on the destruction of audit or review work papers for five years, as that term is widely understood by regulators and in the accounting industry. Subsection (a)(2) requires the SEC to promulgate reasonable and necessary regulations within 180 days, after the opportunity for public comment, regarding the retention of categories of electronic and non-electronic audit records which contain opinions, conclusions, analysis or financial data, in addition to the actual work papers. Willful violation of such regulations would be a crime. Neither the statute nor any regulations promulgated under it would relieve any person of any independent legal obligation under state or federal law to maintain or refrain from destroying such records. In Conference language was added that further clarified that the rulemaking called for under the (b) provision was mandatory, and gave the SEC authority to amend and supplement such rules in the future, after proper notice and comment.

Section 803.—Debts nondischargeable if incurred in violation of securities fraud laws

This provision would amend the federal bankruptcy code to make judgments and settlements arising from state and federal securities law violations brought by state or federal regulators and private individuals nondischargeable. Current bankruptcy law may permit wrongdoers to discharge their obligations under court judgments or settlements based on securities fraud and securities law violations. The section, by its terms, applies to both regulatory and more traditional fraud matters, so long as they arise under the securities laws, whether federal, state, or local.

This provision is meant to prevent wrongdoers from using the bankruptcy laws as a shield and to allow defrauded investors to recover as much as possible. To the maximum extent possible, this provision should be applied to existing bankruptcies. The provision applies to all judgments and settlements arising from state and federal securities laws violations entered in the future regardless of when the case was filed.

Section 804.—Statute of limitations

This section would set the statute of limitations in private securities fraud cases to the earlier of two years after the discovery of the facts constituting the violation or five years after such violation. The current statute of limitations for most private securities fraud cases is the earlier of three years from the date of the fraud or one year from the date of discovery. This provision states that it is not meant to create any new private cause of action, but only to govern all the already existing private causes of action under the various federal securities laws that have been held to support private causes of action. This provision is intended to lengthen any statute of limitations under federal securities law, and to shorten none. The section, by its plain terms, applies to any and all cases filed after the effective date of the Act, regardless of when the underlying conduct occurred.

Section 805.—Review and enhancement of criminal sentences in cases of fraud and evidence destruction

This section would require the United States Sentencing Commission (''Commission'') to review and consider enhancing, as appropriate, criminal penalties in cases involving obstruction of justice and in serious fraud cases. The Commission is also directed to generally review the U.S.S.G. Chapter 8 guidelines relating to sentencing organizations for criminal misconduct, to ensure that such guidelines are sufficient to punish and deter criminal misconduct by corporations. The Commission is asked to perform such reviews and make such enhancements as soon as practicable, but within 180 days at the most.

Subsection 1 requires that the Commission generally review all the base offense level and sentencing enhancements under U.S.S.G. §2J1.2. Subsection 2 specifically directs the Commission to consider including enhancements or specific offense characteristics for cases based on various factors including the destruction, alteration, or fabrication of physical evidence, the amount of evidence destroyed, the number of participants, or otherwise extensive nature of the destruction, the selection of evidence that is particularly probative or essential to the investigation, and whether the offense involved more than minimal planning or the abuse of a special skill or position of trust. Subsection 3 requires the Commission to establish appropriate punishments for the new obstruction of justice offenses created in this Act.

Subsections 4 and former subsection 5 of the Senate passed bill, which was moved to Title 11 in Conference, require the Commission to review guideline offense levels and enhancements under U.S.S.G. §2B1.1, relating to fraud. Specifically, the Commission is requested to review the fraud guidelines and consider enhancements for cases involving significantly greater than 50 victims and cases in which the solvency or financial security of a substantial number of victims is endangered. New Subsection 5 requires a comprehensive review of Chapter 8 guidelines relating to sentencing organizations. It is specifically intended that the Commission's review of Section 8 be comprehensive, and cover areas in addition to monetary penalties, additional punishments such as supervision, compliance programs, probation and administrative action, which are often extremely important in deterring corporate misconduct.

Section 806.—Whistleblower protection for employees of publicly traded companies

This section would provide whistleblower protection to employees of publicly traded companies. It specifically protects them when they take lawful acts to disclose information or otherwise assist criminal investigators, federal regulators, Congress, supervisors (or other proper people within a corporation), or parties in a judicial proceeding in detecting and stopping fraud. If the employer does take illegal action in retaliation for lawful and protected conduct, subsection (b) allows the employee to file a complaint with the Department of Labor, to be governed by the same procedures and burdens of proof now applicable in the whistleblower law in the aviation industry. The employee can bring the matter to federal court only if the Department of Labor does not resolve the matter in 180 days (and there is no showing that such delay is due to the bad faith of the claimant) as a normal case in law or equity, with no amount in controversy requirement. Subsection (c) governs remedies and provides for the reinstatement of the whistleblower, backpay, and compensatory damages to make a victim whole, including reasonable attorney fees and costs, as remedies if the claimant prevails. A 90 day statute of limitations for the bringing of the initial administrative action before the Department of Labor is also included.

Section 807.—Criminal penalties for securities fraud

This provision would create a new 10–year felony for defrauding shareholders of publicly traded companies. The provision would supplement the patchwork of existing technical securities law violations with a more general and less technical provision, with elements and intent requirements comparable to current bank fraud and health care fraud statutes. It is meant to cover any scheme or artifice to defraud any person in connection with a publicly traded company. The acts terms are not intended to encompass technical definition in the securities

laws, but rather are intended to provide a flexible tool to allow prosecutors to address the wide array of potential fraud and misconduct which can occur in companies that are publicly traded. Attempted frauds are also specifically included.

DISCUSSION

Following is a discussion and analysis of the Act's Title 8 provisions.

Section 802 creates two new felonies to clarify and close loopholes in the existing criminal laws relating to the destruction or fabrication of evidence and the preservation of financial and audit records. First, it creates a new general anti shredding provision, 18 U.S.C. §1519, with a 10–year maximum prison sentence. Currently, provisions governing the destruction or fabrication of evidence are a patchwork that have been interpreted, often very narrowly, by federal courts. For instance, certain current provisions make it a crime to persuade another person to destroy documents, but not a crime to actually destroy the same documents yourself. Other provisions, such as 18 U.S.C. §1503, have been narrowly interpreted by courts, including the Supreme Court in United States v. Aguillar, 115 S. Ct. 593 (1995), to apply only to situations where the obstruction of justice can be closely tied to a pending judicial proceeding. Still other statutes have been interpreted to draw distinctions between what type of government function is obstructed. Still other provisions, such as sections 152(8), 1517 and 1518 apply to obstruction in certain limited types of cases, such as bankruptcy fraud, examinations of financial institutions, and healthcare fraud. In short, the current laws regarding destruction of evidence are full of ambiguities and technical limitations that should be corrected. This provision is meant to accomplish those ends.

Section 1519 is meant to apply broadly to any acts to destroy or fabricate physical evidence so long as they are done with the intent to obstruct, impede or influence the investigation or proper administration of any matter, and such matter is within the jurisdiction of an agency of the United States, or such acts done either in relation to or in contemplation of such a matter or investigation. The fact that a matter is within the jurisdiction of a federal agency is intended to be a jurisdictional matter, and not in any way linked to the intent of the defendant. Rather, the intent required is the intent to obstruct, not some level of knowledge about the agency processes of the precise nature of the agency of court's jurisdiction. This statute is specifically meant not to include any technical requirement, which some courts have read into other obstruction of justice statutes, to tie the obstructive conduct to a pending or imminent proceeding or matter by intent or otherwise. It is also sufficient that the act is done ''in contemplation'' of or in relation to a matter or investigation. It is also meant to do away with the distinctions, which some courts have read into obstruction statutes, between court proceedings, investigations, regulatory or administrative proceedings (whether formal or not), and less formal government inquiries, regardless of their title. Destroying or falsifying documents to obstruct any of these types of matters or investigations, which in fact are proved to be within the jurisdiction of any federal agency are covered by this statute. Questions of criminal intent are, as in all cases, appropriately decided by a jury on a case-by-cases basis. It also extends to acts done in contemplation of such federal matters, so that the timing of the act in relation to the beginning of the matter or investigation is also not a bar to prosecution. The intent of the provision is simple; people should not be destroying, altering, or falsifying documents to obstruct any government function. Finally, this section could also be used to prosecute a person who actually destroys the records himself in addition to one who persuades another to do so, ending yet another technical distinction which burdens successful prosecution of wrongdoers.1 6

Second, Section 802 also creates a 10 year felony, 18 U.S.C. §1520, to punish the willful failure to preserve financial audit papers of companies that issue securities as defined in the Securities Exchange Act of 1934. The new statute, in subsection (a)(1), would independently require that accountants preserve audit work papers for five years from the conclusion of the audit. Subsection (b) would make it a felony to knowingly and willfully violate the five-year audit retention period in (1)(a) or any of the rules that the SEC must issue under (1)(b). The materials covered in subsection (1)(b), which contains a mandatory requirement for the SEC to issues reasonable rules and regulations, are intended to include additional records which contain conclusions, opinions, analysis, and financial data relevant to an audit or review. Specifically included in such materials are electronic communications such as emails and other electronic records. The Conference added the ability of the SEC to update its rules to specifically allow it to capture additional types of records that could become important in the future as technologies and practices of the accounting industry change. The regulations are intended to cover the retention of all such substantive material, whether or not the conclusions, opinions, analyses or data in such records support the final conclusions reached by the auditor or expressed in the final audit or review so that state and federal law enforcement officials and regulators and victims can conduct more effective inquiries into the decisions and determinations made by accountants in auditing public corporations. Non-substantive materials, however, such as administrative records, which are not relevant to the conclusions or opinions expressed (or not expressed), need not be included in such retention regulations. The language of the provision is clear. The SEC ''shall'' and ''is required'' to promulgate regulations relating to the retention of the categories of items which are specifically enumerated in the statutory provision. ''Reviews,'' as well as audits are also recovered by both (a) and (b). When a publicly traded company is involved, the precise name which the auditor chooses to give to an engagement is not important. Documents pertinent to the substance of such financial audits or review should be preserved. Willful violation of these regulations will also be a crime under this section.

In light of the apparent massive document destruction by Andersen, and the company's apparently misleading document retention policy, even in light of its prior SEC violations, it is intended that the SEC promulgate rules and regulations that require the retention of such substantive material, including material which casts doubt on the views expressed in the audit of review, for such a period as is reasonable and necessary for effective enforcement of the securities laws and the criminal laws, most of which have a five-year statute of limitations. It should also be noted that criminal tax violations, which many of these documents relate to, have a six-year statute of limitations and the regulatory portion of the Act requires a 7 year retention period. By granting the SEC the power to issue such regulations, it is not intended that the SEC be prohibited from consulting with other government agencies, such as the Department of Justice, which has primary authority regarding enforcement of federal criminal law or pertinent state regulatory agencies. Nor is it the intention of this provision that the general public, private or institutional investors, or other investor or consumer protection groups be excluded from the SEC rulemaking process. These views of these groups, who often represent the victims of fraud, should be considered at least on an equal footing with ''industry experts'' and others who participate in the rulemaking process at the SEC.

This section not only penalizes the willful failure to maintain specified audit records, but also will result in clear and reasonable rules that will require accountants to put strong safeguards in place to ensure that such corporate audit records are retained. Had such clear requirements and policies been established at the time Andersen was considering what to do with its audit documents, countless documents might have been saved from the shredder. The idea behind the statute is not only to provide for prosecution of those who obstruct justice, but to ensure that important financial evidence is retained so that law enforcement officials, regulators, and victims can assess whether the law was broken to begin with and, if so, whether or not such was done intentionally, or with or without the knowledge or assistance of an auditor.

Section 803 amends the Bankruptcy Code to make judgments and settlements based upon securities law violations non-dischargeable, protecting victims' ability to recover their losses. Current bankruptcy law may permit such wrongdoers to discharge their obligations under court judgments or settlements based on securities fraud and other securities violations. This loophole in the law should be closed to help defrauded investors recoup their losses and to hold accountable those who violate securities laws after a government unit or private suit results in a judgment or settlement against the wrongdoer. This provision is meant to prevent wrongdoers from using the bankruptcy laws as a shield and to allow defrauded investors to recover as much as possible. To the maximum extent possible, this provision should be applied to existing bankruptcies. The provision applies to all judgments and settlements arising from state and federal securities laws violations entered in the future regardless of when the case was filed.

State securities regulators have indicated their strong support for this change in the bankruptcy law. Under current laws, state regulators are often forced to ''reprove'' their fraud cases in bankruptcy court to prevent discharge because remedial statutes often have different technical elements than the analogous common law causes of action. Moreover, settlements may not have the same collateral estoppel effect as judgments obtained through fully litigated legal proceedings. In short, with their resources already stretched to the breaking point, state regulators must plow the same ground twice in securities fraud cases. By ensuring securities law judgments and settlements in state cases are non-dischargeable, precious state enforcement resources will be preserved and directed at preventing fraud in the first place.

Section 804 protects victims by extending the statute of limitations in private securities fraud cases. It would set the statute of limitations in private securities fraud cases to the earlier of five years after the date of the fraud or two years after the fraud was discovered. The current statute of limitations for most such fraud cases is three years from the date of the fraud or one year after discovery, which can unfairly limit recovery for defrauded investors in some cases. It applies to all private securities fraud actions for which private causes of actions are permitted and applies to any case filed after the

date of enactment, no matter when the conduct occurred. As Attorney General Gregoire testified at the Committee hearing, in the Enron state pension fund litigation the current short statute of limitations has forced some states to forgo claims against Enron based on alleged securities fraud in 1997 and 1998. In Washington state alone, the short statute of limitations may cost hard-working state employees, firefighters and police officers nearly $50 million in lost Enron investments which they can never recover.

Especially in complex securities fraud cases, the current short statute of limitations may insulate the worst offenders from accountability. As Justices O'Connor and Kennedy said in their dissent in Lampf, Pleva. Lipkind, Prupis, & Petigrow v. Gilbertson, 111 S. Ct. 2773 (1991), the 5–4 decision upholding this short statute of limitations in most securities fraud cases, the current ''one and three'' limitations period makes securities fraud actions ''all but a dead letter for injured investors who by no conceivable standard of fairness or practicality can be expected to file suit within three years after the violation occurred.'' The Consumers Union and Consumer Federation of America, along with the AFL-CIO and other institutional investors, strongly support the bill, and views this section in particular as a needed measure to protect investors.

The experts agree with that view. In fact, the last two SEC Chairmen supported extending the statute of limitations in securities fraud cases. Former Chairman Arthur Levitt testified before a Senate Subcommittee in 1995 that ''extending the statute of limitations is warranted because many securities frauds are inherently complex, and the law should not reward the perpetrator of a fraud, who successfully conceals its existence for more than three years.'' Before Chairman Levitt, in the last Bush administration, then SEC Chairman Richard Breeden also testified before Congress in favor of extending the statute of limitations in securities fraud cases. Reacting to the Lampf opinion, Breeden stated in 1991 that ''[e]vents only come to light years after the original distribution of securities, and the Lampf cases could well mean that by the time investors discover they have a case, they are already barred from the courthouse.'' Both the FDIC and the State securities regulators joined the SEC in calling for a legislative reversal of the Lampf decisions at that time.

In fraud cases the short limitations period under current law is an invitation to take sophisticated steps to conceal the deceit. The experts have long agreed on that point, but unfortunately they have been proven right again. As recent experience shows, it only takes a few seconds to warm up the shredder, but unfortunately it will take years for victims to put this complex case back together again. It is time that the law is changed to give victims the time they need to prove their fraud cases.

Section 805 of the Act ensures that those who destroy evidence or perpetrate fraud are appropriately punished. It would require the Commission to consider enhancing criminal penalties in cases involving obstruction of justice and serious fraud cases where a large number of victims are injured or when the victims face financial ruin.

The Act is not intended as criticism of the current guidelines, which were based on the hard work of the Commission to conform with the goals of prior existing law. Rather, it is intended to join the provisions of the Act which substantially raise current statutory maximums in the law as a policy expression that the former penalties were insufficient to deter financial misconduct and to request the Commission to review and enhance its penalties as appropriate in that light.

Currently, the U.S.S.G. recognize that a wide variety of conduct falls under the offense of ''obstruction of justice.'' For obstruction cases involving the murder of a witness or another crime, the U.S.S.G. allow, by cross reference, significant enhancements based on the underlying crimes, such as murder or attempted murder. For cases when obstruction is the only offense, however, they provide little guidance on differentiating between different types of obstruction. This provision requests that the Commission consider raising the penalties for obstruction where no cross reference is available and defining meaningful specific enhancements and adjustments for cases where evidence and records are actually destroyed or fabricated (and for more serious cases even within that category of case) so as to thwart investigators, a serious form of obstruction.

This provision and Title 11, also require that the Commission consider enhancing the penalties in fraud cases which are particularly extensive or serious, even in addition to the recent amendments to the Chapter 2 guidelines for fraud cases. The current fraud guidelines require that the sentencing judge take the number of victims into account, but only to a very limited degree in small and medium-sized cases. Specifically, once there are more than 50 victims, the guidelines do not require any further enhancement of the sentence. A case with 51 victims, therefore, may be treated the same as a case with 5,000 victims. As the Enron matter demonstrates, serious frauds, especially in cases where publicly traded securities are involved, can affect thousands of victims.

In addition, current guidelines allow only very limited consideration of the extent of devastation that a fraud offense causes its victims. Judges may only consider whether a fraud endangers the ''solvency or financial security'' of a victim to impose an upward departure from the recommended sentencing range. This is not a factor in establishing the range itself unless the victim is a financial institution. Subsection (5) requires the Commission to consider requiring judges to consider the extent of such devastation in setting the actual recommended sentencing range in cases such as the Enron matter, when many private victims, including individual investors, have lost their life savings. Finally this provision requires a complete review of the Chapter 8 corporate misconduct guidelines, which should include not only monetary penalties but other actions designed to deter organizational crime, such as probation and compliance enforcement schemes.

Section 806 of the Act would provide whistleblower protection to employees of publicly traded companies who report acts of fraud to federal officials with the authority to remedy the wrongdoing or to supervisors or appropriate individuals within their company. Although current law protects many government employees who act in the public interest by reporting wrongdoing, there is no similar protection for employees of publicly traded companies who blow the whistle on fraud and protect investors. With an unprecedented portion of the American public investing in these companies and depending upon their honesty, this distinction does not serve the public good.

In addition, corporate employees who report fraud are subject to the patchwork and vagaries of current state laws, even though most publicly traded companies do business nationwide. Thus, a whistleblowing employee in one state (e.g., Texas, see supra) may be far more vulnerable to retaliation than a fellow employee in another state who takes the same actions. Unfortunately, companies with a corporate culture that punishes whistleblowers for being ''disloyal'' and ''litigation risks'' often transcend state lines, and most corporate employers, with help from their lawyers, know exactly what they can do to a whistleblowing employee under the law. U.S. laws need to encourage and protect those who report fraudulent activity that can damage innocent investors in publicly traded companies. The Act is supported by groups such as the National Whistleblower Center, the Government Accountability Project, and Taxpayers Against Fraud, all of whom have written a letter placed in the Committee record calling this bill ''the single most effective measure possible to prevent recurrences of the Enron debacle and similar threats to the nation's financial markets.''

This provision would create a new provision protecting employees when they take lawful acts to disclose information or otherwise assist criminal investigators, federal regulators, Congress, their supervisors (or other proper people within a corporation), or parties in a judicial proceeding in detecting and stopping actions which they reasonably believe to be fraudulent. Since the only acts protected are ''lawful'' ones, the provision would not protect illegal actions, such as the improper public disclosure of trade secret information. In addition, a reasonableness test is also provided under the subsection (a)(1), which is intended to impose the normal reasonable person standard used and interpreted in a wide variety of legal contexts (See generally Passaic Valley Sewerage Commissioners v. Department of Labor, 992 F. 2d 474, 478). Certainly, although not exclusively, any type of corporate or agency action taken based on the information, or the information constituting admissible evidence at any later proceeding would be strong indicia that it could support such a reasonable belief. The threshold is intended to include all good faith and reasonable reporting of fraud, and there should be no presumption that reporting is otherwise, absent specific evidence.

Under new protections provided by the Act, if the employer does take illegal action in retaliation for such lawful and protected conduct, subsection (b) allows the employee to elect to file an administrative complaint at the Department of Labor, as is the case for employees who provide assistance in aviation safety. Only if there is not final agency decision within 180 days of the complaint (and such delay is not shown to be due to the bad faith of the claimant) may he or she may bring a de novo case in federal court with a jury trial available (See United States Constitution, Amendment VII; Title 42 United States Code, Section 1983). Should such a case be brought in federal court, it is intended that the same burdens of proof which would have governed in the Department of Labor will continue to govern the action. Subsection (c) of this section requires both reinstatement of the whistleblower, backpay, and all compensatory damages needed to make a victim whole should the claimant prevail. The Act does not supplant or replace state law, but sets a national floor for employee protections in the context of publicly traded companies.

Section 807 creates a new 25 year felony under Title 18 for defrauding shareholders of publicly traded companies. Currently, unlike bank fraud or health care fraud, there is no generally accessible statute that deals with the specific problem of securities fraud. In these cases, federal investigators and prosecutors are forced either to resort to a patchwork of technical Title 15 offenses and regulations, which may criminalize particular violations of securities law, or to treat the cases as generic mail or wire fraud cases and to meet the technical elements of

those statutes, with their five year maximum penalties.

This bill, then, would create a new 25 year felony for securities fraud—a more general and less technical provision comparable to the bank fraud and health care fraud statutes in Title 18. It adds a provision to Chapter 63 of Title 18 at section 1348 which would criminalize the execution or attempted execution of any scheme or artifice to defraud persons in connection with securities of publicly traded companies or obtain their money or property. The provision should not be read to require proof of technical elements from the securities laws, and is intended to provide needed enforcement flexibility in the context of publicly traded companies to protect shareholders and prospective shareholders against all the types schemes and frauds which inventive criminals may devise in the future. The intent requirements are to be applied consistently with those found in 18 U.S.C. §§1341, 1343, 1344, 1347.

By covering all ''schemes and artifices to defraud'' (see 18 U.S.C. §§1344, 1341, 1343, 1347), new §1348 will be more accessible to investigators and prosecutors and will provide needed enforcement flexibility and, in the context of publicly traded companies, protection against all the types schemes and frauds which inventive criminals may devise in the future.

VOTE EXPLANATION

Mr. BIDEN: Mr. President, I arrived in Washington this morning after the vote to invoke cloture on the nomination of Julia Smith Gibbons, to be United States Circuit Judge for the Sixth Circuit.

It was my intention to be here in time to vote in favor of this cloture motion.

Unfortunately, the catenary wire providing power for Amtrak was knocked down in Elkton, MD. This delayed the train on which I was traveling and regrettably prevented me from being present to vote.

THE FEDERALIST SOCIETY: SETTING THE RECORD STRAIGHT

Mr. HATCH. Mr. President, I also take this opportunity today to right a wrong. Over the past 2 years, members of The Federalist Society have been much maligned by some of my Democrat colleagues, no doubt because they see political advantage in doing so. The Federalist Society has even been presented as an 'evil cabal' of conservative lawyers. Its members have been subjected to questions which remind one of the McCarthy hearings of the early 1950's. Detractors have painted a picture which is surreal, twisted and untrue.

The truth is that liberal orthodoxies reign rampant and often unchecked in a majority of this countries law schools and in the legal profession, and that the left is shocked that an association of constitutionalist lawyers would exist, much less include the notable legal minds it does.

During the mid-1990's, Professor James Lindgren of Northwestern University Law School conducted a survey of law school professors and came to the fallowing conclusion. At the faculties of the top 100 law schools 80 percent of law professors were Democrats, or leaned left, and only 13 percent were Republicans, or leaned right. These liberal professors promulgate their ideology in and outside the classroom.

Anyone associated with America's campuses or law schools knows that nonliberal views are regularly stifled and those espousing those views are often publicly shunned and ridiculed. It was this environment of hostility to freedom of expression and the exchange of ideas in universities that set the stage for the formation of the Federalist Society. And given my Democrat colleagues' reaction to the Society, it appears to be fighting against liberal narrow-mindedness still.

In 1982, the Federalist Society was organized, not to foster any political agenda, but to encourage debate and public discourse on social and legal issues. Over the past 20 years the Federalist Society has accomplished just that. It has served to open the channels of discourse and debate in many of America's law schools.

The Federalist Society espouses no official dogma. Its members share acceptance of three universal ideas: 1. that government's essential purpose is the preservation of freedom; 2. that our Constitution embraces and requires separation of governmental powers; and 3. that judges should interpret the law, not write it.

For the vast majority of Americans, these are not controversial issues. Rather, they are basic Constitutional assertions that are essential to the survival of our republic. They are truths that have united Americans for more than two centuries. Recently we have seen the emergence of some groups that seek to undermine the third of these ideas—that judges should not write laws. These groups have attempted to use the judiciary to circumvent the democratic process and impose their minority views on the American people.

This judicial activism is a nefarious practice that seeks to undermine the principle of democratic rule. It results in an unelected oligarchy, government by a small elite. Judicial activism imposes the will of a small group of politicized lawyers upon the American people and undermines the work of the people's representatives.

Indeed, if the radical left is successful, if we continue to appoint judges that are committed to writing law and not interpreting it, than all of us can just go home. We can resign ourselves to live under the oligarchical rule of lawyers. I happen to know a few lawyers, and please trust me when I say, this is not a good idea.

Beyond acceptance to its three key ideas, freedom, separation of powers, and that judges should not write laws, it is challenging, if not impossible, to find consensus among Federalist Society members. Its members hold a wide array of differing views. They are so diverse that it is impossible to describe a Federalist Society philosophy.

The assertion that members are ideological carbon copies of each other is ludicrous. The Society revels in open, thoughtful, and rigorous debate on all issues. It rests on the premise that public policy and social issues should not be accepted as part of a party-line but rather warrant much thought and dialogue. Any organization that sponsors debate on issues of public importance, as opposed to self-serving indoctrination, is healthy for us all.

Now, how does the Federalist Society accomplish its goal? Not by lobbying Congress, writing amicus briefs, or issuing press releases. The Federalist Society seeks only to sponsor fair, serious, and open debate about the need to enhance individual freedom and the role of the courts in saying what the law is rather than what it should be. The Society believes that debate is the best way to ensure that legal principles that have not been the subject of sufficient attention for the past several decades receive a fair hearing.

The Federalist Society's commitment to fair and open debate can be seen by a small sampling of some participants in its meetings and symposiums. They have included scores of liberals like Justices Ruth Bader Ginsburg and Stephen Bryer, Michael Dukakis, Barney Frank, Abner Mikva, Alan Dershowitz, Laurence Tribe, Steve Shapiro, Christopher Hitchins and Ralph Nader, just to name a few.

I would like to include for the RECORD a list of 60 participants in Federalist Society events that demonstrates the remarkable diversity of thought of Federalist Society events. One of them is Nadine Strossen, President of the ACLU, who has participated in Federalist Society functions regularly and constantly since its founding. She has praised its fundamental principle of individual liberty, its high-profile on law school campuses, and its intellectual diversity, noting that there is frequently strenuous disagreement among members about the role of the courts. Strossen has even said that she cannot draw any firm conclusion about a potential judicial nominee's views based on the fact that he is a Federalist Society member.

It seems to me that an organization that includes such a wide array of opinion serves this nation well and does not deserve the vilification it gets from the usual suspects.

There are many notable conservatives that also affiliate with the Federalist Society. But as the members of the Senate demonstrate, even amongst those that are often labeled ''conservatives'' there is a much disagreement on most social and political issues. Some often portray the Federalist Society as a tightly-knit, well-organized coalition of conservative lawyers who are united by their right-wing ideology. This is far from true. Allow me to illustrate further.

Two years ago the Washington Monthly published an article entitled ''The Conservative Cabal That's Transforming American Law,'' which cited a 1999 decision by a panel of the D.C. Circuit's Court of Appeals as the ''network's most far-reaching victory in recent years''. The decision overturned some of the EPA's clean-air standards on the grounds that it was unconstitutional for Congress to delegate legislative authority to the executive branch. C. Boyden Gray, a former White House Counsel for the first President Bush and a member of the Federalist Society's Board of Visitors, filed an amicus brief making the winning argument.

However, this is not the smoking gun case that opponents of the Federalist Society would have us believe it to be to prove that it is part of the vast right wing conservative conspiracy. First, the case was overturned on appeal by the Supreme Court, in a decision written by Justice Antonin Scalia, a frequent participant in Federalist Society activities who was the faculty advisor to the organization when he taught at the University of Chicago.

Second, the Washington Monthly piece also attacked Boyden Gray as a water carrier for the Federalist Society for advancing Microsoft's effort against antitrust enforcement. Of course, Mr. Gray serves on the Society's Board of Visitors with Robert Bork, who has been Microsoft's chief intellectual adversary.

Not quite the vast right wing conspiracy hobgoblin some of my colleagues would have the American people believe in.

A close examination of the Federalist Society reveals not a tight-knit organization that demands ideological unity, but an association of lawyers, much like the early bar associations that first appeared in this country in the late 19th century, made up of individuals from across the political spectrum who are committed to the principles of freedom and the rule of law according to the Constitution. As a former co-chairman myself, I applaud that the President has sought out its members to fill the federal bench.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

60 DIVERSE PARTICIPANTS IN FEDERALIST SOCIETY EVENTS

SUPREME COURT JUSTICES

1. Justice Stephen Breyer
2. Justice Ruth Bader Ginsburg
3. Justice Anthony Kennedy
4. Justice Antonin Scalia
5. Justice Clarence Thomas

CABINET MEMBERS

6. Griffin Bell
7. Abner Mikva
8. Bernard Nussbaum
9. Zbigniew Brezinski
10. Alan Keyes

ELECTED

11. Barney Frank
12. Michael Dukakis
13. George Pataki
14. Eugene McCarthy
15. Charles Robb
16. Jim Wright
17. Mayor Willie Brown

JUDGES

18. Robert Bork
19. Guido Calabrasi
20. Richard Posner
21. Alex Kozinski
22. Pat Wald
23. Stephen Williams

LAW SCHOOL DEANS

24. Robert Clark—Harvard
25. Anthony Kronman—Yale
26. Paul Brest—Stanford
27. John Sexton—NYU
28. Geoffrey Stone—Chicago

LAW SCHOOL PROFESSORS

29. Alan Dershowitz—Harvard
30. Laurence Tribe—Harvard
31. Cass Sunstein—Chicago

INTEREST GROUPS

32. Nadine Strossen—President, ACLU
33. Steve Shapiro—General Counsel, ACLU
34. Ralph Nader—Public Citizen Litigation Group
35. Patricia Ireland—Fmr. President, NOW
36. Anthony Podesta—People for the American Way
37. Martha Barnett—Fmr. President, ABA
38. George Bushnell—Fmr. President, ABA
39. Robert Raven—Fmr. President, ABA
40. Talbot ''Sandy'' D'Alemberte—Fmr. President, ABA
41. Larry Gold—Assc. General Counsel, AFL–CIO
42. Damon Silvers—Assc. General Counsel, AFL–CIO
43. Nan Aron—Exec. Dir., Alliance for Justice
44. Richard Sincere—Pres., Gays and Lesbians for Individual Liberty
45. Michael Myers—NY Civil Rights Commission
46. Samuel Jordan—Fmr. Dir., Program to Abolish the Death Penalty—Amnesty Int'l
47. Marcia Greenburger—Co. Pres., National Women's Law Center
48. Victor Schwartz—Gen. Cnsl., American Tort Reform Assoc.
49. Linda Chavez—Pres., Center for Equal Opportunity
50. Ward Connerly—Founder/Chairman, American Civil Rights Initiative
51. Thomas Sowell—Hoover Institute
52. Michael Horowitz—Hudson Institute
53. Clint Bolick—VP, Institute for Justice

COLUMNISTS

54. Christopher Hitchins—The Nation
55. Michael Kinsley—Slate/The New Republic
56. Juan Williams—NPR/The Washington Post
57. George Will—ABC News
58. Bill Kristol—The Weekly Standard
59. Nat Hentoff—The Village Voice
60. Richard Cohen—The Washington Post

FURTHER EVIDENCE THAT ONE DAY IS NOT ENOUGH TIME

Mr. LEVIN. Mr. President, yesterday a report was released by the General Accounting Office, Gun Control: Potential Effects of Next-Day Destruction of NICS Background Check Records. The report provides evidence that one day is simply not enough time for law enforcement agencies to complete thorough and accurate analysis of purchase records. Under current National Instant Criminal Background Check System regulations, records of allowed firearms sales can be retained for up to 90 days, after which the records must be destroyed. On July 6, 2001, the Department of Justice published proposed changes to the NICS regulations that would reduce the maximum retention period from 90 days to only one day.

Yesterday's GAO report found that during the first 6 months in which the 90-day retention policy was in effect, the Federal Bureau of Investigation used the records to launch 235 firearm-retrieval actions, an investigation and coordinated attempt to retrieve a firearm with state or local law enforcement assistance. Of the 235 firearm-retrieval actions, 228 or 97 percent could have not been initiated under the one-day record destruction policy. An additional 179 firearm-retrieval actions could have been initiated under the 90-day record retention policy, according to records, but the firearm had not yet been transferred to the buyer. The one-day destruction policy, according to the report, would make it difficult for the FBI to assist law enforcement agencies in gun-related investigations, and ultimately, compromise public safety. Internal Department of Justice memos further indicate that the FBI's 90-day retention policy is within the scope of the Brady Law.

The retention of NICS Background Check Records for a 90-day period of time is critical, and I am greatly concerned by the Attorney General's action. I support the ''Use NICS in Terrorist Investigations Act'' introduced by Senators KENNEDY and SCHUMER. This legislation would simply codify the 90-day period for law enforcement to retain and review NICS data. The GAO report provides further evidence that the Schumer-Kennedy bill is good policy. I urge my colleagues to support this common sense piece of 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 May 14, 1994 in National City, CA. A gay man was beaten

by four men who yelled anti-gay slurs. The assailants, Juan Gonzales and Maico Amon, both 20, were charged in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

CORRECTION OF THE RECORD REGARDING RESOURCES FOR MEDICARE PRESCRIPTION DRUGS AND TAX RELIEF

Mr. GRASSLEY. Mr. President, yesterday some on the other side attacked last year's bipartisan tax relief legislation. They were led by the distinguished Majority Leader, Senator TOM DASCHLE. As an example of these claims, I ask unanimous consent to place in the RECORD an article from yesterday's edition of Roll Call Daily.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Roll Call Daily, July 25, 2002]

DASCHLE BLAMES BUSH TAX CUT FOR FAILURE ON PRESCRIPTION DRUG REFORM

(By Polly Forster)

Senate Majority Leader Thomas Daschle (D-S.D.) expressed frustration with the chamber's failure to enact a sweeping Medicare prescription drug benefit and blamed President' Bush's $1.35 trillion tax cut for ''starving'' the opportunity to pass substantial reform.

Daschle also expressed doubt that a conference committee will be able to work out the differences in the House and Senate versions of trade legislation before the Houses recesses this week.

Daschle charged that House Ways and Means Chairman Bill Thomas (R-Calif.) was possibly undermining a key component of the Senate trade bill by revisiting the details of the Trade Adjustment Assistance bill and thereby delaying a final result.

''It sounds like he's trying to undermine the TAA package,'' Daschle said. ''If that's the case, we'll wait until September.''

Legislation on prescription drug benefits appeared similarly in flux. Daschle said Democrats were forced to revise their priorities because last year's tax cut shrunk the possibilities available to them.

''We don't have the resources because, in large measure, the tax cut precludes it,'' Daschle said.'' Because of the tax cut and the deficits we are now facing, we've got to be concerned about the overall cost.''

But a Senate GOP leadership aide dismissed the validity of that argument, saying that Democrats now find themselves in a corner and are ''grasping at straws'' to avoid the blame.

''Because Democrats stopped the bipartisan Finance Committee from doing its work, they've caused every possible drug proposal to fail in the Senate,'' said the GOP aid.

Since none of the proposals for drug benefit reform passed through the Finance Committee, all measures are subject to a 60-vote threshold.

Senate Finance Chairman Max Baucus (D-Mont.) has spent the last several days in meetings with key lawmakers from both sides in an effort to craft something most Senators could agree to.

Daschle said the goal of the talks is to find a proposal broad enough to win over at least 10 Republicans. ''We only got 52'' for a Democratic bill, he said, ''and we need the other eight. That means we've got to scale back and to broaden our level of support.''

Daschle said Democrats will not be offering any more proposals but instead will be looking to craft a bipartisan measure.

Baucus spokesman Michael Siegel said the Senator was looking at two approaches to the issue: using Medicare as the channel to deliver drug benefits and where unavailable using private companies, and also to extending a ''catastrophic'' coverage bill that was short of nine votes Wednesday.

Daschle said the Senate will stay on the issue as long as it takes,including the early part of September after the recess, until there is a result—possibly forestalling consideration of a bill to create the federal department of Homeland Security.

''It means our highest priority is to get the bill done and we don't do other things until we get it done,'' he said.

Daschle vowed an equal commitment to retaining the worker protection element in the trade package now in conference.

''We're in no hurry,'' he said. ''It's more important to me to have a good package even if that means we have to wait until October.''

A top Senate Democratic aide said negotiations broke down Thursday morning over the TAA element, which would provide health coverage for workers displaced by international trade.

Senate Democrats expected Thomas to concede ground on that part as the House was only just able to pass their bill on the floor.

The breakdown left at least one Senate Democratic leadership aid frustrated. ''It's ridiculous for Thomas to be stuck on this because it's his chamber that needs to attract the votes to pass the bill, not the Senate,'' said the aide.

Mr. GRASSLEY. There is a very sophisticated, well-coordinated campaign on the part of the Democratic Leadership to derail last year's bipartisan tax relief. It seems that everything that ails us as a nation is laid at the feet of the tax cut. I'm sure that the next attack will be that tax relief causes the Decline of Western Civilization. Or, perhaps, the Democratic Leadership would twist a phrase from Justice Oliver Wendell Holmes and claim that ''record high taxes are the price we must pay for a civilized society.''

Many in the media agree with this concept and rarely, if ever, challenge the factual basis for these attacks on last year's tax cut bill. Well, let me tell my friends in the Democratic Leadership, I'm going to correct the record every time. It's fine to attack tax relief, if you must, on ideological grounds. If the Democratic Leadership thinks we need to maintain record levels of taxation and keep growing government. That's something on which we can disagree.

On facts, however. I'm going to correct the use of incorrect data. I'm also going to compare the record of the Democratic Leadership against the specific attack on the tax cut.

A couple days ago, I corrected the record on incorrect data used with respect to the scoring of permanent death tax relief. Today, I'm going to take the latest attack and compare it with the record of the Democratic Leadership.

The Roll Call Daily article is entitled ''Daschle blames Bush Tax Cut for Failure on Prescription Drug Reform.'' According to the article, the Distinguished Majority Leader said and I quote:

> We don't have the resources, because, in large measure, the tax cut precludes it. Because of the tax cut and the deficits we are now facing, we've got to be concerned about the overall cost.

Now, I noticed this same point being made by others in the Democratic Leadership. I must say the Democratic Leadership spends a lot of time coordinating messages. They are very good at it. Perhaps, though, if less time were spent on perfecting partisan attacks on the President and Congressional Republicans, we might resolve more problems. After all, isn't that what we're paid to do? That is, do the People's business.

So, the charge is the tax cut ate the surplus and there's not enough money left for a Medicare prescription drug benefit. It's all the President's fault. It's the fault of the bipartisan budget resolution, Boy, do I get tired of hearing this stuff. It gets very old.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF BUSH, DEMOCRATIC, AND SENATE PASSED BUDGETS

(Fiscal year 2002 through 2011)

	Bush budget	Democratic alternative	Senate passed
Project Surplus	5.6 T	5.6 T	5.6 T
• Social Security Trust Fund (for debt paydown)*	2.0 T	2.5 T	2.5 T
• Medicare Trust Fund (for debt paydown)*	.....	0.4 T	**0.4 T
Projected Available Surplus	3.6 T	2.7 T	2.7 T
Tax Cuts	1.6 T	745 B	1.2 T
High Priority Needs	212 B	744 B	849 B
• Education	13 B	139 B	308 B
• Prescription Drugs	153 B	311 B	300 B
• Defense	62 B	100 B	69 B
• Agriculture	−1 B	88 B	58 B

COMPARISON OF BUSH, DEMOCRATIC, AND SENATE PASSED BUDGETS—Continued

(Fiscal year 2002 through 2011)

	Bush budget	Democratic alternative	Senate passed
• Health Coverage		80 B	36 B
• Enforcement	−48 B	18 B	−41 B
• Other	33 B	8 B	119 B
Strengthen Social Security:			
• Using Social Security Trust Fund Surplus	600 B		
• Using non-Social Security, Non-Medicare Surplus		750 B	
Interest	461 B	490 B	572 B
Unallocated	***845B		129 B

*Because these trust funds are not needed in short term to pay benefits, these amounts are used to pay down publicly-held debt.
**Senate passed GOP resolution raids Medicare Trust Fund in 2002, 2005, 2006, 2007.
***Includes $526 B from Medicare Trust Fund (OMB scoring).

Mr. GRASSLEY. Under that Democratic Alternative, ''resources,'' that's the term Senator DASCHLE used, set aside for a Medicare prescription drug benefit were $311 billion. Under the bipartisan budget resolution, guess what, it's about the same number, $300 billion. That's right, both sides allocated basically the same resources, $311 billion versus $300 billion for Medicare improvements and a prescription drug benefit. So, the Democratic budget had prevailed, we'd basically be where we are today.

There's another part of the record we have to examine. It's last year's Democratic Alternative tax relief package. The Democratic alternative was supported by all members of the Democratic Leadership and all but three members of the Democratic Caucus. Well, guess what. All of those Senators voted for a $1.260 trillion tax cut. That's 93 percent of the cost of the bipartisan tax relief. So, apparently 7 percent is a big difference. It's a big enough difference for the Democratic Leadership to blame President Bush and the bipartisan group of Senators that supported the tax relief package.

I make this statement for one basic reason. The issues of budgeting, prescription drugs, and tax relief are important matters. Certainly everyone of us hears about these issues when we are back home. They are issues that our constituents expect us to resolve. Folks back home expect us to be intellectually honest in debating these important matters. When we debate these issues, we ought to be consistent in what we're saying.

TAKING OUR STAND AGAINST HIV/AIDS

Mr. FRIST. Mr. President, I spent the first 20 years of my career studying and working in medicine. I graduated from medical school in 1978. After that, I trained as a surgical resident for eight years. I then worked as a heart and lung transplant surgeon until I was elected to the United States Senate in 1994. During that time, HIV/AIDS went from a disease without a name to a global pandemic claiming nearly 20 million people infected.

It's hard to imagine an organism that cannot survive outside the human body can take such an immense toll on human life. But HIV/AIDS has done just that—already killing thirteen million people. Today more than 40 million people—including three million children—are infected with HIV/AIDS. HIV/AIDS is a plague of biblical proportions.

And it has only begun to wreak its destruction upon humanity. Though one person dies from AIDS every ten seconds, two people are infected with HIV in that same period of time. If we continue to fight HIV/AIDS in the future as we have in the past, it will kill 68 million people in the 45 most affected countries between 2000 and 2020. We are losing the battle against this disease

There is neither a cure nor a vaccine for HIV/AIDS. But we do have reliable and inexpensive means to test for it. Also, because we know how the disease is spread, we know how to prevent it from being spread. We even have treatments that can suppress the virus to almost undetectable levels and significantly reduce the risk of mothers infected with HIV/AIDS from passing the disease to their children.

We have many tools at our disposal to fight the spread of HIV/AIDS. But are we using those tools as effectively as possible? The gloomy statistics prove overwhelming that we are not. What we must do is focus on what is truly needed and what is proven to work and marshal resources towards those solutions. We have beaten deadly diseases on a global scale before; we can win the battle against HIV/AIDS too.

More than 70 percent of people infected with HIV/AIDS worldwide live in Sub-Saharan Africa. But the devastation of the disease—and its potential to devastate in the future—is by no means limited to Africa. HIV/AIDS is global and lapping against the shores of even the most advanced and developed nations in the world.

Asia and the Pacific are home to 6.6 million people infected with HIV/AIDS—including 1 million of the five million people infected last year. Infections are rising sharply—especially among the young and injecting drug users—in Russia and other Eastern European countries. And the Americas are not immune. Six percent of adults in Haiti and four percent of adults in the Bahamas are infected with HIV/AIDS.

I believe the United States must lead the global community in the battle against HIV/AIDS. As Sir Elton John said in testimony before a committee on which I serve in the United States Senate, ''What America has done for its people has made America strong. What America has done for others has made America great.'' Perhaps in no better way can the United States show its greatness in the 21st century—and show its true selflessness to other nations—than leading a victorious effort to halt the spread of HIV/AIDS.

But solving a global problem requires global leadership. International organizations, national governments, faith-based organizations and the private sector must coordinate with each other and work together toward common goals. And, most importantly, we must make communities the focus of our efforts. Though global leadership must come from places like Washington, New York and Brussels, resources must be directed to where they are needed the most—to the men and women in the villages and clinics and schools fighting HIV/AIDS on the front lines.

Adequate funding is and will remain crucial to winning the battle against HIV/AIDS. But just as crucial as the amount of funding is how it is spent. Should we spend on programs that prevent or lower the rate of infection? Should we spend on treatments that may prolong the life of those who are already infected? Should we spend on the research and development of a vaccine? The answer is yes . . . to all three questions.

We can only win the battle against HIV/AIDS with a balanced approach of prevention, care and treatment, and the research and development of an effective vaccine. HIV/AIDS has already infected tens of millions of people and will infect tens of millions more. We need to support proven strategies that will slow the spread of the virus and offer those already infected with the opportunity to live as normal lives as possible. And if our goal is to eradicate HIV/AIDS—and I believe that is an eminently achievable goal—then we must develop a highly effective vaccine.

But even with proven education programs or free access to anti-retroviral drugs or a vaccine that is 80 to 90 percent effective, our ability to slow the spread of HIV/AIDS and treat those already infected would be hampered. The infrastructure to battle HIV/AIDS in the most affected areas is limited at best. We need to train healthcare workers, help build adequate health facilities, and distribute basic lab and computer equipment to make significant

and sustainable progress over the long-term.

To win the battle against HIV/AIDS, we must not only fight the disease itself, but also underlying conditions that contribute to its spread—poverty, starvation, civil unrest, limited access to healthcare, meager education systems and reemerging infectious diseases. Stronger societies, stronger economies and stronger democracies will facilitate a stronger response to HIV/AIDS and ensure a higher quality of life in the nations most affected by and most vulnerable to the disease and its continued spread.

And we can make significant progress without vast sums of money and burgeoning new programs. Take, for example, providing something as basic and essential as access to clean water. 300 million or 45 percent of people in Sub-Saharan Africa don't have access to clean water. And those who are fortunate enough to have access sometimes spend hours walking to and from a well or spring.

It costs only $1,000 to build a ''spring box'' that provides access to natural springs and protects against animal waste run-off and other elements that may cause or spread disease. 85 percent of the 10 million people who live in Uganda don't have access to a nearby supply of clean water. It would cost only $25 million to build enough ''spring boxes'' to provide most of the people living in rural Uganda with nearby access to clean water.

Providing access to clean water is just one of the many ways in which the global community can empower the people most affected by and most vulnerable to HIV/AIDS. In some cases, such efforts—like supporting democracy and encouraging free markets—may cost little or take a long time, but they will make a significant difference in the battle against HIV/AIDS and the quality of life of billions of people throughout the world.

We have defeated infectious diseases before—sometimes on an even larger scale. Smallpox, for example, killed 300 million people in the 20th century. And as late as the 1950's, it afflicted up to 50 million people per year. But by 1979 smallpox was officially eradicated thanks to an aggressive and concerted global effort.

What if we had not launched that effort in 1967? What if we had waited another 35 years? Smallpox likely would have infected 350 million and killed 40 million more people. That is a hefty price for inaction—a price that we should be grateful we did not pay then, and we should not want to pay now.

Right now we are losing the battle against HIV/AIDS. But that doesn't mean we can't win it in the end. Indeed, I believe we will ultimately eradicate HIV/AIDS. We have the tools to slow the spread of the disease and provide treatment to those already infected. And we have the scientific knowledge to develop an effective vaccine. But we need to focus our resources on what is truly needed and what is proven to work. And we need global leadership to meet a global challenge.

In 2020, when it is estimated that more than 85 million people will have died from HIV/AIDS, how will we look back upon this day? Will we have proven the experts right with inaction? Or will we have proven them wrong with initiative? I hope that we will be able to say that in the year 2002 we took our stand against HIV/AIDS and began to turn back what could have been, but never became the most deadly disease in the history of the world.

CBO ESTIMATE OF THE TAX SHELTER TRANSPARENCY ACT

Mr. BAUCUS. Mr. President, the Committee on Finance filed a legislative report on S. 2498, the Tax Shelter Transparency Act of June 28, 2002. At the time the report was filed, the Congressional Budget Office cost estimate was not available. The cost estimate has been finalized by the CBO and is attached for public review.

I ask unanimous consent that the enclosed cost estimate for S. 2498 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, July 15, 2002.

Hon. MAX BAUCUS,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2498, the Tax Shelter Transparency Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Erin Whitaker and Annie Bartsch, who may be reached at 226–2720.

Sincerely,

BARRY B. ANDERSON
(FOR DAN L. CRIPPEN.)

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE—S. 2498

SUMMARY

S. 2498 would create new penalties and expand existing penalties that may be applied to taxpayers who fail to disclose certain types of information on their tax returns. In particular, the bill would allow the Department of the Treasury to impose penalties, on taxpayers who failed to report certain information for reportable transactions, modify the penalties for inaccurate returns if the inaccuracies had a significant tax avoidance purpose, and modify the definition of ''substantial understatement'' of tax for corporate taxpayers for purposes of imposing a penalty. It also would repeal the current rules regarding registration of tax shelters and instead require persons who assist with transactions in such shelters (''material advisors'') to report certain information to the Secretary of the Treasury. The bill would impose a penalty on those material advisors who fail to file the information completely and accurately.

The Congressional Budge Office (CBO) and the Joint Committee on Taxation (JCT) estimate that enacting the bill would increase governmental receipts by $17 million in 2002, by $601 million over the 2002–2007 period, and by about $1.5 billion over the 2002–2012 period. Since S. 2498 would affect receipts, pay-as-you-go procedures would apply.

JCT has determined that the bill contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments. JCT has determined that the provision of the bill relating to reportable transactions and tax shelters contain private-sector mandates, and that the cost of complying with these mandates would exceed the threshold established by UNRA ($115 million in 2002 adjusted annually for inflation) in 2005 and 2006.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of the bill is shown in the following table.

	By Fiscal Year, in Millions of Dollars					
	2002	2003	2004	2005	2006	2007
Changes in Revenues						
Estimated Revenues	17	59	102	134	140	147

BASIS OF ESTIMATE

All estimates were provided by JCT. The provisions relating to reportable transactions and tax shelters would compose a significant portion of the effect on revenues if enacted. These provisions would increase revenues by $17 million in 2002, $547 million over the 2002–2007 period, and about $1.3 billion over the 2002–2012 period.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects through 2006 are counted.

	By Fiscal Year, in Millions of Dollars										
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Changes in receipts	17	59	102	134	140	147	155	163	174	187	203
Changes in outlays	Not applicable										

IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

JCT has determined that the bill contains no intergovernmetnal mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

IMPACT ON THE PRIVATE SECTOR

JCT has determined that sections 101, 102, 104, 201–203, and 215 of the bill contain private-sector mandates. JCT has determined that the cost of complying with these mandates would exceed the threshold established by UMRA ($115 million in 2002, adjusted annually for inflation) in 2005 and 2006.

ESTIMATE PREPARED BY:

Erin Whitaker and Annie Bartsch (226–2720).

ESTIMATE APPROVED BY:

G. Thomas Woodward, Assistant Director for Tax Analysis.

ACCOUNTING REFORM

Mr. BIDEN. Mr. President, I rise today to voice my support for H.R. 3764, the Sarbanes-Oxley bill. While not perfect, this is important legislation. I commend my friend and colleague, Senator SARBANES, the distinguished chairman of the Senate Banking Committee, for his relentless effort to usher this landmark legislation through the Senate. I am proud to have worked with him on such an important cause.

To restore some level of confidence, the accounting reform legislation we have passed is critical to stem the corporate greed threatening our economy. Over the last several months the market has lost considerable value. The dollar is at a 2-year low. Investors are questioning the strength of our financial markets. Each day seems to bring new revelation of corporate excess—some horrific story about unabashed corporate greed and malfeasance. It is a seemingly endless onslaught. We don't know where it will end. And, frankly, we fear how deep it might go.

There is a crisis of confidence in American business. It runs deep, with revelations about cooked books, fraudulent numbers, inflated values, and stock options that make the average working American—who earns about $31,000 a year and fears for his or her pension and health care benefits—sick. In fact, a Pew Forum survey conducted in March, long before the recent revelations, said the esteem in which business executives are held is falling by the day. I shudder to think what those numbers would be now.

Something is clearly wrong with the way corporate America is doing business. Everyone here knows that—and—if you follow the money—you will see that investors also know it. They are registering their concern by pulling out of the market. Some have lost their retirement savings. Others have to postpone their retirement. They are unable to pay college tuition. Surely they have a right to expect a little truth in accounting.

The accounting reform legislation we approve today goes a long way to restore their confidence and stem the tide of market uncertainty. It will bring accountability and transparency to corporations, their officials, and their accountants. We should insist on nothing less.

In addition, the Sarbanes-Oxley bill includes significant new criminal laws for white collar offenses, and raises penalties for a number of existing ones.

I am proud to have sponsored, along with my good friend from Utah, Senator HATCH, S. 2717, the White-Collar Penalty Enhancement Act of 2002. It grew out of a series of hearings I held this year in the Judiciary Subcommittee on Crime and Drugs in which we heard about the ''penalty gap'' between white collar offenses and other serious Federal criminal offenses. The Senate unanimously adopted our bill as an amendment to the Sarbanes bill several weeks ago, and we are pleased that its key provisions are in the legislation approved by the House-Senate conference. Let me briefly summarize those provisions which will become law once the President signs this legislation.

Our bill significantly raised penalties for wire and mail fraud, two common offenses committed by white collar crooks in defrauding financial victims. It also created a new 10-year felony for criminal violations under the Employee Retirement Security Act of 1974 (ERISA). Under current law, a car thief who committed interstate auto theft was subject to 10 years in prison, while a pension thief who committed a criminal violation of ERISA was subject to up to 1 year in prison. Our bill now treats pension theft under ERISA like other serious financial frauds by raising the penalties to 10 years.

Our bill also amended the Federal conspiracy statute which currently carries a maximum penalty of 5 years in prison. In contrast, in our Federal drug statutes, a drug kingpin convicted of conspiracy is subject to the maximum penalty contained in the predicate offense which is the subject of the conspiracy—a penalty which can be much higher than 5 years. I say what is good for the drug kingpin is good for the white collar crook. Thus, our bill harmonized conspiracy for white collar fraud offenses with our drug statutes. Now, executives who conspire to defraud investors will be subject to the same tough penalties—up to 20 years—as codefendants who actually carry out the fraud.

Our bill also directed the U.S. Sentencing Commission to review our existing Federal sentencing guidelines. As you know, the sentencing guidelines carefully track the statutory maximum penalties that Congress sets for specific criminal offenses. Our bill requires the sentencing commission to go back and recalibrate the sentencing guidelines to raise penalties for the white collar offenses affected by this legislation.

Finally, and most significantly, our bill required top corporate officials to certify the accuracy of their companies' financial reports filed with the Securities and Exchange Commission.

Incredibly, under current law, there is no requirement that corporate officials certify the accuracy of these reports. As we have seen in the cases of WorldCom and others, this is no small matter. Willful misstatements about the financial health of a company—once uncovered—can lead, almost overnight, to a company's bankruptcy, wholesale loss of jobs for its employees, and a total collapse in the value of the company's pension funds.

That is why Federal Reserve Board Chairman Alan Greenspan last week testified before the Senate Banking Committee that imposing criminal sanctions on CEOs who knowingly misrepresent the financial health of their company is the key to real reform of corporate wrongdoing.

I am pleased that this centerpiece of the Senate-passed accounting bill is retained in the final legislation. Our provision is simple: corporate officials who cook the books and then lie about their companies' financial health will go to jail. Our bill says that all CEOs and CFOs of publicly traded companies must certify that their financial reports filed with the SEC are accurate. If they ''knowingly'' certify a false report, they are subject to a 10-year felony; if they ''willfully'' certify a false report, they are subject to a 20-year felony.

But we may have left one stone unturned. I regret that this final bill makes a small but significant change from the original Biden-Hatch amendment put the chairman of the board on the hook, along with the CEO and CFO. This final bill removed the board chairman from the group of corporate officials who are required to certify the accuracy of the reports. I think that is a mistake. Contrary to what some in the business community argued, requiring the board chairman to certify the accuracy of these financial reports would not have threatened the management of a corporation or the integrity of its executives.

Rather, our bill merely would have formalized what should be normal procedure—and what every American thinks is plain old common sense—namely that corporate executives certify that their books are not cooked

and their numbers are truthful. I do not see—and I am sure the American people fail to see—what is wrong with demanding truthfulness in the valuation of a publicly traded company. It would seem to me that those in positions of responsibility in the business community, at every level—from the chairman of the board on down—should embrace the notion of truth in accounting.

Why would they demand anything less after what we have seen in the last few weeks with a $4 billion discrepancy in WorldCom's books? After all, ''the buck stops'' with the chairman of the board—to whom the CEO and CFO report. It strikes me as crazy that we will now hold the CEO and CFO responsible, but not their boss. Indeed, as many have recently pointed out, in most American corporations, the CEO is the chairman of the board. To let board chairs off the hook could create a loophole where crooked CEO's simply change their title to escape accountability for their corporate filings.

Some naysayers have suggested that the certification requirement would undermine the ability of the chair to oversee and act independently of the chief executive officer. It is absurd that a requirement that merely prohibits top corporate officers from lying about the company's financial health would sacrifice board independence. If anything, it ensures proper oversight by fostering a healthy division of responsibility between management and the board of directors, by encouraging the board chair to be actively engaged in the periodic process of checking the accuracy of financial statements; and by recognizing that the board chair has a vital role in ''stopping corporate debacles'' by not knowingly or willfully contributing to the filing of false financial reports.

Other opponents suggested that the certification requirement would likely drive independent chairmen out of business and discourage otherwise good business leaders from serving on boards of directors. This is the same old ''sky is falling'' claim that Wall Street uttered during consideration of the original securities legislation in the 1930s, and it has repeated this mantra with virtually every congressional reform offered ever since.

Truth be told, the certification requirement only imposes criminal sanctions for top corporate officials who lie about their financial records. Specifically, it only applies to ''knowing'' and ''willful failures to certify financial statements—a very high standard. It would be one thing if the requirement applied criminal sanctions on a ''strict liability'' or ''neglience'' standard to board chairs who certify false reports. I could even understand their concern under the original ''reckless'' standard—that is, that the board chair ''should have known'' that the statements were false. But our requirement is only triggered where top corporate officials knowingly or willfully certify financial statements that they know to be false. So, only top corporate officers who are consciously aware of a false statement—and not those who act out of ignorance, mistake, accident or even sloppiness—would conceivably be subject to criminal sanctions. It is troubling, but quite revealing, that even this relatively meek certification would alarm some in the business community.

Regrettably, that is the stone that was left unturned. I wish we had turned it. I wish we had, in our infinite wisdom, included board chairmen in our legislation.

Nevertheless, this bill represents a huge step forward. It will strengthen accountability. It will tell CEOs and CFOs—we expect you to watch your books, and not bury your heads in the sand!'' It will given prosecutors important new tools to fight white collar crime. It will give judges the ability to impose meaningful sentences for white collar crooks.

In closing, a common theme I have heard at our Crime Subcommittee hearings is that white collar crimes are not ''crimes of passion,'' as a general rule. Rather, they are the result of a careful, ''cost-benefit'' analysis in which the crook considers his chance of being caught; and his chances of actually going to prison. To date, it was a pretty safe bet for the white collar crook to assume he would avoid detection, and, even if he was detected, he would not go to jail.

I have a message today for white collar crooks: ''We are deadly serious. We will prosecute you to fullest extent of the law. And we will put you in jail for your crimes.''

ADDITIONAL STATEMENTS

INFESTED PIÑONS

• Mr. DOMENICI. Mr. President, I rise today to continue my efforts to raise awareness of the dire situation we are facing in the western United States due to the ongoing drought.

I have been speaking on the Senate floor repeatedly emphasizing the impact the drought is having on the west, and especially its impact on New Mexico. The water situation has affected businesses and the livestock industry, and it has turned forests into tinderboxes.

Now, it appears that there is another problem arising from the lack of water. A recent article by the Albuquerque Journal highlights the fact that ''hundreds of thousands of bark beetles [are] killing Piñon pines all over New Mexico.'' These are ''trees that have survived New Mexico's arid climate for 75 or 100 years [and] are [now] succumbing to the beetles.''

Under normal conditions, stressed trees would use internal sap pressure to fend off an infestation. However, under current conditions, the trees do not have enough moisture to adequately fight back, and they are overwhelmed by the beetles and devastated. They have to be cut down, stacked, and covered with plastic to prevent the escape of the beetles.

If New Mexico's Piñon trees suffer, so too will some area economies. New Mexico is known for its unique food flavors and its native art. Piñon nuts are a true New Mexico treat which can be harvested and eaten as a snack. Roasted nuts can sell for around $9 a pound and bring much needed tourism dollars to our state. In addition, Piñon pitch can be used as a glaze for Navajo pottery providing the finishing touches to their beautiful designs. Prolonged damage to the Piñon trees will create further hardships for New Mexico's economy.

With each passing day, the conditions in New Mexico will continue to become worse. At some point or another, every individual in New Mexico will feel the impact of this drought and continue to face hardships until we take proper action to alleviate the situation.

I ask that the July 24, 2002, Albuquerque Journal article entitled, ''Parched Piñon Under Deadly Attack'' be printed in the RECORD.

The article follows.

[From the Albuquerque Journal, July 24, 2002]

PARCHED PIÑONS UNDER DEADLY ATTACK

(By Tania Soussan)

First came the fires. Then withered crops. Now the drought's latest plague: hundreds of thousands of bark beetles killing piñon pines all over New Mexico.

''In many areas, they're taking out all of the trees,'' said Bob Cain, a New Mexico State University forest entomologist.'' . . . It's going to be a long time before there's many piñon in there again.''

Even before the drought of 2002, the trees faced still competition for water because forests have grown overly dense during decades of human fire suppression.

The drought has made the situation even worse. Without adequate water, the piñons can't repel the bark beetles that burrow into vital tissues, lay eggs and munch away.

''It's been something that's been building the last several years, especially since 2000,'' Cain said, adding that the bark beetles are one of nature's ways of thinning a forest.

Carol Sutherland, the New Mexico Department of Agriculture's top bug expert, agreed.

''Trees that are under stress are getting hammered badly by all manner of bark beetles,'' she said recently.

The worst infestations are in the area between Magdalena and Quemado in the western part of the state, around Ojo Caliente in northern New Mexico, in the Sacramento Mountains and Ruidoso.

Near Silver City, ponderosa pines also are being hit hard.

Even trees that have survived New Mexico's arid climate for 75 or 100 years are succumbing to the beetles this year, said Terry Rogers, forest entomologist for the U.S. Forest Service in New Mexico.

On a hillside outside of Santa Fe, Cain recently examined a pocket of piñons fighting a hopeless battle for life. The pine needles on one tree were turning a pale, whitish green. Another tree already had gone reddish brown.

''There's nothing you can do to save this tree,'' Cain said. ''This drought has been so

severe that even trees that should have enough resources around them are getting hit.''

Pencil lead-sized holes in the trunk marked where the beetles entered, and small piles of fine sawdust on the branches and the ground were signs of their success.

In addition, there were several ''pitch tubes'' on the broad trunk. The tree had spurted out resin, or sap, in an attempt to eject the beetles. A healthy tree can fight off beetles that way, but drought means the trees don't have enough moisture to produce the needed sap.

Bark beetles are efficient killers.

Once a few successfully bore into a piñon or ponderosa pine, they send out a chemical signal that attracts thousands of other beetles.

They invade the phloem tissue right under the bark, the tissue that carries sugars from the pine needles to the tree's roots. The beetles also carry pockets of fungus on their bodies. The fungus attacks the water-conducting tissues of the tree.

Once the signs of beetle infestation are clear, it's too late to save the tree.

''You really have no good evidence of beetles in the tree until the tree is fading,'' Cain said. ''Insecticides are not efficient at that point.''

The only solution is to cut down the tree and get rid of it—and the beetles inside—to stop the beetle invasion from spreading to other trees. To use it for firewood, first stack the logs in the sun and cover them with plastic for several days to kill the beetles.

The insecticide Sevin can be used to protect high-value trees that are at risk, but Cain does not recommend it for general use. Watering trees so they are able to fight off an attack also can help.

''The good news is if we get these monsoons, the trees will become more resistant,'' he said.

Drought also has increased populations of spider mites in corn crops in eastern New Mexico.

''It can be quite severe,'' said Mike English, head of the NMSU Extension Service's Agricultural Science Center in Los Lunas. ''It can lose half your crop.''

The drought could be making blood-sucking kissing bugs a problem in the southern part of the state, Sutherland said.

The bugs' usual prey, small rodents and birds, probably are in shorter supply so they are biting people and leaving behind big, itchy welts, she said.

''You've seen mosquito bites but you ain't seen nothing yet,''she said. ''These are a lot worse.''

Still, the situation in New Mexico could be worse.

Grasshoppers and Mormon crickets are ravaging crops and pastures in Nebraska and other Western states in what could be the biggest such infestation since World War II, according to agricultural officials.

There were early reports of a few pockets of grasshopper problems in New Mexico, in Lea and Eddy counties and near Silver City, English said. But Sutherland said there were no reports of major problems in the state as of mid-July.●

THE OREGON RED CROSS

● Mr. SMITH of Oregon. Mr. President, as I am sure many of my colleagues are aware, as I speak here today on the floor, fire continues to rage across the state of Oregon. At last count, there were no fewer than fifteen fires burning throughout the state, leaving behind hundreds of thousands of charred acres and a sobering path of destruction. As such, I stand here to salute and pay tribute to the benevolent Oregonians of the Red Cross who, throughout this tragedy, have responded with remarkable compassion and service to their communities.

When fire first broke out near my own home in Pendleton, OR, the Umatilla Chapter of the Red Cross was there and opened an emergency shelter for residents of fire threatened homes. More than twenty paid and volunteer staff enlisted for what fortunately became a substantial ''cold start'' exercise.

In Lake County, Oregon, where the Winter, Toolbox Complex, and Grizzly Complex fires have combined to form a 115,000 acre inferno, the Red Cross has been on the ground, organizing local residents and setting up a shelter to disseminate information and to provide aid to affected families. That shelter remains on standby status today, pending containment of the fire, which is not expected for another week.

There are similar examples throughout the state and throughout the country of local Red Cross chapters responding to help friends and neighbors in need. For as tragic as this fire season has been to date, the staff and volunteers of the Red Cross have responded with an equal level of kindness and selflessness.

This has been a very emotionally charged past few months. As a U.S. Senator and as an Oregonian, I am deeply proud of how the people in my state have responded to life-threatening crises. The generosity shown by so many truly reaffirms one's faith in the goodness of people. Today, I salute the workers and the volunteers who gave and continue to give of themselves to help our communities in need.●

TRIBUTE TO ROSELLA FRENCH PORTERFIELD

● Mr. BUNNING. Mr. President, I rise today to honor a truly amazing and admirable individual, Mrs. Rosella French Porterfield. This Saturday, the Elsmere Park Board will be rededicating the Rosella French Porterfield Park to honor the retired educator, who played such a vital part in the successful integration of the Erlanger-Elsmere Independent School System.

A bronze plaque depicting Mrs. Porterfield holding the hands of a young Debbie Onkst of Erlanger, a white student who later followed in Mrs. Porterfield's footsteps as a librarian for the school system, and Elsmere Mayor Bill Bradford, northern Kentucky's first African-American Mayor, will be unveiled.

Looking back on Rosella Porterfields' life and her many accomplishments, I am impressed the positive strides one African-American woman was able to make in a nearly all-white community during the 1950s. But once you hear people talk of Rosella, you understand the simple fact that amazing people can do amazing things.

A Daviess County native, Rosella received a graduate degree during a time when African-American women did not accomplish such things due to institutional and personal biases. Her first job as an educator was at Barnes Temple Church on Elsmere's Fox Street. After 7 years at Barnes Temple, Rosella moved to Wilkins Heights School in Elsmere, where she successfully transformed the one depleted school library into a place that fostered and encouraged educational excellence. But even as hard as Rosella worked, the segregated school system constantly worked to her disadvantage.

In 1955, 1 year after the U.S. Supreme Court abolished segregated schools, Rosella Porterfield approached Superintendent Edgar Arnett. She told him the time was right to bring white and black together in an educational atmosphere. She firmly believed that if the kids could be brought together in an effort to achieve common goals, they could learn to live together in peace and harmony. Mr. Arnett listened to Rosella and promptly took her proposal to the school board. In turn, the school board unanimously approved a phased-in integration starting in the lower grades.

Erlanger-Elsmere schools integrated in what Time magazine recognized as a very smooth and peaceful manner, a very uncommon phenomenon at the time. The schools were not forced to action by any outside factors such as government officials or military personnel. It was a voluntary and rational approach to a community's educational needs. This happened largely because of the efforts of individuals like Rosella Porterfield.

I kindly ask that my fellow colleagues join me in paying tribute to Mrs. Porterfield for her vision, persistence, and patience. When I think of Rosella's actions and the effect she had on her community, I recall the words of Winston Churchill, who said, in reference to the heroic efforts of Great Britain's RAF, ''Never have so many owed so much to so few.''●

TRIBUTE TO TONY TURNER

● Mr. McCONNELL. Mr. President, I rise today to pay tribute to my dear friend, the late Tony Turner. On June 30, 2002, Tony passed away after succumbing to injuries suffered in a tragic car accident. He was only 40 years old.

I want to take this opportunity to extend my heartfelt condolences to his wife Geraldine, his two children, Courtney and Cameron, and the rest of his family and friends. Tony made it easy for people to remember him, leaving behind a legacy as a loving husband and father, loyal friend, successful broadcaster, and community leader. He was a spirited individual who cherished life and enjoyed helping others. He was

famous for his self-deprecating sense of humor and brightened the lives of many people with his light-hearted jokes. Tony will be remembered for many reasons, not the least of which is his dedication to his family and friends.

Born and raised in eastern Kentucky, Tony was a widely respected broadcaster. Over the course of his 26-year career, he worked his way from the position of radio disc jockey to television news anchor and station manager. Tony's passion for broadcasting developed at an early age. He landed his first job at WFSR radio in Harlan, and was general manager of that station from 1976 to 1986. After 10 years in radio, Tony moved to television and worked as a reporter and general assignment editor at WYMT-TV in Hazard. Tony was an outstanding journalist and had the ability to connect with just about everyone. His unique skills were quickly realized and he went on to become the station's news director and 6 p.m. news anchor. In 2001, he was named general manager and vice president of WYMT-TV.

Anyone who knows Tony can attest to the fact that he absolutely loved politics. His fair and balanced approach to the subject was widely respected in eastern Kentucky and he often was asked to moderate political debates. During his 16 years at WYMT-TV, he anchored a number of highly acclaimed political talk shows, including ''Issues and Answers . . . The Mountain Edition'' and ''Point Counterpoint.'' I had the pleasure of appearing on Tony's shows a number of times, and I always enjoyed talking politics with him. Tony was an engaging interviewer and never shied away from asking tough questions. At the same time, he was always honest and fair. Tony Turner was a one-of-a-kind journalist and he will be sorely missed.

As much as he is recognized for his professional life, Tony is also well known for his kind heart and commitment to public service. He was involved in a variety of good causes and actively used his high profile to better the lives of others. Tony was a longtime supporter and cohost of the annual Children's Miracle Network Telethon, which helped raise money for the University of Kentucky's Children's Hospital. He also was chairman of the board of directors of the Pride Program, and served on the boards of the Center for Rural Development and the Eastern Kentucky Leadership Foundation. Additionally, he was an active member of the Loyall First Baptist Church.

At times like these, I am reminded of the frailty of life and the importance of friends and family. Tony understood and valued these things and has left a legacy of excellence for all to remember. Although his passing leaves a great void in the hearts of many, I hope it will be a comfort to his family and friends to know that he was loved and admired by countless people in his community and throughout the State of Kentucky. On behalf of myself and my colleagues, we offer our deepest condolences to his loved ones and express our gratitude for his many contributions.●

HONORING GUNNERY SERGEANT STEPHANIE K. MURPHY, UNITED STATES MARINE CORPS, ON BECOMING THE FIRST FEMALE DRILL INSTRUCTOR AT NAVAL OFFICER CANDIDATE SCHOOL

● Mrs. LINCOLN. Mr. President, at this time of great challenge to our Nation, it is with immense pride that we take a moment to recognize the efforts of the men and women in our armed forces. I rise today to honor one woman in particular who will be making history next week. On Friday, August 2, 2002, the United States Navy's Officer Candidate School will graduate its first class trained by a female drill instructor. Although women have played a vital role in our armed forces, and specifically in the Navy and Marine Corps, for many years, Gunnery Sergeant Stephanie K. Murphy is the first Class Drill Instructor to train future Naval officers.

A native of Pine Bluff, AR, Gunnery Sergeant Murphy has served in the Marine Corps since 1988. In 1996, Murphy graduated from Drill Instructor School in Parris Island, SC where she completed six cycles training Marine enlisted recruits. After receiving an accelerated promotion to Gunnery Sergeant, Murphy requested to go to Pensacola, FL in September 2001 to train Naval Officer Candidates.

Gunnery Sergeant Murphy follows in the proud tradition of trail-blazing women in the military, women such as Opha Mae Johnson, who became one of the first 305 women accepted for duty in the Marine Corps Reserve on August 12, 1918. During World War II, women returned to the Corps to ''free a man to fight.'' By the end of World War II, a total of 23,145 officer and enlisted women reservists served in the Marine Corps. Unlike their predecessors, women Marines in World War II performed over 200 military assignments. In addition to clerical work, their numbers included parachute riggers, mechanics, radio operators, map makers, motor transport support, and welders. Women Marines became a permanent part of the regular Marine Corps on June 12, 1948 when Congress passed the Women's Armed Services Integration Act.

Today, women account for over four percent of all Marine officers and over five percent of the active duty enlisted force. Like their distinguished predecessors, women in the Marine Corps today continue to serve proudly and capably in whatever capacity their country and Corps require.

Marine Corps drill instructors have helped train Naval Officer Candidates since the days of the Navy's World War II Pre-Flight Training Schools. This link was reaffirmed following World War II to strengthen the bond that connects the Navy/Marine Corps Team.

In an uncertain world, Americans know that we can count on our men and women in uniform. It is with overwhelming pride that we recognize their tremendous sacrifice and determination. We ask that you join us today in honoring Gunnery Sergeant Stephanie Murphy and all the courageous individuals serving in the military.●

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.)

MESSAGE FROM THE HOUSE

At 10:14 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S.J. Res. 13. A joint resolution conferring honorary citizenship of the United States posthumously on Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette.

H.R. 3763. An act to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calender:

H.R. 4965. An act to prohibit the procedure commonly known as partial-birth abortion.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 26, 2002, she had presented to the President of the United States the following enrolled bill:

S.J. Res. 13. A joint resolution conferring honorary citizenship of the United States posthumously on Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mrs. MURRAY, from the Committee on Appropriations, without amendment:

S. 2808: An original bill making appropriations for the Department of Transportation

and related agencies for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–224).

By Ms. LANDRIEU, from the Committee on Appropriations, without amendment:

S. 2809: An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–225).

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 1992: A bill to amend the Employee Retirement Income Security Act of 1974 to improve diversification of plan assets for participants in individual account plans, to improve disclosure, account access, and accountability under individual account plans, and for other purposes. (Rept. No. 107–226).

S. 1115: A bill to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes. (Rept. No. 107–227).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

S. 2771: A bill to amend the John F. Kennedy Center Act to authorize the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts, and for other purposes.

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. CLELAND:

S. 2802. A bill to amend the Internal Revenue Code of 1986 to provide tax fairness for military families; to the Committee on Finance.

By Mr. HARKIN (for himself and Mr. CONRAD):

S. 2803. A bill to amend the Federal Meat Inspection Act, the Poultry Producers Inspection Act, and the Federal Food, Drug, and Cosmetic Act to provide for improved public health and food safety through enhanced enforcement, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. COLLINS (for herself, Mr. SANTORUM, Mr. SARBANES, Mr. EDWARDS, Mr. FEINGOLD, Mr. KENNEDY, Mr. SCHUMER, Mr. SMITH of Oregon, and Mrs. CLINTON):

S. 2804. A bill to amend the National Maritime Heritage Act of 1994 to reaffirm and revise the designation of America's National Maritime Museum, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CORZINE (for himself and Mr. TORRICELLI):

S. 2805. A bill to amend title 23, United States Code, to provide for criminal and civil liability for permitting an intoxicated arrestee to operate a motor vehicle; to the Committee on Environment and Public Works.

By Ms. LANDRIEU:

S. 2806. A bill to provide that members of the Armed Forces performing services on the Island of Diego Garcia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes; to the Committee on Finance.

By Ms. LANDRIEU:

S. 2807. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of dependent care assistance programs sponsored by the Department of Defense for members of the Armed Forces of the United States; to the Committee on Finance.

By Mrs. MURRAY:

S. 2808. An original bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Ms. LANDRIEU:

S. 2809. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. HOLLINGS (for himself, Mr. MCCAIN, Mr. BURNS, and Mr. ENSIGN):

S. 2810. A bill to amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering; considered and passed.

By Mr. ENZI:

S. 2811. A bill to direct the Secretary of Agriculture and the Secretary of the Interior to designate certain Federal forest lands at risk for catastrophic wildfires as emergency mitigation areas, to authorize the use of alternative arrangements in those areas, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. TORRICELLI:

S. Res. 307. A resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003; to the Committee on the Judiciary.

By Mrs. CLINTON:

S. Res. 308. A resolution expressing the sense of the Senate regarding the ''Once-a-Day'' program to promote local farm products; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BIDEN (for himself, Mr. MCCAIN, and Mrs. FEINSTEIN):

S. Res. 309. A resolution expressing the sense of the Senate that Bosnia and Herzegovina should be congratulated on the 10th anniversary of its recognition by the United States; to the Committee on Foreign Relations.

By Mr. HARKIN (for himself, Mr. KENNEDY, Mr. HATCH, and Mr. GREGG):

S. Res. 310. A resolution honoring Justin W. Dart, Jr. as a champion of the rights of individuals with disabilities; considered and agreed to.

By Mr. DASCHLE:

S. Con. Res. 132. A concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives; considered and agreed to.

ADDITIONAL COSPONSORS

S. 321

At the request of Mr. GRASSLEY, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 321, a bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.

S. 1456

At the request of Mr. BENNETT, the name of the Senator from New York (Mr. SCHUMER) was withdrawn as a cosponsor of S. 1456, a bill to facilitate the security of the critical infrastructure of the United States, to encourage the secure disclosure and protected exchange of critical infrastructure information, to enhance the analysis, prevention, and detection of attacks on critical infrastructure, to enhance the recovery from such attacks, and for other purposes.

S. 2013

At the request of Mr. HARKIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2013, a bill to clarify the authority of the Secretary of Agriculture to prescribe performance standards for the reduction of pathogens in meat, meat products, poultry, and poultry products processed by establishments receiving inspection services.

S. 2035

At the request of Mr. JEFFORDS, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 2035, a bill to provide for the establishment of health plan purchasing alliances.

S. 2108

At the request of Ms. STABENOW, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 2108, a bill to amend the Agriculture and Consumer Protection Act of 1973 to assist the neediest of senior citizens by modifying the eligibility criteria for supplemental foods provided under the commodity supplemental food program to take into account the extraordinarily high out-of-pocket medical expenses that senior citizens pay, and for other purposes.

S. 2184

At the request of Mr. BREAUX, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2184, a bill to provide for the reissuance of a rule relating to ergonomics.

S. 2210

At the request of Mr. BIDEN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2210, a bill to amend the International Financial Institutions Act to provide for modification of the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative.

S. 2246

At the request of Mr. DODD, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2246, a bill to improve access to printed instructional materials used by blind or other persons with print disabilities

in elementary and secondary schools, and for other purposes.

S. 2268

At the request of Mr. MILLER, the name of the Senator from Kentucky (Mr. BUNNING) 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.

S. 2489

At the request of Mrs. CLINTON, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2489, a bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes.

S. 2512

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 2512, a bill to provide grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 2528

At the request of Mr. DOMENICI, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 2528, a bill to establish a National Drought Council within the Federal Emergency Management Agency, to improve national drought preparedness, mitigation, and response efforts, and for other purposes.

S. 2570

At the request of Ms. COLLINS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2570, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program, and for other purposes.

S. 2602

At the request of Mrs. CLINTON, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 2602, a bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age 55 shall not result in termination of dependency and indemnity compensation.

S. 2626

At the request of Mr. KENNEDY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2626, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 2674

At the request of Mr. BROWNBACK, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2674, a bill to improve access to health care medically underserved areas.

S. 2800

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 2800, a bill to provide emergency disaster assistance to agricultural producers.

At the request of Mr. BAUCUS, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Minnesota (Mr. DAYTON), the Senator from Michigan (Mr. LEVIN), the Senator from Michigan (Ms. STABENOW) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 2800, supra.

S. J. RES. 40

At the request of Mrs. LINCOLN, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from North Carolina (Mr. EDWARDS), the Senator from Oregon (Mr. WYDEN), the Senator from North Dakota (Mr. DORGAN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S.J. Res. 40, a joint resolution designating August as ''National Missing Adult Awareness Month''.

S. J. RES. 41

At the request of Mr. SPECTER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of 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.

S. RES. 239

At the request of Mr. ALLEN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. Res. 239, a resolution recognizing the lack of historical recognition of the gallant exploits of the officers and crew of the *S.S. Henry Bacon*, a Liberty ship that was sunk February 23, 1945, in the waning days of World War II.

S. RES. 306

At the request of Mr. BROWNBACK, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. Res. 306, a resolution expressing the sense of the Senate concerning the continuous repression of freedoms within Iran and of individual human rights abuses, particularly with regard to women.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS (for herself, Mr. SANTORUM, Mr. SARBANES, Mr. EDWARDS, Mr. FEINGOLD, Mr. KENNEDY, Mr. SCHUMER, Mr. SMITH of Oregon, and Mrs. CLINTON):

S. 2804. A bill to amend the National Maritime Heritage Act of 1994 to reaffirm and revise the designation of America's National Maritime Museum, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. COLLINS. Mr. President, I am pleased to be introducing America's National Maritime Museums Act of 2002. This legislation would designate an additional 19 maritime museums as ''American National Maritime Museums'' nationwide. Maritime Museums are dedicated to advancing maritime and nautical science by fostering the exchange of maritime information and experience and by promoting advances in nautical education.

The America National Maritime Museum designation would include a commitment on the part of each institution toward accomplishing a coordinated education initiative, resources management program, awareness campaign, and heritage grants program. Maritime museums in America will be dedicated to illuminating humankind's experience with the sea and the events that shaped the course and progress of civilization.

Museum collections are composed of hundreds of thousands of maritime items, including ship models, scrimshaw, maritime paintings, decorative arts, intricately carved figureheads, working steam engines, and much more. Maritime museums offer a variety of learning experiences for children and adults through hands-on workshops and programs that focus on maritime history.

Maritime lecture series presentations offer an opportunity to learn about the history and lore of the sea from some of the nation's leading maritime experts. Visitors learn the broad concept of sea power, the historic and modern importance of the sea in matters commercial, military, economic, political, artistic, and social.

The legislation that I am proposing would help museums better interpret maritime and social history to the public using their extensive collections of artifacts, exhibits and expertise. These programs and facilities are used by schools, civic organizations, genealogists, maritime scholars, and the visiting public, thus, serving students of all ages.

I urge all members of the Senate to join me in support of the America's National Maritime Museums Act of 2002.

By Mr. CORZINE (for himself and Mr. TORRICELLI):

S. 2805. A bill to amend title 23, United States Code, to provide for criminal and civil liability for permitting an intoxicated arrestee to operate a motor vehicle; to the Committee on Environment and Public Works.

Mr. CORZINE. Mr. President, today I am introducing legislation to address the serious national problem of drunk driving. The bill, entitled ''John's Law of 2002,'' would help ensure that when drunken drivers are arrested, they cannot simply get back into the car and put the lives of others in jeopardy.

On July 22, 2000, Navy Ensign John Elliott was driving home from the United States Naval Academy in Annapolis for his mother's birthday when his car was struck by another car. Both Ensign Elliott and the driver of that car were killed. The driver of the car that caused the collision had a blood alcohol level that exceeded twice the legal limit.

What makes this tragedy especially distressing is that this same driver had

been arrested and charged with driving under the influence of alcohol, DUI, just three hours before the crash. After being processed for that offense, he had been released into the custody of a friend who drove him back to his car and allowed him to get behind the wheel, with tragic results.

We need to ensure that drunken drivers do not get back behind the wheel before they sober up. New Jersey took steps to do this when they enacted John's Law at the State level. I am pleased to offer a Federal version of this legislation today.

This bill would require States to impound the vehicle of an offender for a period of at least 12 hours after the offense. This would ensure that the arrestee cannot get back behind the wheel of his car until he is sober.

Further, the bill would require States to ensure that if a DUI offender arrestee is released into the custody of another, that person must be provided with notice of his or her potential civil or criminal liability for permitting the arrestee's operation of a motor vehicle while intoxicated. While this bill does not create new liability under Federal law, notifying such individuals of their prospective liability under State law should encourage them to act responsibly.

John's Law of 2002 is structured in a manner similar to other Federal laws designed to promote highway safety, such as laws that encourage states to enact tough drunk driving standards. Under the legislation, a portion of Federal highway funds would be withheld from States that do not comply. Initially, this funding could be restored if States move into compliance. Later, the highway funding forfeited by one State would be distributed to other States that are in compliance. Experience has shown that the threat of losing highway funding is very effective in ensuring that States comply.

I believe that this legislation would help make our roads safer and save many lives. I hope my colleagues will support it, and 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. 2805

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 ''John's Law of 2002''.

SEC. 2. LIABILITY FOR PERMITTING AN INTOXICATED ARRESTEE TO OPERATE A MOTOR VEHICLE.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''§ 165. Liability for permitting an intoxicated arrestee to operate a motor vehicle

''(a) DEFINITION OF MOTOR VEHICLE.—In this section, the term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated only on a rail.

''(b) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

''(1) FISCAL YEAR 2005.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2004, if the State does not meet the requirements of paragraph (3) on that date.

''(2) SUBSEQUENT FISCAL YEARS.—The Secretary shall withhold 10 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2005, and on October 1 of each fiscal year thereafter, if the State does not meet the requirements of paragraph (3) on that date.

''(3) REQUIREMENTS.—A State meets the requirements of this paragraph if the State has enacted and is enforcing a law that is substantially as follows:

''(A) WRITTEN STATEMENT.—If a person is summoned by or on behalf of a person who has been arrested for public intoxication in order to transport or accompany the arrestee from the premises of a law enforcement agency, the law enforcement agency shall provide that person with a written statement advising him of his potential criminal and civil liability for permitting or facilitating the arrestee's operation of a motor vehicle while the arrestee remains intoxicated. The person to whom the statement is issued shall acknowledge, in writing, receipt of the statement, or the law enforcement agency shall record the fact that the written statement was provided, but the person refused to sign an acknowledgment. The State shall establish the content and form of the written statement and acknowledgment to be used by law enforcement agencies throughout the State and may issue directives to ensure the uniform implementation of this subparagraph. Nothing in this subparagraph shall impose any obligation on a physician or other health care provider involved in the treatment or evaluation of the arrestee.

''(B) IMPOUNDMENT OF VEHICLE OPERATED BY ARRESTEE; CONDITIONS OF RELEASE; FEE FOR TOWING, STORAGE.—

''(i) If a person has been arrested for public intoxication, the arresting law enforcement agency shall impound the vehicle that the person was operating at the time of arrest.

''(ii) A vehicle impounded pursuant to this subparagraph shall be impounded for a period of at least 12 hours after the time of arrest or until such later time as the arrestee claiming the vehicle meets the conditions for release in clause (iv).

''(iii) A vehicle impounded pursuant to this subparagraph may be released to a person other than the arrestee prior to the end of the impoundment period only if—

''(I) the vehicle is not owned or leased by the person under arrest and the person who owns or leases the vehicle claims the vehicle and meets the conditions for release in clause (iv); or

''(II) the vehicle is owned or leased by the arrestee, the arrestee gives permission to another person, who has acknowledged in writing receipt of the statement to operate the vehicle and the conditions for release in clause (iv).

''(iv) A vehicle impounded pursuant to this subparagraph shall not be released unless the person claiming the vehicle—

''(I) presents a valid operator's license, proof of ownership or lawful authority to operate the vehicle, and proof of valid motor vehicle insurance for that vehicle;

''(II) is able to operate the vehicle in a safe manner and would not be in violation of driving while intoxicated laws; and

''(III) meets any other conditions for release established by the law enforcement agency.

''(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

''(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—Any funds withheld under subsection (b) from apportionment to any State shall remain available until the end of the fourth fiscal year following the fiscal year for which the funds are authorized to be appropriated.

''(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (b) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements, apportion to the State the funds withheld under subsection (b) that remain available for apportionment to the State.

''(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—

''(A) IN GENERAL.—Any funds apportioned under paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned.

''(B) TREATMENT OF CERTAIN FUNDS.—Any funds apportioned under paragraph (2) that are not obligated at the end of the period referred to in subparagraph (A) shall be allocated equally among the States that meet the requirements of subsection (a)(3).

''(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (b) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), the funds shall be allocated equally among the States that meet the requirements of subsection (a)(3).''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''165. Liability for permitting an intoxicated arrestee to operate a motor vehicle.''.

By Ms. LANDRIEU:

S. 2806. A bill to provide that members of the Armed Forces performing services on the Island of Diego Gracia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes; to the Committee on Finance.

By Ms. LANDRIEU:

S. 2807. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of dependent care assistance programs sponsored by the Department of Defense for members of the Armed Forces of the United States; to the Committee on Finance.

Ms. LANDRIEU. Mr. President, I rise today to introduce two bills. One will give tax relief to a small group of men and women in our armed services stationed on the island of Diego Garcia in the Indian Ocean, supporting the war on terrorism in Afghanistan. The second bill will exclude from gross income childcare benefits paid to members of our armed forces. These are small measures,but both will be of great benefit to the men and women serving our country.

Diego Garcia is a British Territory lying seven degrees South Latitude off

the coast of India, in the middle of the Indian Ocean. The island is 40 miles around and encompasses an area of 6,720 acres, most of it dominated by a large lagoon. The land mass is actually very small. It is home to a joint British-United States Naval Support Facility, and while there are only a small handful of British Royal Navy personnel on the island, there is a larger, tight-knit team of American Air Force, Navy, and Army personnel on the island. These men and women serving on Diego Garcia are supporting B–52 bombing missions and other operations over Afghanistan. Many of them are from the 2nd Bomb Wing and the 917th Wing. Both units call Barksdale Air Force Base in Louisiana their home.

As a Nation, we provide members of our armed forces with a variety of benefits, all of them deserve. They receive hardship duty pay of $150 per monthly for serving in austere regions of the World. They get imminent danger pay of $150 per month as compensation for being in physical danger. One of the most generous benefits for those serving in the war on terrorism is the combat zone tax exclusion. Members of the armed services do not pay Federal tax on compensation they for any month of service inside a combat one. They only have to serve on day in the combat zone to get this benefit. The exclusion only applies to personnel who receive imminent danger pay.

On Diego Garcia, the pilots and flight crews who fly the missions over Afghanistan are eligible for the income tax exclusion because they receive imminent danger pay. But the men and women who load the bombers, fuel them, and maintain them are not eligible because they do not enter the combat zone. My office was contacted by the officers who fly the bombing missions about this discrepancy. They asked me to help out their support crews, a gesture of selflessness that I want to honor.

I recognize that the support crews may not receive imminent danger pay, but their situation is not too different from Naval personnel performing the same tasks on ships in the Arabian Sea. Naval support crews receive imminent danger pay and are eligible for the tax exclusion, but they do not enter Afghanistan.

Diego Garcia is a beautiful place, but it is a long way from home. The least we could do is treat everyone who has served on the island the same. That is what my bill will do.

My second bill will correct an omission in the Tax Reform Act of 1986. That Act contained a provision consolidating the laws regarding the tax treatment of certain military benefits. The Conference Report to that Act contains a long list of benefits to be excluded from gross income of military personnel. According to the report, this list was to be exhaustive. The problem is that child car benefits are not on that list.

I do not know if this omission was intentional. Perhaps at that time, child care benefits were relatively unknown in the military. The Conference Report gives the Treasury Secretary the authority to expand the list of eligible benefits, but so far the Secretary has not provided any guidance to the Department of Defense as to how these benefits should be treated for tax purposes. While military families are not currently being taxed for child care benefits, the Department of Defense has indicated that it would like Congress to clarify that child care benefits are not subject to tax. My bill will give our military families and the Department of Defense a greater degree of certainty.

Throughout our history, in time of war we have worked to make sure that our armed forces have everything they need and we have spared no expense in meeting that need. But the men and women on the ground often have families back at home. We should make sure that we support them as well. I urge my colleagues to support this legislation.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 307—REAFFIRMING SUPPORT OF THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE AND ANTICIPATING THE COMMEMORATION OF THE 15TH ANNIVERSARY OF THE ENACTMENT OF THE GENOCIDE CONVENTION IMPLEMENTATION ACT OF 1987 (THE PROXMIRE ACT) ON NOVEMBER 4, 2003

Mr. TORRICELLI submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 307

Whereas, in 1948, in the shadow of the Holocaust, the international community responded to Nazi Germany's methodically orchestrated acts of genocide by approving the Convention on the Prevention and Punishment of the Crime of Genocide;

Whereas the Convention on the Prevention and Punishment of the Crime of Genocide confirms that genocide is a crime under international law, defines genocide as certain acts committed with intent to destroy a national, ethnical, racial or religious group, and provides that parties to the Convention undertake to enact domestic legislation to provide effective penalties for persons who are guilty of genocide;

Whereas the United States, under President Harry Truman, stood as the first nation to sign the Convention on the Prevention and Punishment of the Crime of Genocide;

Whereas the United States Senate ratified the Convention on the Prevention and Punishment of the Crime of Genocide on February 19, 1986;

Whereas the Genocide Convention Implementation Act of 1987 (the Proxmire Act) (Public Law 100–606), signed into law by President Ronald Reagan on November 4, 1988, amended the United States Code (18 U.S.C. 1091) to criminalize genocide under the United States law;

Whereas the enactment of the Genocide Convention Implementation Act marked a principled stand by the United States against the crime of genocide and an important step toward ensuring that the lessons of the Holocaust, the Armenian Genocide, the genocides in Cambodia and Rwanda, among others, will be used to help prevent future genocides;

Whereas, despite the international community's consensus against genocide, as demonstrated by the fact that 133 nations are party to the Convention on the Prevention and Punishment of the Crime of Genocide and through other instruments and actions, denial of past instances of genocide continues and many thousands of innocent people continue to be victims of genocide; and

Whereas November 4, 2003 is the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act): Now, therefore, be it

Resolved, That the Senate—

(1) reaffirms its support of the Convention on the Prevention and Punishment of the Crime of Genocide;

(2) anticipates the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003; and

(3) encourages the people and Government of the United States to rededicate themselves to the cause of bringing an end to the crime of genocide.

SENATE RESOLUTION 308—EXPRESSING THE SENSE OF THE SENATE REGARDING THE ''ONCE-A-DAY'' PROGRAM TO PROMOTE LOCAL FARM PRODUCTS

Mrs. CLINTON submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 308

Whereas agriculture is a major industry in the United States, contributing $82,000,000,000 to the gross domestic product of the United States in 2000;

Whereas the farmers in every State produce a wide variety of local foods;

Whereas locally-grown, seasonal foods are fresh and wholesome, with superior taste and nutrition;

Whereas eating fresh foods in season is vital to a healthy diet, promotes health, and supports an active lifestyle;

Whereas reduced time from field to table allows farmers to harvest fully-ripened produce;

Whereas this flavorful produce can be prepared with less fat, sugar, and salt;

Whereas during the months of August, September, and October there is a tremendous selection of fresh, locally-grown produce;

Whereas local farms provide jobs, attract tourists, and recirculate dollars into the local economy of our Nation;

Whereas local produce can be found at many locations such as farmers' markets, community-supported agriculture farms, farm stands, local stores, and restaurants;

Whereas if citizens of the United States would eat 1 item of local produce each day, every dollar spent on the produce would support independent family farms that contribute to the economic health of the United States; and

Whereas Dutchess County, New York, has already begun a ''Once-a-Day'' program to encourage local residents to buy local produce in support of their local farmers and their own health: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) all Americans are encouraged to buy local farm products; and

(2) anyone selling local agricultural products is encouraged to promote the products as ''Once-a-Day'' to support the local economy and the health of our Nation.

SENATE RESOLUTION 309—EXPRESSING THE SENSE OF THE SENATE THAT BOSNIA AND HERZEGOVINA SHOULD BE CONGRATULATED ON THE 10TH ANNIVERSARY OF ITS RECOGNITION BY THE UNITED STATES

Mr. BIDEN (for himself, Mr. MCCAIN, and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 309

Whereas the United States reaffirms its support for the sovereignty, legal continuity, and territorial integrity of Bosnia and Herzegovina within its internationally recognized borders and also reaffirms its support for the equality of the three constituent peoples and others in Bosnia and Herzegovina in a united multiethnic country, according to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Whereas, during the 10 years since its recognition, Bosnia and Herzegovina has made significant progress in overcoming the legacy of the internecine conflict of 1992–1995 instigated by ultranationalist forces hostile to a multiethnic society, and has persevered in building a multiethnic democracy based on the rule of law, respect for human rights, and a free market economy, as shown by the results of the elections held in November 2000;

Whereas most citizens and the national authorities of Bosnia and Herzegovina share the democratic values of the international community and feel the responsibility to uphold them;

Whereas the Government of Bosnia and Herzegovina is committed to international security and democratic stability and in that spirit has begun the process of qualifying for membership in the Partnership for Peace; and

Whereas, after the attacks of September 11, 2001 on the United States, Bosnia and Herzegovina, as a reliable friend of the United States, immediately positioned itself within the anti-terrorism coalition of nations, sharing the common interests and values of the free and democratic world: Now, therefore, be it

Resolved, That the Senate—

(1) commends Bosnia and Herzegovina for the significant progress it has made during the past decade on the implementation of the Dayton Peace Agreement and on the implementation of the Constituent Peoples' Decision of the Constitutional Court of Bosnia and Herzegovina;

(2) applauds the democratic orientation of Bosnia and Herzegovina and urges the further strengthening by its government and people of respect for human rights, of the rule of law, and of its free market economy;

(3) urges Bosnia and Herzegovina as rapidly as possible to make fully operational all national institutions and state-level governmental bodies mandated by the Dayton Peace Agreement;

(4) welcomes and supports the aspiration of Bosnia and Herzegovina to become a member of the Partnership for Peace and, pursuant thereto, underscores the importance of creating a joint military command as soon as possible;

(5) urges the Government of Bosnia and Herzegovina to accelerate the return of refugees and displaced persons and to intensify its cooperation with the International Criminal Tribunal for the former Yugoslavia at The Hague, in particular with regard to surrendering to the Court individuals indicted for war crimes;

(6) reaffirms the importance for the future of Bosnia and Herzegovina of that country's participation in the European integration process and, in that context, welcomes the notable improvement in mutual cooperation among the successor states of the former Yugoslavia and the strengthening of cooperation within the region as a whole, developments which are essential for long-lasting peace and stability in Southeastern Europe; and

(7) recognizes the important role of the Bosnian-Herzegovinian-American community in the further improving of bilateral relations between the United States and Bosnia and Herzegovina.

Mr. BIDEN. Mr. President, I rise today to submit a Resolution congratulating Bosnia and Herzegovina on the tenth anniversary of its recognition by the United States.

During the decade since its recognition, Bosnia and Herzegovina has made significant progress in overcoming the legacy of the bloody conflict of 1992–95, which was instigated by ultra-nationalist forces and claimed more than two hundred thousand lives and made millions more homeless.

The NATO-led peacekeeping force, known originally as IFOR, now as SFOR, has provided the security umbrella that has allowed the slow, difficult process of reconciliation and democracy-building to take place.

The international community under the direction of a resident High Representative, the United Nations, the Organization for Security and Cooperation in Europe, the European Union, and many individual countries have joined the United States in providing and delivering economic and technical assistance to the citizens of Bosnia and Herzegovina.

Last year for the first time democratic, non-nationalist parties gained control of the national and Federation governments, and the government of the Republika Srpska is considerably more democratic than it was under the infamous Radovan Karadzic.

Elections will be held this coming October, which will determine whether the country will continue on a democratic, multi-ethnic, and free market path. Obviously, it is in the interest of the people of Bosnia and Herzegovina, Bosniaks, Serbs, Croats, and others, that it do so. Equally obviously, it is in the interest of the United States that Bosnia and Herzegovina become a normal, peaceful, democratic country.

My Resolution commends Bosnia and Herzegovina for the progress it has made and urges it to take several steps to continue the process. They include: further strengthening of respect for human rights, of the rule of law, and of its free market economy; as rapidly as possible making fully operational all national institutions and state-level governmental bodies mandated by the Dayton Peace Agreement; creating a joint military command as soon as possible; accelerating the return of refugees and displaced persons; and intensifying its cooperation with the International Criminal Tribunal for the former Yugoslavia at The Hague, in particular surrendering to the Court individuals indicted for war crimes.

The stability of the Balkans is essential for European stability. And stability in Europe is of fundamental importance to the United States of America. A peaceful, democratic, multi-ethnic Bosnia and Herzegovina can be an important element in the new Balkans.

I urge my colleagues to vote for this Resolution, which makes clear our support for just such a Bosnia and Herzegovina.

SENATE RESOLUTION 310—HONORING JUSTIN W. DART, JR., AS A CHAMPION OF THE RIGHTS OF INDIVIDUALS WITH DISABILITIES

Mr. HARKIN (for himself, Mr. KENNEDY, Mr. HATCH, and Mr. GREGG) submitted the following resolution; which was considered and agreed to:

S. RES. 310

Whereas Justin W. Dart, Jr. was born in Chicago, Illinois in 1930;

Whereas Justin Dart, Jr. has been recognized as a pioneer and leader in the disability rights movement;

Whereas Justin Dart, Jr. operated successful businesses in the United States and Japan;

Whereas 5 Presidents, 5 Governors, and Congress have seen fit to appoint Justin Dart, Jr. to leadership positions within the area of disability policy, including Vice Chairman of the National Council on Disability, Commissioner of the Rehabilitation Services Administration, Chairperson of the President's Committee on Employment of People with Disabilities, and Chairperson of the Congressional Task Force on the Rights and Empowerment of Americans with Disabilities;

Whereas Justin Dart, Jr. was a civil rights activist for individuals with disabilities since he was stricken with polio in 1948 and played a leadership role in numerous civil rights marches across the country;

Whereas Justin Dart, Jr. worked tirelessly to secure passage of the Americans with Disabilities Act of 1990, which was signed into law by President Bush, and is often recognized as a major driving force behind the disability rights movement and that landmark legislation;

Whereas on January 15, 1998, President Clinton awarded the Presidential Medal of Freedom, our Nation's highest civilian award, to Justin Dart, Jr.

Whereas Justin Dart, Jr. has left a powerful legacy as a civil rights advocate and his actions have benefited the people of the United States;

Whereas Justin Dart, Jr. is not only remembered for his advocacy efforts on behalf of individuals with disabilities, but also for his energetic spirit and for the formal and informal independent living skills programs for individuals with disabilities that he supported; and

Whereas Justin Dart, Jr. passed away at his home on June 22, 2002, and is survived by his wife, Yoshiko Dart, 5 daughters, 11 grandchildren, and 2 great-grandchildren: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes Justin W. Dart, Jr. as one of the true champions of the rights of individuals with disabilities and for his many contributions to the Nation throughout his lifetime;

(2) honors Justin W. Dart, Jr. for his tireless efforts to improve the lives of individuals with disabilities; and

(3) recognizes that the achievements of Justin W. Dart, Jr. have inspired and encouraged millions of individuals with disabilities in the United States to overcome obstacles and barriers so that the individuals can lead more independent and successful lives.

SENATE CONCURRENT RESOLUTION 132—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. DASCHLE submitted the following concurrent resolution; which was considered and agreed to.

S. CON. RES. 132

Resolved by the Senate (the House of Representatives concurring), That, in consonance with section 132(a) of the Legislative Reorganization Act of 1946, when the Senate recesses or adjourns at the close of business on Thursday, August 1, 2002, Friday, August 2, 2002, or Saturday, August 3, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12:00 noon on Tuesday, September 3, 2002, or until such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Friday, July 26, 2002, on a motion offered by its Majority Leader or his designee pursuant to this concurrent resolution, it stand adjourned until 2:00 p.m. on Wednesday, September 4, 2002, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4326. Mr. MCCONNELL (for himself and Mr. FRIST) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

TEXT OF AMENDMENTS

SA 4326. Mr. MCCONNELL (for himself and Mr. FRIST) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN. Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN), to the bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; as follows:

Strike the first word and insert the following:

TITLE ____—HEALTH CARE LIABILITY REFORM

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Health Care Liability Reform and Quality Assurance Act of 2002''.

Subtitle A—Health Care Liability Reform

SEC. ___11. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—The civil justice system of the United States is a costly and inefficient mechanism for resolving claims of health care liability and compensating injured patients and the problems associated with the current system are having an adverse impact on the availability of, and access to, health care services and the cost of health care in the United States.

(2) EFFECT ON INTERSTATE COMMERCE.—The health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States affect interstate commerce by contributing to the high cost of health care and premiums for health care liability insurance purchased by participants in the health care system.

(3) EFFECT ON FEDERAL SPENDING.—The health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide such individuals with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this title to implement reasonable, comprehensive, and effective health care liability reform that is designed to—

(1) ensure that individuals with meritorious health care injury claims receive fair and adequate compensation;

(2) improve the availability of health care service in cases in which health care liability actions have been shown to be a factor in the decreased availability of services; and

(3) improve the fairness and cost-effectiveness of the current health care liability system of the United States to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty and unpredictability in the amount of compensation provided to injured individuals.

SEC. ___12. DEFINITIONS.

In this subtitle:

(1) CLAIMANT.—The term ''claimant'' means any person who commences a health care liability action, and any person on whose behalf such an action is commenced, including the decedent in the case of an action brought through or on behalf of an estate.

(2) CLEAR AND CONVINCING EVIDENCE.—The term ''clear and convincing evidence'' means that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, except that such measure or degree of proof is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(3) COLLATERAL SOURCE RULE.—The term ''collateral source rule'' means a rule, either statutorily established or established at common law, that prevents the introduction of evidence regarding collateral source benefits or that prohibits the deduction of collateral source benefits from an award of damages in a health care liability action.

(4) ECONOMIC LOSSES.—The term ''economic losses'' means objectively verifiable monetary losses incurred as a result of the provision of (or failure to provide or pay for) health care services or the use of a medical product, including past and future medical expenses, loss of past and future earnings, cost of obtaining replacement services in the home (including child care, transportation, food preparation, and household care), cost of making reasonable accommodations to a personal residence, loss of employment, and loss of business or employment opportunities. Economic losses are neither noneconomic losses nor punitive damages.

(5) HEALTH CARE LIABILITY ACTION.—The term ''health care liability action'' means a civil action against a health care provider, health care professional, health plan, or other defendant, including a right to legal or equitable contribution, indemnity, subrogation, third-party claims, cross claims, or counter-claims, in which the claimant alleges injury related to the provision of, payment for, or the failure to provide or pay for, health care services or medical products, regardless of the theory of liability on which the action is based. Such term does not include a product liability action, except where such an action is brought as part of a broader health care liability action.

(6) HEALTH PLAN.—The term ''health plan'' means any person or entity which is obligated to provide or pay for health benefits under any health insurance arrangement, including any person or entity acting under a contract or arrangement to provide, arrange for, or administer any health benefit.

(7) HEALTH CARE PROFESSIONAL.—The term ''health care professional'' means any individual who provides health care services in a State and who is required by Federal or State laws or regulations to be licensed, registered or certified to provide such services or who is certified to provide health care services pursuant to a program of education, training and examination by an accredited institution, professional board, or professional organization.

(8) HEALTH CARE PROVIDER.—The term ''health care provider'' means any organization or institution that is engaged in the delivery of health care items or services in a State and that is required by Federal or State laws or regulations to be licensed, registered or certified to engage in the delivery of such items or services.

(9) HEALTH CARE SERVICES.—The term ''health care services'' means any services provided by a health care professional, health care provider, or health plan or any individual working under the supervision of a health care professional, that relate to the diagnosis, prevention, or treatment of any disease or impairment, or the assessment of the health of human beings.

(10) INJURY.—The term ''injury'' means any illness, disease, or other harm that is the subject of a health care liability action.

(11) MEDICAL PRODUCT.—The term ''medical product'' means a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or a medical device as defined in section 201(h) of such Act (21 U.S.C. 321(h)), including any component or raw material used therein, but excluding health care services, as defined in paragraph (9).

(12) NONECONOMIC LOSSES.—The term ''noneconomic losses'' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of consortium, loss of society or companionship (other than loss of domestic services), and other nonpecuniary losses incurred by an individual with respect to which a health care liability action is brought. Noneconomic losses are neither economic losses nor punitive damages.

(13) PUNITIVE DAMAGES.—The term ''punitive damages'' means damages awarded, for the purpose of punishment or deterrence, and not for compensatory purposes, against a health care professional, health care provider, or other defendant in a health care liability action. Punitive damages are neither economic nor noneconomic damages.

(14) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(15) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. ___13. APPLICABILITY.

(a) IN GENERAL.—Except as provided in subsection (c), this subtitle shall apply with respect to any health care liability action brought in any Federal or State court, except that this subtitle shall not apply to an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action.

(b) PREEMPTION.—

(1) IN GENERAL.—The provisions of this subtitle shall preempt State law only to the extent that such law is inconsistent with the limitations contained in such provisions and shall not preempt State law to the extent that such law—

(A) places greater restrictions on the amount of or standards for awarding noneconomic or punitive damages;

(B) places greater limitations on the awarding of attorneys fees for awards in excess of $150,000;

(C) permits a lower threshold for the periodic payment of future damages;

(D) establishes a shorter period during which a health care liability action may be initiated or a more restrictive rule with respect to the time at which the period of limitations begins to run; or

(E) implements collateral source rule reform that either permits the introduction of evidence of collateral source benefits or provides for the mandatory offset of collateral source benefits from damage awards.

(2) RULES OF CONSTRUCTION.—The provisions of this subtitle shall not be construed to preempt any State law that—

(A) permits State officials to commence health care liability actions as a representative of an individual;

(B) permits provider-based dispute resolution;

(C) places a maximum limit on the total damages in a health care liability action;

(D) places a maximum limit on the time in which a health care liability action may be initiated; or

(E) provides for defenses in addition to those contained in this title.

(c) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in this subtitle shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to actions brought by a foreign nation or a citizen of a foreign nation;

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss an action of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(6) supersede any provision of Federal law.

(d) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this subtitle shall be construed to establish any jurisdiction in the district courts of the United States over health care liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

SEC. ___14. STATUTE OF LIMITATIONS.

A health care liability action that is subject to this title may not be initiated unless a complaint with respect to such action is filed within the 2-year period beginning on the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered the injury and its cause, except that such an action relating to a claimant under legal disability may be filed within 2 years after the date on which the disability ceases. If the commencement of a health care liability action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

SEC. ___15. REFORM OF PUNITIVE DAMAGES.

(a) LIMITATION.—With respect to a health care liability action, an award for punitive damages may only be made, if otherwise permitted by applicable law, if it is proven by clear and convincing evidence that the defendant—

(1) intended to injure the claimant for a reason unrelated to the provision of health care services;

(2) understood the claimant was substantially certain to suffer unnecessary injury, and in providing or failing to provide health care services, the defendant deliberately failed to avoid such injury; or

(3) acted with a conscious, flagrant disregard of a substantial and unjustifiable risk of unnecessary injury which the defendant failed to avoid in a manner which constitutes a gross deviation from the normal standard of conduct in such circumstances.

(b) PUNITIVE DAMAGES NOT PERMITTED.—Notwithstanding the provisions of subsection (a), punitive damages may not be awarded against a defendant with respect to any health care liability action if no judgment for compensatory damages, including nominal damages (under $500), is rendered against the defendant.

(c) SEPARATE PROCEEDING.—

(1) IN GENERAL.—At the request of any defendant in a health care liability action, the trier of fact shall consider in a separate proceeding—

(A) whether punitive damages are to be awarded and the amount of such award; or

(B) the amount of punitive damages following a determination of punitive liability.

(2) ONLY RELEVANT EVIDENCE ADMISSIBLE.—If a defendant requests a separate proceeding under paragraph (1), evidence relevant only to the claim of punitive damages in a health care liability action, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(d) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—In determining the amount of punitive damages in a health care liability action, the trier of fact shall consider only the following:

(1) The severity of the harm caused by the conduct of the defendant.

(2) The duration of the conduct or any concealment of such conduct by the defendant.

(3) The profitability of the conduct of the defendant.

(4) The number of products sold or medical procedures rendered for compensation, as the case may be, by the defendant of the kind causing the harm complained of by the claimant.

(5) Evidence with respect to awards of punitive or exemplary damages to persons similarly situated to the claimant, when offered by the defendant.

(6) Prospective awards of compensatory damages to persons similarly situated to the claimant.

(7) Evidence with respect to any criminal or administrative penalties imposed on the defendant as a result of the conduct complained of by the claimant, when offered by the defendant.

(8) Evidence with respect to the amount of any civil fines assessed against the defendant as a result of the conduct complained of by the claimant, when offered by the defendant.

(e) LIMITATION AMOUNT.—

(1) IN GENERAL.—The amount of damages that may be awarded as punitive damages in any health care liability action shall not exceed 2 times the sum of—

(A) the amount awarded to the claimant for the economic loss; and

(B) the amount awarded to the claimant for noneconomic loss.

(2) APPLICATION BY COURT.—This subsection shall be applied by the court and the application of this subsection shall not be disclosed to the jury.

(f) RESTRICTIONS PERMITTED.—Nothing in this title shall be construed to imply a right to seek punitive damages where none exists under Federal or State law.

SEC. ___16. PERIODIC PAYMENTS.

With respect to a health care liability action, if the award of future damages exceeds $100,000, the adjudicating body shall, at the request of either party, enter a judgment ordering that future damages be paid on a periodic basis in accordance with the guidelines contained in the Uniform Periodic Payments of Judgments Act, as promulgated by the National Conference of Commissioners on Uniform State Laws in July of 1990. The adjudicating body may waive the requirements of this section if such body determines that such a waiver is in the interests of justice.

SEC. ___17. SCOPE OF LIABILITY.

(a) IN GENERAL.—With respect to punitive and noneconomic damages, the liability of each defendant in a health care liability action shall be several only and may not be joint. Such a defendant shall be liable only for the amount of punitive or noneconomic damages allocated to the defendant in direct proportion to such defendant's percentage of fault or responsibility for the injury suffered by the claimant.

(b) DETERMINATION OF PERCENTAGE OF LIABILITY.—With respect to punitive or noneconomic damages, the trier of fact in a health care liability action shall determine the extent of each party's fault or responsibility for injury suffered by the claimant, and shall assign a percentage of responsibility for such injury to each such party.

SEC. ___18. MANDATORY OFFSETS FOR DAMAGES PAID BY A COLLATERAL SOURCE.

(a) IN GENERAL.—With respect to a health care liability action, the total amount of

damages received by an individual under such action shall be reduced, in accordance with subsection (b), by any other payment that has been, or will be, made to an individual to compensate such individual for the injury that was the subject of such action.

(b) AMOUNT OF REDUCTION.—The amount by which an award of damages to an individual for an injury shall be reduced under subsection (a) shall be—

(1) the total amount of any payments (other than such award) that have been made or that will be made to such individual to pay costs of or compensate such individual for the injury that was the subject of the action; minus

(2) the amount paid by such individual (or by the spouse, parent, or legal guardian of such individual) to secure the payments described in paragraph (1).

(c) DETERMINATION OF AMOUNTS FROM COLLATERAL SERVICES.—The reductions required under subsection (b) shall be determined by the court in a pretrial proceeding. At the subsequent trial—

(1) no evidence shall be admitted as to the amount of any charge, payments, or damage for which a claimant—

(A) has received payment from a collateral source or the obligation for which has been assured by a third party; or

(B) is, or with reasonable certainty, will be eligible to receive payment from a collateral source of the obligation which will, with reasonable certainty be assumed by a third party; and

(2) the jury, if any, shall be advised that—

(A) except for damages as to which the court permits the introduction of evidence, the claimant's medical expenses and lost income have been or will be paid by a collateral source or third party; and

(B) the claimant shall receive no award for any damages that have been or will be paid by a collateral source or third party.

SEC. ____19. TREATMENT OF ATTORNEYS' FEES AND OTHER COSTS.

(a) LIMITATION ON AMOUNT OF CONTINGENCY FEES.—

(1) IN GENERAL.—An attorney who represents, on a contingency fee basis, a claimant in a health care liability action may not charge, demand, receive, or collect for services rendered in connection with such action in excess of the following amount recovered by judgment or settlement under such action:

(A) 33⅓ percent of the first $150,000 (or portion thereof) recovered, based on after-tax recovery, plus

(B) 25 percent of any amount in excess of $150,000 recovered, based on after-tax recovery.

(2) CALCULATION OF PERIODIC PAYMENTS.—In the event that a judgment or settlement includes periodic or future payments of damages, the amount recovered for purposes of computing the limitation on the contingency fee under paragraph (1) shall be based on the cost of the annuity or trust established to make the payments. In any case in which an annuity or trust is not established to make such payments, such amount shall be based on the present value of the payments.

(b) CONTINGENCY FEE DEFINED.—As used in this section, the term ''contingency fee'' means any fee for professional legal services which is, in whole or in part, contingent upon the recovery of any amount of damages, whether through judgment or settlement.

SEC. ____20. STATE-BASED ALTERNATIVE DISPUTE RESOLUTION MECHANISMS.

(a) ESTABLISHMENT BY STATES.—Each State is encouraged to establish or maintain alternative dispute resolution mechanisms that promote the resolution of health care liability claims in a manner that—

(1) is affordable for the parties involved in the claims;

(2) provides for the timely resolution of claims; and

(3) provides the parties with convenient access to the dispute resolution process.

(b) GUIDELINES.—The Attorney General, in consultation with the Secretary and the Administrative Conference of the United States, shall develop guidelines with respect to alternative dispute resolution mechanisms that may be established by States for the resolution of health care liability claims. Such guidelines shall include procedures with respect to the following methods of alternative dispute resolution:

(1) ARBITRATION.—The use of arbitration, a nonjury adversarial dispute resolution process which may, subject to subsection (c), result in a final decision as to facts, law, liability or damages. The parties may elect binding arbitration.

(2) MEDIATION.—The use of mediation, a settlement process coordinated by a neutral third party without the ultimate rendering of a formal opinion as to factual or legal findings.

(3) EARLY NEUTRAL EVALUATION.—The use of early neutral evaluation, in which the parties make a presentation to a neutral attorney or other neutral evaluator for an assessment of the merits, to encourage settlement. If the parties do not settle as a result of assessment and proceed to trial, the neutral evaluator's opinion shall be kept confidential.

(4) EARLY OFFER AND RECOVERY MECHANISM.—The use of early offer and recovery mechanisms under which a health care provider, health care organization, or any other alleged responsible defendant may offer to compensate a claimant for his or her reasonable economic damages, including future economic damages, less amounts available from collateral sources.

(5) CERTIFICATE OF MERIT.—The requirement that a claimant in a health care liability action submit to the court before trial a written report by a qualified specialist that includes the specialist's determination that, after a review of the available medical record and other relevant material, there is a reasonable and meritorious cause for the filing of the action against the defendant.

(6) NO FAULT.—The use of a no-fault statute under which certain health care liability actions are barred and claimants are compensated for injuries through their health plans or through other appropriate mechanisms.

(c) FURTHER REDRESS.—The extent to which any party may seek further redress (subsequent to a decision of an alternative dispute resolution method) concerning a health care liability claim in a Federal or State court shall be dependent upon the methods of alternative dispute resolution adopted by the State.

(d) TECHNICAL ASSISTANCE AND EVALUATIONS.—

(1) TECHNICAL ASSISTANCE.—The Attorney General may provide States with technical assistance in establishing or maintaining alternative dispute resolution mechanisms under this section.

(2) EVALUATIONS.—The Attorney General, in consultation with the Secretary and the Administrative Conference of the United States, shall monitor and evaluate the effectiveness of State alternative dispute resolution mechanisms established or maintained under this section.

SEC. ____21. APPLICABILITY.

This title shall apply to all civil actions covered under this title that are commenced on or after the date of enactment of this title, including any such action with respect to which the harm asserted in the action or the conduct that caused the injury occurred before the date of enactment of this title.

Subtitle B—Protection of the Health and Safety of Patients

SEC. ____31. ADDITIONAL RESOURCES FOR STATE HEALTH CARE QUALITY ASSURANCE AND ACCESS ACTIVITIES.

Each State shall require that not less than 50 percent of all awards of punitive damages resulting from all health care liability actions in that State, if punitive damages are otherwise permitted by applicable law, be used for activities relating to—

(1) the licensing, investigating, disciplining, and certification of health care professionals in the State; and

(2) the reduction of malpractice-related costs for health care providers volunteering to provide health care services in medically underserved areas.

Subtitle C—Obstetric Services

SEC. ____41. SPECIAL PROVISION FOR CERTAIN OBSTETRIC SERVICES.

(a) IN GENERAL.—In the case of a health care liability action relating to services provided during labor or the delivery of a baby, if the health care professional or health care provider against whom the action is brought did not previously treat the claimant for the pregnancy, the trier of the fact may not find that such professional or provider committed malpractice and may not assess damages against such professional or provider unless the malpractice is proven by clear and convincing evidence.

(b) APPLICABILITY TO GROUP PRACTICES OR AGREEMENTS AMONG PROVIDERS.—For purposes of subsection (a), a health care professional shall be considered to have previously treated an individual for a pregnancy if the professional is a member of a group practice in which any of whose members previously treated the individual for the pregnancy or is providing services to the individual during labor or the delivery of a baby pursuant to an agreement with another professional.

Subtitle D—Severability

SEC. ____51. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a field hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, August 8, from 9:00 a.m. until 11:00 a.m. It will be held at the Albuquerque City Council Chambers, Albuquerque, NM.

The purpose of the hearing is to receive testimony on recent developments in advanced fuel cell and lighting technology, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit testimony for the hearing record should send two copies

of their testimony to the Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510, or to Senator BINGAMAN's office in Albuquerque, Suite 130, 625 Silver, SW, Albuquerque, NM 87102.

For further information please contact John Kotek at 202–224–6385, Jonathan Epstein at 202–224–3357, or Amanda Goldman at 202–224–6836.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED FORCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on July 26, 2002, at 9:30 a.m., in both open and executive sessions to consider the nominations of Lieutenant General James T. Hill, USA for appointment to the grade of General and assignment as Commander in Chief, United States Southern Command; and Vice Admiral Edmund P. Giambastiani, Jr., USN for appointment to the grade of Admiral and assignment as Commander in Chief, United States Joint Forces Command.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Children and Families, be authorized to meet for a hearing on Birth Defects: Strategies for Prevention and Ensuring Quality of Life during the session of the Senate on Friday, July 26, 2002, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—H.R. 4965

Mr. REID. Mr. President, it is my understanding that H.R. 4965 is at the desk and due for its second reading.

The PRESIDING OFFICER. As in legislative session, the clerk will read the bill by title for the second time.

The legislative clerk read as follows:

A bill (H.R. 4965) to prohibit the procedure commonly known as partial-birth abortion.

Mr. REID. I object to any further proceedings at this time.

The PRESIDING OFFICER. The objection having been heard, the bill will be placed on the calendar.

MEETING OF CONGRESS IN NEW YORK, NEW YORK, ON FRIDAY, SEPTEMBER 6, 2002

Mr. REID. I ask unanimous consent the Senate proceed to the consideration of H. Con. Res. 448, received from the House and now at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A resolution (H. Con. Res. 448) providing for a special meeting for the Congress in New York, New York, on Friday, September 6, 2002, in remembrance of the victims and the heroes of September 11, 2001, in recognition of the courage and spirit of the City of New York, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. I ask unanimous consent the resolution and preamble be agreed to en bloc and the motion to reconsider be laid upon the table without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 448) was agreed to.

The preamble was agreed to.

PROVIDING REPRESENTATION BY CONGRESS AT MEETING IN NEW YORK, NEW YORK

Mr. REID. I ask unanimous consent the Senate now proceed to the consideration of H. Con. Res. 449, received from the House and now at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A bill (H. Con. Res. 449) providing for representation by Congress at a special meeting in New York, New York on Friday, September 6, 2002.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent the resolution be agreed to and the motion to reconsider be laid upon the table, without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 449) was agreed to.

HONORING JUSTIN W. DART, JR.

Mr. REID. I ask unanimous consent the Senate proceed to the consideration of S. Res. 310, submitted earlier today by Senators HARKIN, HATCH, KENNEDY, and GREGG.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A bill (S. Res. 310) honoring Justin W. Dart, as a champion of the rights of individuals with disabilities.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HARKIN. Mr. President, on Saturday, June 22, our Nation lost one of its great heroes: My good friend, Justin Dart, Jr. Today, my colleagues Senator KENNEDY, Senator HATCH, and Senator GREGG, and I are introducing a bipartisan resolution to honor Justin Dart. His memorial service will occur tomorrow, July 26, the 12th anniversary of the Americans with Disabilities Act.

Justin Dart was the godfather of the disability rights movement. For 30 years he fought to end prejudice against people with disabilities, to strengthen the disabilities right movement, to protect the rights of people with disabilities. Millions of Americans with disabilities never knew his name but they owe him so much.

Justin was instrumental to the passage of the ADA and many other policies of interest to individuals with disabilities. When President Bush signed the Americans With Disabilities Act, he gave the first pen to Justin Dart. He truly was the one who brought us together and give the inspiration and guidance to get this wonderful, magnificent bill through. I was proud to be at his side when he received the Medal of Freedom from President Clinton. Today we are proud to introduce this resolution to honor him and commemorate his tremendous contribution to the lives of Americans with disabilities across this country.

Mr. REID. Mr. President, I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements related thereto be printed in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 310) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 310

Whereas Justin W. Dart, Jr. was born in Chicago, Illinois in 1930;

Whereas Justin Dart, Jr. has been recognized as a pioneer and leader in the disability rights movement;

Whereas Justin Dart, Jr. operated successful businesses in the United States and Japan;

Whereas 5 Presidents, 5 Governors, and Congress have seen fit to appoint Justin Dart, Jr. to leadership positions within the area of disability policy, including Vice Chairman of the National Council on Disability, Commissioner of the Rehabilitation Services Administration, Chairperson of the President's Committee on Employment of People with Disabilities, and Chairperson of the Congressional Task Force on the Rights and Empowerment of Americans with Disabilities;

Whereas Justin Dart, Jr. was a civil rights activist for individuals with disabilities since he was stricken with polio in 1948 and played a leadership role in numerous civil rights marches across the country;

Whereas Justin Dart, Jr. worked tirelessly to secure passage of the Americans with Disabilities Act of 1990, which was signed into law by President Bush, and is often recognized as a major driving force behind the disability rights movement and that landmark legislation;

Whereas on January 15, 1998, President Clinton awarded the Presidential Medal of Freedom, our Nation's highest civilian award, to Justin Dart, Jr.

Whereas Justin Dart, Jr. has left a powerful legacy as a civil rights advocate and his actions have benefited the people of the United States;

Whereas Justin Dart, Jr. is not only remembered for his advocacy efforts on the behalf of individuals with disabilities, but also

for his energetic spirit and for the formal and informal independent living skills programs for individuals with disabilities that he supported; and

Whereas Justin Dart, Jr. passed away at his home on June 22, 2002, and is survived by his wife, Yoshiko Dart, 5 daughters, 11 grandchildren, and 2 great-grandchildren: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes Justin W. Dart, Jr. as 1 of the true champions of the rights of individuals with disabilities and for his many contributions to the Nation throughout his lifetime;

(2) honors Justin W. Dart, Jr. for his tireless efforts to improve the lives of individuals with disabilities; and

(3) recognizes that the achievements of Justin W. Dart, Jr. have inspired and encouraged millions of individuals with disabilities in the United States to overcome obstacles and barriers so that the individuals can lead more independent and successful lives.

TO AMEND THE COMMUNICATIONS SATELLITE ACT OF 1962

Mr. REID. I ask unanimous consent the Senate proceed to the consideration of S. 2810 submitted earlier by Senators HOLLINGS, MCCAIN, BURNS, and ENSIGN.

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 2810) to amend the Communications Satellite Act of 1962 to extend the deadline for INTELSAT initial public offering.

There being no objection, the Senate proceeded to consider the bill.

Mr. HOLLINGS. Mr. President, I rise today, along with my Commerce Committee colleagues to speak to legislation that would extend the deadline for Intelsat to conduct the initial public offering required of it by the ORBIT satellite privatization law.

Under ORBIT, Intelsat must conduct an IPO by December 31, 2002. Intelsat has made substantial preparations to do just that. Recent disastrous events in the telecommunications market, however, now make this statutory deadline unrealistic and potentially contrary to the policy objectives of ORBIT. This bill would therefore give Intelsat another year in which to conduct its IPO and also provides the FCC authority to allow an additional extension of time if warranted by market conditions.

The goal of ORBIT's IPO requirement was to substantially dilute the ownership of the privatized Intelsat by its former owners, many of which are foreign government entities. I continue to support this goal. The Commerce Committee has been provided with significant evidence that this goal is already in the process of being achieved. For example:

July 18, 2001: Intelsat privatized in a transaction that resulted in 14 percent of the new entity being held by non-signatory investing entities;

April 26, 2002; Intelsat filed its IPO registration statement with the SEC;

May 2002: Natural dilution of Intelsat signatories continued as foreign governments privatized their telecom operations: Intelsat non-signatory ownership increased to 22 percent;

June 14, 2002: The FCC issued its ORBIT Act report, finding that, ''On the whole, we believe that U.S. policy goals regarding the promotion of a fully competitive global market for satellite communications services are being met in accordance with the Act.''

June 21, 2002: Intelsat received clearance from the New York Stock Exchange to file a listing application to trade its ordinary shares on that exchange.

This is a good start. More remains to be done, but it appears that Intelsat has been proceeding in a manner consistent with launching its IPO prior to the December 31, 2002 ORBIT deadline. Recently, however, uncontrollable external events overtook all of us. WorldCom's bankruptcy is but the latest financial debate in the telecommunications industry, which has been unstable. Capital markets are extremely unsupportive of additional investment at this time. There arguably could not be a worse time for a satellite communications company to consider an IPO.

If forced to move ahead with an IPO before the end of 2002, Intelsat will probably receive a reduced price for its shares offered. Foreign entities that still own significant portions of Intelsat are aware of this likelihood and would therefore be discouraged from offering their ownership interests for sale. Instead of the substantial dilution of prior owners contemplated by the ORBIT Act, a year—2002 IPO might not achieve much dilution whatsoever. In that instance, Intelsat would have complied with the procedural requirement of ORBIT without the substantive result that we in Congress sought: dilution of previous owners. Given the current adverse conditions in the stock market in general and the telecommunications sector in particular, the only way to ensure the dilution results sought by ORBIT may be to allow Intelsat to further delay its IPO. That result is good public policy that is also good for the long-term health of the satellite communications industry.

Mr. President, this bill needs to be enacted this year. I thank my colleagues for their support and I urge the prompt passage of this legislation.

Mr. REID. Mr. President, I ask unanimous consent the bill be read three times and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD at the appropriate place with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2810) was read the third time and passed, as follows:

S. 2810

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

SECTION 1. EXTENSION OF IPO DEADLINE.

Section 621(5)(A)(i) of the Communications Satellite Act of 1962 (47 U.S.C. 763(5)(A)(i)) is amended—

(1) by striking ''October 1, 2001,'' and inserting ''December 31, 2003,''; and

(2) by striking ''December 31, 2002;'' and inserting ''June 30, 2004;''.

PROVIDING FOR CONDITIONAL ADJOURNMENT OR RECESS OF BOTH HOUSES OF CONGRESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the adjournment resolution, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 132) providing for a conditional adjournment or recess of the Senate and conditional adjournment of the House of Representatives.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. REID. I ask unanimous consent the concurrent resolution be agreed to and the motion to reconsider be laid on the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 132) was agreed to, as follows:

S. CON. RES. 132

Resolved by the Senate (the House of Representatives concurring), That, no consonance with section 132(a) of the Legislative Reorganization Act of 1946, when the Senate recesses or adjourns at the close of business on Thursday, August 1, 2002, Friday, August 2, 2002, or Saturday, August 3, 2002, on a motion offered pursuant to this concurrent resolution by its Minority Leader or his designee, it stand recessed or adjourned until 12:00 noon on Tuesday, September 3, 2002, or until such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Friday, July 26, 2002, on a motion offered by its Majority Leader or his designee pursuant to this concurrent resolution, it stand adjourned until 2:00 p.m. on Wednesday, September 4, 2002, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

Mr. REID. 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. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WORK OF THE SENATE

Mr. DASCHLE. Mr. President, in just a few minutes, the Republican leader will be joining me on the Senate floor.

Before he gets here, I rise to thank my colleagues for the good work we have been able to complete this week. It has been a very productive week. We were able to pass unanimously the new Corporate Accountability Act after a great deal of effort on all sides. I complimented the distinguished Senator from Maryland, the chairman of the Banking Committee, Mr. SARBANES, on a number of occasions, but I want to complete our week this week by recognizing again his contribution.

The Appropriations Committee deserves commendation. They have reported out all the appropriations bills now.

In many ways, they are actually ahead of schedule, even though we have had somewhat of a late start.

We finished the military construction appropriations bill this week. We also finished the legislative branch appropriations bill and set up an opportunity to complete our work on the DOD appropriations bill next week. There may be other appropriations bills that may be ready for consideration next week as well. On the appropriations front, secondly, I thought we had quite a good week.

At long last we were able to move to conference on terrorism insurance. I am hopeful in the not too distant future we will complete our work on that measure, as we did the Corporate Accountability Act. We have done a number of nominations. We are now on track with regard to nominations. We confirmed a circuit court judge today, filed cloture Wednesday and got cloture today on second one. That vote will occur on Monday night. It is currently my plan to move forward additional judicial nominees on Monday night as well.

In addition to the judicial nominees, we were able to complete our work on nominations on some very important commissions. The SEC, for example, had four outstanding vacancies. As a result of our work this week, we were able to complete work on the SEC nominations. There is now a full complement of SEC Commissioners. That, too, was an important aspect of the work of the Senate.

Off the floor, there were a couple of other important matters that we addressed. The bankruptcy reform conference report is soon to be filed. It was completed, the work was completed, as was the trade promotion authority—not only trade promotion authority but the Andean Trade Promotion Act, as well as the Trade Adjustment Assistance Act, the package of bills, late last night. The conference report to that package of bills was agreed to.

We are in a very good position now to move into the final week of this work period. Senator LOTT and I have had a number of constructive discussions about next week. Our purpose in coming to the floor is to outline for our colleagues what our expectations are, and I will do that when he arrives.

I will also say, the confirmation of the district judge this morning brings to a total of 61 the number of confirmations since we took the majority a little over a year ago. That includes 49 district judges and 12 circuit judges.

On Monday, as I noted, we intend to take up at least 1 more, if not additional judges, and that would then bring to a total anywhere from 62 to 64 judges in the time that we have had the majority.

We are making progress on judicial nominations. We are determined to attempt to clear the calendar with regard to those judicial nominations over the course of the next few days, if it is at all possible.

Whether we clear the calendar, I must say, depends on whether we get all the other work done as well. There has to be an understanding that we do not have the luxury of focusing solely on nominations, as much as that would be a good thing to do. We have to complete our work on the prescription drug benefit and generic drug benefit legislation. We want to call up the fast-track conference report and file cloture. We want to complete our work on the Defense appropriations bill, if that is possible. We want to work to proceed to the homeland security legislation and file cloture on the motion to proceed to that bill.

We have a lot of work we need to complete before the end of next week. Given the fact we will get a late start on Monday afternoon, Senators should be aware that we could be involved in late nights, and we will certainly be here a week from this coming Friday.

I wanted to be sure my colleagues were made aware of our expectations for the schedule for that period of time.

I yield the floor and suggest the absence of a quorum until the arrival of the distinguished Republican leader.

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.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. REID. I ask unanimous consent that the Senate recess subject to the call of the Chair.

There being no objection, the Senate, at 3:23 p.m., recessed subject to the call of the Chair and reassembled at 3:36 p.m. when called to order by the Presiding Officer (Mr. REID.)

NEXT WEEK'S SCHEDULE

Mr. DASCHLE. Mr. President, the distinguished Republican leader and I have been discussing the schedule for next week, as I noted a few moments ago. We know there are many obstacles and many challenges we will have to face next week. I believe it is important we come to the floor to share with our colleagues at least what our intentions are and indicate that, on a bileadership basis, it is our desire to work through each of these priorities in an effort to get as much done as we can and complete this work period as successfully as possible.

In keeping with that spirit, let me say it was our intention to attempt to complete our work on the prescription drug benefit by Tuesday night. We, of course, will take up additional nominations on Monday, three judges, and additional Executive Calendar nominees. We will chip away at that each day. We will be doing another block of nominations today. As we noted earlier this week, we are working under a unanimous consent agreement to take up the DOD appropriations bill no later than Wednesday. Now, it does not, of course, stipulate when on Wednesday, so in keeping with that request and that consent, we are obligated to bring it up.

It is my expectation that certainly if the prescription drug benefit bill has been completed, we will be able to come to the DOD bill and stay on it until it has been finished. We recognize there are those who are in opposition to both the trade promotion authority as well as to Homeland Security. Yet it is our desire to complete work on the trade promotion authority bill, the conference report, next week. So we will file cloture on the motion to proceed to the conference report in an effort to complete our work.

We also have a need to begin work on the homeland security legislation. It was reported out of committee on a bipartisan basis, out of the Governmental Affairs Committee this week, so we will file cloture, recognizing that there will be a need to do so. We will file cloture on the homeland defense bill and have a vote on the motion to proceed to that bill prior to the end of the week.

So that clearly will require cooperation and a good deal of effort on everyone's part. I think there is a mutual interest in getting this work done. Many of the issues that we will be taking up next week are high priorities for the administration, as they are for us. So I appreciate very much the distinguished Republican leader's interest in working together to accommodate that schedule. I thank him for coming to the floor.

I yield the floor at this time for whatever remarks he may want to make.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. LOTT. Mr. President, I thank the distinguished majority leader for his comments and for the effort that he has put into a number of these issues this week. For every small agreement

that is entered into on the floor it quite often represents hours of effort on our part, many times having had to go to Members repeatedly and work through concerns and legitimate disagreements. Then we finally get an agreement on the floor, and it moves quickly and it looks like it was a piece of cake, but it was not that way at all, as the distinguished Senator in the chair knows because he is here on the floor working these issues day in and day out.

As is always the case, this next week has the potential to be a very productive week. One of the two busiest weeks and most productive weeks each year is the one right before the August recess and the one right before we go out at the end of the year. I remember one day, the last day of a session, we moved over 50 bills at the last half of the day when most Members had gone. But we had worked through a number of agreements.

Next week we have a chance to do a lot. I want to look back, though, just a moment, to this week because there were some significant achievements this week. It looked as if at times we were not reaching agreement—we weren't. But sometimes before you reach an agreement you have to be clearly in disagreement. Maybe that is where we were this week.

But we did finally start to break the deadlock and had a thaw on nominations. We had reached almost a record high of 90-something nominations pending on the calendar. But efforts were made to work through that. Senator DASCHLE and I had worked through it twice, only to be met with a different hold. But the White House worked out concerns with Senator MCCAIN and we started moving nominations, including, I think, some 15 last night. We are beginning to make a little progress on the judges.

We have some 204 nominations still pending in committees, but if everything goes according to normal practice around here, a lot of those nominations will be coming out next week and we will be moving them, hopefully, as fast as we can once we get them cleared.

We are doing some judges. It is difficult, but we are going to get action on one more circuit judge completed on Monday. We moved one other district judge last night and voted on that, I believe—this morning, actually. We are going to do two more, I believe Senator DASCHLE said. So we are beginning to thaw that issue, and that is good.

On the accounting reform, I want to emphasize once again we not only got an agreement on the conference, we got the conference done and sent to the President, and I believe that was a positive factor in beginning to restore confidence in our corporate world and accounting procedures.

The House is in the process, or has by now completed homeland security legislation. The Senate committee completed markup and we are ready to go forward. That was a very big achievement by the committee. Even though you disagree with some of what was done, they did get their work completed and they reported it to the Senate, and we did the legislative appropriations bill and we got an agreement to do the Department of Defense appropriations bill.

For our colleagues on my side of the aisle, they have been calling for this. In fact, we are going to get it done, we are going to call it up next Wednesday, and we will complete it if it takes 2 hours a day or 2 days, as Senator DASCHLE said. So those things we did, after a lot of work, seeing some agreement reached.

On prescription drugs, we don't have agreement. It is obvious we had concerns about the way it was brought to the floor and about some of the legislation that was offered. But efforts are still underway to see if we can find common ground. We will continue to try to do that.

There is pending an amendment on medical malpractice. That is an issue that is very important to a lot of people of my State. There has developed a real problem with tort reform and with doctors losing their insurance coverage or leaving the State because there is no limit on punitive damages. No matter how this turns out in this debate, this is a debate that we and the States of America are going to have to deal with in some way.

We will have an opportunity late Monday afternoon and Tuesday to see what can be done on prescription drugs. I know there are conversations going on today between Members of the Senate and House, Republican and Democrat, and also with the administration to see maybe what can be done there. Senator DASCHLE has indicated that he would begin action to get a vote on at least cloture on a motion to proceed on homeland security. I had hoped and he had hoped, and had stated, that we would do our best to get homeland security completed before the August recess. But there is a physical limit to what we can do in a limited period of time, especially if we have Senators who are going to exercise to their fullest their rights to have debate.

The trade conference report, I think the whole city was shocked this morning when they got up and found out that there had basically been an agreement on the trade conference report. As I look at it, it sounds as if they have done a good job. I would probably change parts of it, and so would Senator DASCHLE, but I do think they probably have made a very wise move. Instead of subjecting themselves to 6 weeks of pressures and counterpressures, they went ahead and addressed the issue and had the bill ready.

We are going to work together next week to take the early action necessary to get cloture on fast track and complete action on that bill. This is a very important bill for the economy of our country and for our ability to be involved in trade promotion and trade, fair trade and open trade, all over the world. We have kind of fallen behind in that area with some other countries.

The bankruptcy conference report finally worked out, too. I would like to see us even try to deal with that. If we cannot get that done next week, we will be ready to go to it shortly after we return.

I do want to say to Senator DASCHLE and to others, I am working to try—I discussed concerns about getting agreement to go ahead with the energy and water appropriations bill. If we could add that to our list next week, that would be very big. I don't find a lot of resistance to it, but we have had to clear it with some people who did have some potential amendments. There is one other concern related to that bill that I am trying to work through.

We have just given a litany of bills. It will not be easy to get all that done. We may not get it all done next week. But by working together and by asking our colleagues to cooperate with us, I think we can produce an awful lot of good legislation next week. I would like to be able to have a press conference next week as we go home and say: The Senate has done well. I haven't said that a lot lately, but I am prepared to do so when it is merited. I think there is a chance for that to occur next week. We could have a really important legislative achievement next week with a little extra work and a little extra input from all of our colleagues.

I thank Senator DASCHLE for working with us to move these nominations. There are a lot of people who try to view every bill, every nomination, as leverage on some other issue. At some point we have to stop that and move them forward in order to do what the American people expect us to do. I am going to be involved next week to try to help in every way I can.

Quite often, Senator DASCHLE and I get accused of being on both sides of the same issue, by many different forces. It amazes me sometimes what I am supposed to have done. In fact, I saw yesterday where somebody had put out that there was a Daschle-Lott agreement on prescription drugs. It came as a shock to Senator DASCHLE and me, but it was actually something in writing. Somebody downtown had a brilliant idea. Maybe we ought to look at it.

I am thankful for the comments of Senator DASCHLE, and I will work with him next week to do everything we can to produce a good result. I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I compliment the distinguished Republican leader for the spirit of his comments, and indicate that he is so correct. There are so many times when there are rumors and there are allegations of all kinds, sometimes positive and

sometimes negative, about things that he and I are doing, which is why I thought having a colloquy at the end of the week might be helpful.

With regard to the schedule, with regard to our intentions, let me be clear. It is my hope, based on the cooperative spirit that we both have attempted to articulate this afternoon, that we can get a lot done.

I have indicated to the President this week that it is my hope we can clear the calendar of all of the noncontroversial nominations, both judicial as well as executive appointments. That is what we will continue to try to chip away at. I don't see any reason why, at the end of the week, all noncontroversial nominations could not have been successfully addressed. We will do that.

I appreciate very much Senator LOTT's willingness to come to the floor to restate our intentions to try to achieve this ambitious agenda.

THE CALENDAR

Mr. DASCHLE. Mr. President, I have a number of matters to address prior to the time we adjourn for the day.

All of these matters have been reviewed by the distinguished Republican leader. He is here, and he is now in a position to express himself if he has any additional comments. But I will begin.

UNANIMOUS CONSENT AGREEMENT—THE EXECUTIVE CALENDAR

Mr. REID. Mr. President, as if in executive session, I ask unanimous consent that on Monday, July 29, immediately following the disposition of the nomination of Executive Calendar No. 810, the nomination of Julia Smith Gibbons, the Senate remain in executive session to consider the following nominations; that there be 2 minutes of debate equally divided and controlled in the usual form between the votes; that the votes following the first be 10 minutes in duration; that the Senate proceed to vote on confirmation of the nominations; that the President be immediately notified of the Senate's action; and that the Senate resume legislative session without further intervening action or debate: Executive Calendar No. 827, the nomination of Joy Flowers Conti, of Pennsylvania, to be U.S. District Judge for the Western District of Pennsylvania; Executive Calendar No. 828, John E. Jones, III, of Pennsylvania to be U.S. District Judge for the Middle District of Pennsylvania.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

JOHN F. KENNEDY CENTER PLAZA AUTHORIZATION ACT OF 2002

Mr. DASCHLE. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 524, S. 2771.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2771) to amend the John F. Kennedy Center Plaza Authorization Act of 2002 to authorize the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2771) was read the third time and passed, as follows:

S. 2771

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 ''John F. Kennedy Center Plaza Authorization Act of 2002''.

SEC. 2. JOHN F. KENNEDY CENTER PLAZA.

The John F. Kennedy Center Act (20 U.S.C. 76h et seq.) is amended—

(1) by redesignating sections 12 and 13 as sections 13 and 14, respectively; and

(2) by inserting after section 11 the following:

''SEC. 12. JOHN F. KENNEDY CENTER PLAZA.

''(a) DEFINITIONS.—In this section:

''(1) AIR RIGHT.—The term 'air right' means a real property interest conveyed by deed, lease, or permit for the use of space between streets and alleys within the boundaries of the Project.

''(2) CENTER.—The term 'Center' means the John F. Kennedy Center for the Performing Arts.

''(3) GREEN SPACE.—The term 'green space' means an area within the boundaries of the Project or affected by the Project that is covered by grass, trees, or other vegetation.

''(4) PLAZA.—The term 'Plaza' means improvements to the area surrounding the John F. Kennedy Center building that are—

''(A) carried out under the Project; and

''(B) comprised of—

''(i) transportation elements (including roadways, sidewalks, and bicycle lanes); and

''(ii) nontransportation elements (including landscaping, green space, open public space, and water, sewer, and utility connections).

''(5) PROJECT.—

''(A) IN GENERAL.—The term 'Project' means the Plaza project, as described in the TEA–21 report, providing for—

''(i) construction of the Plaza; and

''(ii) improved bicycle, pedestrian, and vehicular access to and around the Center.

''(B) INCLUSIONS.—The term 'Project'—

''(i) includes—

''(I) planning, design, engineering, and construction of the Plaza;

''(II) buildings to be constructed on the Plaza; and

''(III) related transportation improvements; and

''(ii) may include any other element of the Project identified in the TEA–21 report.

''(6) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(7) TEA–21 REPORT.—The term 'TEA–21 report' means the report of the Secretary submitted to Congress under section 1214 of the Transportation Equity Act for the 21st Century (20 U.S.C. 76j note; 112 Stat. 204).

''(b) RESPONSIBILITIES OF THE SECRETARY.—

''(1) IN GENERAL.—The Secretary shall be responsible for the Project and may carry out such activities as are necessary to construct the Project, other than buildings to be constructed on the Plaza, substantially as described in the TEA–21 report.

''(2) PLANNING, DESIGN, ENGINEERING, AND CONSTRUCTION.—The Secretary shall be responsible for the planning, design, engineering, and construction of the Project, other than buildings to be constructed on the Plaza.

''(3) AGREEMENTS WITH THE BOARD AND OTHER AGENCIES.—The Secretary shall enter into memoranda of agreement with the Board and any appropriate Federal or other governmental agency to facilitate the planning, design, engineering, and construction of the Project.

''(4) CONSULTATION WITH THE BOARD.—The Secretary shall consult with the Board to maximize efficiencies in planning and executing the Project, including the construction of any buildings on the Plaza.

''(5) CONTRACTS.—Subject to the approval of the Board, the Secretary may enter into contracts on behalf of the Center relating to the planning, design, engineering, and construction of the Project.

''(c) RESPONSIBILITIES OF THE BOARD.—

''(1) IN GENERAL.—The Board may carry out such activities as are necessary to construct buildings on the Plaza for the Project.

''(2) RECEIPT OF TRANSFERS OF AIR RIGHTS.—The Board may receive from the District of Columbia such transfers of air rights as are necessary for the planning, design, engineering, and construction of the Project.

''(3) CONSTRUCTION OF BUILDINGS.—The Board—

''(A) may construct, with nonappropriated funds, buildings on the Plaza for the Project; and

''(B) shall be responsible for the planning, design, engineering, and construction of the buildings.

''(4) ACKNOWLEDGMENT OF CONTRIBUTIONS.—

''(A) IN GENERAL.—The Board may acknowledge private contributions used in the construction of buildings on the Plaza for the Project in the interior of the buildings, but may not acknowledge private contributions on the exterior of the buildings.

''(B) APPLICABILITY OF OTHER REQUIREMENTS.—Any acknowledgement of private contributions under this paragraph shall be consistent with the requirements of section 4(b).

''(d) RESPONSIBILITIES OF THE DISTRICT OF COLUMBIA.—

''(1) MODIFICATION OF HIGHWAY SYSTEM.—Notwithstanding any State or local law, the Mayor of the District of Columbia, in consultation with the National Capital Planning Commission and the Secretary, shall have exclusive authority, as necessary to meet the requirements and needs of the Project, to amend or modify the permanent system of highways of the District of Columbia.

''(2) CONVEYANCES.—

''(A) AUTHORITY.—Notwithstanding any State or local law, the Mayor of the District of Columbia shall have exclusive authority, as necessary to meet the requirements and needs of the Project, to convey or dispose of any interests in real estate (including air rights and air space (as that term is defined by District of Columbia law)) owned or controlled by the District of Columbia.

''(B) CONVEYANCE TO THE BOARD.—Not later than 90 days after the date of receipt of notification from the Secretary of the requirements and needs of the Project, the Mayor of the District of Columbia shall convey or dispose of to the Board, without compensation, interests in real estate described in subparagraph (A).

''(3) AGREEMENTS WITH THE BOARD.—The Mayor of the District of Columbia shall have the authority to enter into memoranda of agreement with the Board and any Federal or other governmental agency to facilitate the planning, design, engineering, and construction of the Project.

''(e) OWNERSHIP.—

''(1) ROADWAYS AND SIDEWALKS.—Upon completion of the Project, responsibility for maintenance and oversight of roadways and sidewalks modified or improved for the Project shall remain with the owner of the affected roadways and sidewalks.

''(2) MAINTENANCE OF GREEN SPACES.—Subject to paragraph (3), upon completion of the Project, responsibility for maintenance and oversight of any green spaces modified or improved for the Project shall remain with the owner of the affected green spaces.

''(3) BUILDINGS AND GREEN SPACES ON THE PLAZA.—Upon completion of the Project, the Board shall own, operate, and maintain the buildings and green spaces established on the Plaza for the Project.

''(f) NATIONAL HIGHWAY BOUNDARIES.—

''(1) REALIGNMENT OF BOUNDARIES.—The Secretary may realign national highways related to proposed changes to the North and South Interchanges and the E Street approach recommended in the TEA–21 report in order to facilitate the flow of traffic in the vicinity of the Center.

''(2) ACCESS TO CENTER FROM I–66.—The Secretary may improve direct access and egress between Interstate Route 66 and the Center, including the garages of the Center.''.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 13 of the John F. Kennedy Center Act (as redesignated by section 2) is amended—

(1) by redesignating subsection (c) as subsection (d); and

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

''(c) JOHN F. KENNEDY CENTER PLAZA.—There is authorized to be appropriated to the Secretary of Transportation for capital costs incurred in the planning, design, engineering, and construction of the project authorized by section 12 (including roadway improvements related to the North and South Interchanges and construction of the John F. Kennedy Center Plaza, but not including construction of any buildings on the plaza) $400,000,000 for the period of fiscal years 2003 through 2010, to remain available until expended.''.

SEC. 4. CONFORMING AMENDMENTS.

(a) SELECTION OF CONTRACTORS.—Section 4(a)(2) of the John F. Kennedy Center Act (20 U.S.C 76j(a)(2)) is amended by striking subparagraph (D) and inserting the following:

''(D) SELECTION OF CONTRACTORS.—In carrying out the duties of the Board under this Act, the Board may—

''(i) negotiate, with selected contractors, any contract—

''(I) for planning, design, engineering, or construction of buildings to be erected on the John F. Kennedy Center Plaza under section 12 and for landscaping and other improvements to the Plaza; or

''(II) for an environmental system for, a protection system for, or a repair to, maintenance of, or restoration of the John F. Kennedy Center for the Performing Arts; and

''(ii) award the contract on the basis of contractor qualifications as well as price.''.

(b) ADMINISTRATION.—Section 6(d) of the John F. Kennedy Center Act (20 U.S.C. 76*l*(d)) is amended in the first sentence by striking ''section 12'' and inserting ''section 14''.

(c) DEFINITIONS.—Section 14 of the John F. Kennedy Center Act (as redesignated by section 2) is amended by adding at the end the following: ''Upon completion of the project for establishment of the John F. Kennedy Center Plaza authorized by section 12, the Board, in consultation with the Secretary of Transportation, shall amend the map that is on file and available for public inspection under the preceding sentence.''.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 852, 868, 869, 870, 871, 872, 873, 874, 875, 877, 878, 879, 880, 881, 882, and 883; that the nominations be confirmed, the motions to reconsider be laid upon the table; that any statements relating thereto be printed in the Record; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session, with the preceding all occurring without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed, as follows:

DEPARTMENT OF ENERGY

Guy F. Caruso, of Virginia, to be Administrator of the Energy Information Administration.

DEPARTMENT OF JUSTICE

Gregory Robert Miller, of Florida, to be United States Attorney for the Northern District of Florida for the term of four years.

Kevin Vincent Ryan, of California, to be United States Attorney for the Northern District of California, for the term of four years.

Randall Dean Anderson, of Utah, to be United States Marshall for the District of Utah for the term of four years. (Reappointment)

Ray Elmer Carnahan, of Arkansas, to be United States Marshall for the Eastern District of Arkansas for the term of four years.

David Scott Carpenter, of North Dakota, to be United States Marshall for the District of North Dakota for the term of four years.

Theresa A. Merrow, of Georgia, to be United States Marshall for the Middle District of Georgia for the term of four years.

Ruben Monzon, of Texas, to be United States Marshall for the Southern District of Texas for the term of four years.

James Michael Wahlrab, of Ohio, to be United States Marshall for the Southern District of Ohio for the term of four years.

DEPARTMENT OF LABOR

Kathleen P. Utgoff, of Virginia, to be Commissioner of Labor Statistics, United States Department of Labor for a term of four years.

W. Roy Grizzard, of Virginia, to be an Assistant Secretary of Labor.

NATIONAL COUNCIL ON DISABILITY

Lex Frieden, of Texas, to be a Member of the National Council On Disability for a term expiring September 17, 2004.

Young Woo Kang, of Indiana, to be a Member of the National Council On Disability for a term expiring September 17, 2003.

Kathleen Martinez, of California, to be a Member of the National Council On Disability for a term expiring September 17, 2003.

Carol Hughes Novak, of Georgia, to be a Member of the National Council On Disability for a term expiring September 17, 2004.

Patricia Pound, of Texas, to be a Member of the National Council On Disability for a term expiring September 17, 2002.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR MONDAY, JULY 29, 2002

Mr. DASCHLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 4 p.m. on Monday, July 29; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 5:30 p.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided between the two leaders or their designees; and that at 5:30 p.m. the Senate proceed to executive session under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DASCHLE. Mr. President, the next rollcall vote will occur at approximately 5:30 p.m. on Monday, July 29, on the confirmation of Julia S. Gibbons to be U.S. Circuit Judge for the Sixth Circuit.

ADJOURNMENT UNTIL 4 P.M. MONDAY, JULY 29, 2002

Mr. DASCHLE. 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 3:54 p.m., adjourned until Monday, July 29, 2002, at 4 p.m.

NOMINATIONS

Executive nominations received by the Senate July 26, 2002:

DEPARTMENT OF DEFENSE

OTIS WEBB BRAWLEY, JR., OF GEORGIA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 2003, VICE WILLIAM D. SKELTON, TERM EXPIRED.

DEPARTMENT OF TRANSPORTATION

MARION C. BLAKEY, OF MISSISSIPPI, TO BE ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION FOR THE TERM OF FIVE YEARS, VICE JANE GARVEY, TERM EXPIRING.

UNITED STATES POSTAL SERVICE

JAMES C. MILLER III, OF VIRGINIA, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR THE

TERM EXPIRING DECEMBER 8, 2010, VICE EINAR V. DYHRKOPP, TERM EXPIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 26, 2002:

DEPARTMENT OF ENERGY

GUY F. CARUSO, OF VIRGINIA, TO BE ADMINISTRATOR OF THE ENERGY INFORMATION ADMINISTRATION.

DEPARTMENT OF LABOR

KATHLEEN P. UTGOFF, OF VIRGINIA, TO BE COMMISSIONER OF LABOR STATISTICS, UNITED STATES DEPARTMENT OF LABOR FOR A TERM OF FOUR YEARS.

W. ROY GRIZZARD, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

NATIONAL COUNCIL ON DISABILITY

LEX FRIEDEN, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2004.

YOUNG WOO KANG, OF INDIANA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2003.

KATHLEEN MARTINEZ, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2003.

CAROL HUGHES NOVAK, OF GEORGIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2004.

PATRICIA POUND, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

CHRISTOPHER C. CONNER, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

DEPARTMENT OF JUSTICE

GREGORY ROBERT MILLER, OF FLORIDA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF FLORIDA FOR THE TERM OF FOUR YEARS.

KEVIN VINCENT RYAN, OF CALIFORNIA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA, FOR THE TERM OF FOUR YEARS.

RANDALL DEAN ANDERSON, OF UTAH, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF UTAH FOR THE TERM OF FOUR YEARS.

RAY ELMER CARNAHAN, OF ARKANSAS, TO BE UNITED STATES MARSHALL FOR THE EASTERN DISTRICT OF ARKANSAS FOR THE TERM OF FOUR YEARS.

DAVID SCOTT CARPENTER, OF NORTH DAKOTA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF NORTH DAKOTA FOR THE TERM OF FOUR YEARS.

THERESA A. MERROW, OF GEORGIA, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS.

RUBEN MONZON, OF TEXAS, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS.

JAMES MICHAEL WAHLRAB, OF OHIO, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF OHIO FOR THE TERM OF FOUR YEARS.

EXTENSIONS OF REMARKS

FAREWELL TO CONGRESSMAN TONY P. HALL

SPEECH OF

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 2002

Mr. HOLT. Mr. Speaker, today I am both pleased and saddened to be in a position to present these remarks about TONY HALL. Pleased because I have had the opportunity to serve with TONY for the past four years, and pleased because I know he will do so much to help the hungry and the less fortunate in his new job; yet saddened because his guiding hand and steadfast effort on behalf of those less fortunate will be missed when he leaves Congress.

Because TONY's reputation precedes him, TONY was one Member I was especially looking forward to knowing when I arrived in the House. Three times nominated for the Nobel Peace Prize, Congressman TONY P. HALL has been the leading advocate in Congress for hunger relief programs and improving international human rights conditions. Over the last twenty-four years, there is not a single Member of this great body who has contributed more to those who cannot stand up for themselves. Without TONY here, we will all need to pull together to make sure that those less fortunate are not left behind.

TONY has worked actively to improve human rights conditions around the world, especially in the Philippines, East Timor, Paraguay, South Korea, Romania, and the former Soviet Union. In 2000, he introduced legislation to stop importing ''conflict diamonds'' that are mined in regions of Sierra Leone under rebel control. In 1999, he was the leader in Congress calling for the United States to pay its back dues to the United Nations.

TONY HALL's record on hunger issues is unparalleled in Congress. TONY was a founding member of the Select Committee on Hunger and served as its chairman from 1989 until it was abolished in 1993. He has been an outspoken advocate for fighting domestic and international hunger and he has initiated legislation enacted into law to fight hunger-related diseases in developing nations. He has visited numerous poverty-stricken and war-tom regions of the world. He was the sponsor of a successful 1990 emergency measure to assist state Women, Infants and Children (WIC) programs and legislation to establish a clearinghouse to promote gleaning to provide poor people with food. TONY has worked to promote microenterprise to reduce joblessness.

When the Hunger Committee was abolished, TONY fasted for three weeks to draw attention to the needs of hungry people in the United States and around the world.

Rep. HALL was nominated for the Nobel Peace Prize in 1998, 1999, and 2001 for his humanitarian and hunger-related work. For his hunger legislation and for his proposal for a Humanitarian Summit in the Horn of Africa, Mr. HALL and the Hunger Committee received the 1992 Silver World Food Day Medal from the Food and Agriculture Organization of the United Nations. Mr. HALL is a recipient of the United States Committee for UNICEF 1995 Children's Legislative Advocate Award, U.S. AID Presidential End Hunger Award, 1992 Oxfam America Partners Award, Bread for the World Distinguished Service Against Hunger Award, and NCAA Silver Anniversary Award.

Despite the number of awards he has won, TONY HALL's impact can be felt not by the number of plaques and awards in his office, but by the number of men, women and children around the world who have seen their lives brightened, and their sense of hope renewed because of his actions.

TONY was recently nominated by the President to serve as our ambassador to the United Nations Food and Agriculture Organization, the world's preeminent hunger fighting organization. While I am disappointed that I will no longer have the pleasure of serving with TONY in the U.S. House of Representatives, I am reassured by the fact that somebody of his talent and heart will be representing our Nation in an effort to fight hunger around the world.

A CELEBRATION OF THE LIFE OF DR. JAMES DAVID FORD

SPEECH OF

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 2002

Mr. HORN. Mr. Speaker, Chaplain Jim Ford had a positive influence on every member of the House of Representatives, and I was privileged to know him and grateful to have his friendship for nine years. As Chaplain, Jim had the rare quality of being able to relate to everyone regardless of religious affiliation or background. As a friend, he was there for anyone needing help through life's inevitable ups or downs. As a family man, his loving and accomplished wife and children are a testament. As a human being, he had an exuberant zest for living and caring, for adventure, for knowledge, and for jokes.

When I had surgery for prostate cancer, Jim visited me in the hospital. He was a survivor himself, and his humor and his irrepressible positive attitude filled the room. My wife and I were fortunate to have traveled with Jim and Marcy in the Middle East and in Europe, where we had the benefit of Jim's companionship and his vast store of historical anecdotes. He had an impressive understanding of the world's three great religions centered in Jerusalem. Although Jim was modest about his eloquent daily prayers in the House of Representatives, it is the wish of his many colleagues and friends that they should be published. Chaplain Ford's prayers covering 21 years are a powerful commentary on the spirit of the people's House through times of tranquility and turmoil. They are prayers for all people in all seasons and form a rich legacy for generations to come.

PRELUDE:

Mrs. Judy Snopek, Pianist.

INVOCATION:

The Reverend Daniel P. Coughlin, Chaplain, United States House of Representatives.

REVEREND COUGHLIN: Members and staff and friends, today we gather to remember, memorialize and celebrate the life and service of Dr. James David Ford as Chaplain to the House of Representatives for over 21 years. I wish also to acknowledge the Parliamentarian, Charlie Johnson, and Reverend Ron Christian, both very close friends to Dr. Ford, for their efforts to assure this event would happen after the cancellation of the memorial service first planned for September 11. That tragic event affected all of us and only deepened the pain of our loss of Jim Ford when terrorism robbed us even of the freedom to assemble and grieve as well as thank God for this gifted pastor, counselor and friend of so many here in the House which he loved so much and which was honored by his years of faith-filled service. We are indebted also to the Honorable Jeff Trandahl and the Clerk's office for their detailed arrangements for today.

As the first Lutheran pastor to serve in the House as Chaplain, Dr. Ford was rooted in the Word, and so I thought it only fitting to begin with a short reading from Saint Paul:

If God is for us, who can be against us? He who did not spare his own Son, but handed him over for us all, will he not also give us everything else along with him? Who will bring a charge against God's chosen ones? It is God who acquits us who will condemn. It is Christ Jesus who died, rather was raised, who also is at the right hand of God and indeed intercedes for us all. What will separate us from the love of Christ? Languish or distress or persecution or famine or nakedness or peril or the sword? No, in all these things we conquer overwhelmingly through him who loved us. For I am convinced that neither death nor life, nor angels nor principalities, nor present things nor future things, nor powers, nor height nor depth, nor any creature will be able to separate us from the love of God in Christ Jesus our Lord.

So as we begin, let us call to memory first impressions, wisdom sayings, poignant moments and compassion and joyful laughter which he usually left with us.

Let us pray for Jim Ford.

Lord God, you chose our brother James to serve your people as a minister and so share the joys and burdens of their lives. Look with mercy on him and give him the just reward of his labors. Continue to console his family and all those he loved. Grant him now the fullness of life promised to those who preach your good news, your holy gospel. We ask this through Christ our Lord, Amen. We would like now to hear from a good friend.

REMARKS:

The Honorable Charles W. Johnson III, Parliamentarian, United States House of Representatives

CHARLIE JOHNSON: Mr. Speaker, I am honored to be here today as Jim's friend representing the staff. As Jim used to say, ''Johnson, you never were invited to be a public speaker because you couldn't if you were.'' He said, ''All you can do is this.'' ''This'' means whisper and ''this'' means hit the mute button at the same time.

Last year around this time, my beloved predecessor, Bill Brown, passed away. There was a Quaker gathering for Bill in Lincoln, Virginia. It was a beautiful service. Jim used to commend Quaker prayer hour to the House on occasion, not publicly, but there were long periods of silence and then I felt so inspired to talk about Bill's public service and I said, Bill never lobbied for anything, except for one resolution, and that was on January 15, 1979, the opening of the 96th Congress, when the new Chaplain had just been elected and the new Chaplain was going to be the first full-time Chaplain and he had five children and the word came down, although Bill didn't know and had not met the new Chaplain, that he needed a pay raise. So the Parliamentarian took it upon himself to make sure the floor was clear of all potential objectors and at the appropriate time H. Res. 7 came up, called up by Jim Wright on January 15 and, boom, the Chaplain's salary was tripled. I mentioned that at Bill's Quaker meeting. And some further period of quiet intervened and Chaplain Ford, retired, was in the congregation. He stood up and said, ''I was the recipient.'' It was the spontaneity of it. It was not orchestrated. I don't think he can orchestrate Quaker meetings, at least for that event, but there he was Chaplain in 1979 and befriending people left and right.

He had his own separate chaplaincy right at the rostrum of the House. I will allude to certain little anecdotes as I go along here. But come 1985, 6 years into his chaplaincy, it was his 53rd birthday. Tip O'Neill was proud to sponsor a resolution, we called it House Res. 53, and he handed it to him from the rostrum. The resolution would have amended rule VII to read as follows. Rule VII is now somewhere else as a result of recodification, but don't ask me where. The resolution would have said, ''The Chaplain shall attend at the commencement of each day's sitting of the House and shall open the same with prayer, and shall personally attend, without benefit of guest Chaplain, at the adjournment of each day's sitting of the House, including all special orders, and close the same with a benediction.''

Here is a photograph of two people a lot younger. Jim Ford, this is H. Res. 53, there is a preamble, a series of ''whereas'' clauses explaining why it was necessary to require the first full-time Chaplain to stick around full-time. His predecessors, Bernard Braskamp and Ed Latch, were part-time, lovely, wonderful ministers to the House but they weren't full-time. But here was Jim Ford full-time. Tip was lobbying for this. And so this picture was taken. On it, it says, ''Charlie, would you buy a used prayer from this man?'' Addressed, ''Best Wishes, Jim Ford, July 25, 1985.''

Jim Ford never wanted his prayers printed as his predecessors' prayers had been in a little document because he felt some of them were used. He would grab a psalm or a hymn, he did hundreds of prayers and so they weren't always original, but they were always meaningful. That was why he never had his prayers printed.

But then that ministry at the rostrum as I talked about it, we started to lobby for support of House Resolution 53 and that lobbying, and I think some Members past and present, Mr. Speaker, got wind of this, so would Members support this resolution, and it was almost unanimous. Everyone felt that a full-time Chaplain should be there to do a personal benediction. You can't rely on guest chaplains for that, with one exception, and I will never forget when I asked Henry Gonzalez whether he would support it, the champion of special orders, he said, ''No, that is my definition of cruel and unusual punishment.'' I won't forget that.

That banter at the rostrum was not just for the fun of it but it was a ministry in and of itself, and there are folks here today, and I am here as a spokesperson for the people at the rostrum and other employees in the Capitol whose lives were enriched every day by Jim's presence. He was a larger-than-life person in a lot of ways. But the great thing about it, he had this self-deprecating humor about this adventurous part of him and he could laugh at himself. By doing that he would make everyone else's life richer. The power to laugh at yourself was embodied in Jim Ford.

For example, he had this proclivity to jump off ski lifts backwards. There was a Parade, one of those Sunday Parade insertions in the Washington Post that Tip O'Neill happened to notice. The next day the Chaplain offered the prayer. No sooner was that prayer over but the Chaplain was walking off, ''Hey, Monsignor, come over here.'' ''Monsignor'' was Chaplain Ford. He said, ''I never knew you were such a wacko.'' Direct quote from Tip O'Neill. The microphone was on. So from that day on, he was Wacko to some of us.

And then his trans-Atlantic sail. You have all heard about his adventures to sail the Atlantic. He said, ''Johnson, are you a sailor?'' I said, ''No.'' He said, ''Well, let me take you out on the Chesapeake and I'll show you how to sail.'' So he and Bill Brown and myself went out. It was a windy day. He got on his boat. He put on this engineer's cap. Peter, you remember, who he sailed the Atlantic with. Suddenly this gust of wind comes up, boom, the hat is gone forever and the sail is ripped. It was in our first half-hour. He spent the rest of the day getting his sail sewn up. It could have been very humiliating for him, but he saw the humor in it. It just was the way he could laugh at himself during this adventurous part of his life.

Then in his later years, he flew ultralight airplanes, as some of you know. He would always brag, ''I'm the only one in our group who hasn't crashed yet.'' And one day 2 years ago, Bill Brown and I and our wives would celebrate New Year's Eve at Bill's log cabin. I said, ''Jim, why don't you fly over, and I'll just kind of tell people that you're going to do a flyover of Bill's farm on New Year's Day.'' He said, ''All right.'' So we went out. I said, ''Let's go out for a walk.'' It's New Year's morning, we are out there, I don't hear anything. It's a beautiful 1st of January. Someone said, ''Charlie, forget it. He's not coming. The dream is over.'' Just then this sound of an ultralight. He had to come across Dulles airspace to get to Bill's farm. He had said he didn't want to land because it would disturb the neighbors. Bill had 300 acres. He didn't know how to land. But he showed up. He showed up and he dipped his wings as a token of friendship.

And then there were these civility retreats to which some of you Members, Ray and others, have attended. He would come in on a motorcycle or on horseback, and there was this one video that he showed of himself emerging from the statuary in Statuary Hall, as if he were one of the statues, intoning the history of the House of Representatives. He showed me this video. He knew I was just going to laugh and laugh at it, that he would subject himself to this kind of thing. And I said, ''What would Will Rogers have said to you, Jim, in Statuary Hall?'' He thought that was very funny.

In a more serious way, he was a listener. He used to say, ''Text without context is pretext.'' He would come up and sit on the floor of the House during 1-minutes and guest chaplains by the hundreds would come and he would be with them. Then he would spend a lot of time with them after they had preached. And then he would come back after listening to some very provocative 1-minutes and he would come back and sit on the rostrum with me day in and day out, and we would just kind of try to pull together the thoughts that these guest chaplains might have had, what their impressions were of the House, and then the theme of the day and the personalities involved in the 1-minutes. He could bring to me a context of the humanity of the House viewed from his own eyes and from the eyes of visiting clergy. It was a tremendous sense of inspiration when he did that for me.

But what I really want to honor today, and I think we all do, is really the way Jim brought a modern chaplaincy to the House. As the first full-time Chaplain, he was available. He may not have always been here for a benediction, but he was here into the evenings, and he would come onto the floor and he would be available to Members. He always said, ''You know, Johnson, you'll never get that resolution through on the benediction.'' I said, ''Why?'' ''Because I have 218 votes.'' I said, ''Well, how do you know that?'' And he pulled out a red book and that book had the names of his appointments, past, present and future. There were a lot of Members' names in that book. He said, ''I've got names. I've got enough on these various names in this book that they will never support this resolution.''

Chaplain, you saw that red book. Every time he held it up, I got the message. But his pastoral, his being a pastor to Members and staff was the modern chaplaincy, full-time, in confidence, a priest-penitent relationship, the full confidentiality of it where he could say things to me that wouldn't reveal a confidence but would give me a better perspective.

His notion of inclusiveness. He loved to have people from other faiths or from no particular faith be part of a dialogue with himself. Not many people know this. I see a couple. He did pretty well on the honorarium circuit. Every one of those honorarium checks as far as I know went to the Luther Place homeless shelter. Thousands of dollars. Thousands of dollars. Very generous. He never mentioned it.

In a very personal way, obviously you can tell we were friends, but he at my behest went to a place called Camp Dudley in Westport, New York, 13 summers to preach. It is the oldest boys camp in the country. He would go up and do a great sermon for young boys on the shores of Lake Champlain in an outdoor chapel. His recurring theme, he would talk about adventure and all this, was the attitude of gratitude. I remember that little saying that he would use, and when he used it with young people it was especially impressive, but the fact that he went 13 years, and one time he came in on a motorcycle cross-country with Peter just to be there. He knew he had to be there. He started in Washington State, came across country, but he was there, bearded and all. Just wonderful.

And so let me just close by remembering his final days, days of obvious distress for him, but there was a tree planting on the Capitol grounds in August of last year.

Speaker Hastert arranged it. It was a hot day. It was about 98 degrees. His whole family was there. It was wonderful.

There was a little reception afterwards. Then I went away for a couple of weeks, and while we were away, we learned that he passed away. I got back, and on my desk was the most beautiful letter of thanks from Jim.

And so on behalf of all the employees, rostrum, police force, the folks whom he counseled during that terrible shooting, I am here as a staffer to honor Jim and the way he brought a true chaplaincy which lives to this day to the House of Representatives.

REMARKS:

The Honorable Martin Olav Sabo, United States House of Representatives

MR. SABO. Mr. Speaker, Mr. Leader, family and friends of Chaplain Ford, wasn't that beautiful?

The rest of us, I think, should really sit down, because that really captured Jim Ford.

I came here as a freshman in 1979. I immediately read someplace that there was a new Chaplain being appointed. He was from Minneapolis. I didn't recognize the name. I wondered, who knows? It's great. I've never heard of him, I don't know anything about him, but pretty soon I got to meet this wonderful person.

He had some flaws. He was a Swede. I'm Norwegian. He went to college with his Swedish background. I went to college with a Norwegian background. But everything that Charlie said about him, that ski jump really does exist. The park is still there. I discovered he grew up in Northeast Minneapolis. His name, family name, originally was Anderson and sometime along the way it changed to Ford. He always told me if his ancestors would have kept Anderson, he would have been a Member of Congress, not I. He came from Northeast. I always reminded him he came from up on the hill, not down in the valley where the real Democrats were.

But I got to know just this wonderful person. Charlie really captured that zest of life that he had. It was unique. I think that is what caught the attention of all of us. He was clergy but he most certainly wasn't pompous or self-righteous. He related to all of us. I suppose in some ways for me, despite the fact that he was a Swede, we were both still Midwestern Lutherans, and it was rather easy and simple to do. On the other hand, I watched in amazement his relationship with the totality and the diversity of the House. He was there. From the minute he walked in he was probably the most beloved member around the House, and I think that is accurate. I think the membership just had tremendous respect for him as an individual, but also as a clergy and knowing that they could visit and talk to him about whatever might be bothering them in life and they knew that with this exuberant, zesty person, that whatever that relationship was, it was very professional. He was a pro who really enjoyed life. I suppose for most of us when it simply came down to it, he was most fundamentally a friend.

So today, to the family, to everyone, I would simply say we remember Jim Ford as somebody who was the ultimate pro, somebody who had a life of public service, who thoroughly enjoyed life but ultimately, most important, was simply a friend to all of us.

REMARKS:

The Honorable Lois Capps, United States House of Representatives

Mrs. CAPPS. Mr. Speaker, Mr. Leader, Peter, Sarah, family and friends, today as we celebrate the life of Chaplain Jim Ford, we are thankful to God and to his family for sharing him with us, with our beloved House, with a grateful Nation. There are many family connections that have made Chaplain Jim Ford a very special person to the Capps family and these connections go back to 1959.

Reverend Sodergren, Marcy Ford's father, was the pastor of a Lutheran church in Portland, Oregon. One September morning over 40 years ago, Walter and I arrived at his doorstep. The good reverend was exasperated because we were late even though the hour was very early. We were tardy in picking up his son, Marcy's brother Jack. He and Walter were to drive together across the country to Augustana Lutheran Seminary in Rock Island, Illinois. Only when we explained that we had just that very morning, only a few minutes earlier, become engaged did Reverend Sodergren's countenance soften into a congratulatory smile. And when my husband came to Washington with the 105th Congress and met Marcy's husband, the two became fast friends.

Walter loved Jim, as I did and do, as one does a brother or a lifelong friend. And when Sarah called me with the sad news of Jim's death, I confessed that my first thought was that he and Walter are now having a fine time telling Lars and Oley jokes. They are livening the proceedings in heaven just as they did on the House floor. In fact, Jim told several of those corny jokes when he spoke at Walter's memorial service in 1997. And so it goes without saying that following the death of my husband and then my daughter, Chaplain Ford ministered to me and to my family, to Walter's and my staff with utmost compassion, strength and sensitivity. I learned in a very personal way the importance of the Chaplain to the House of Representatives, and thus I was honored to serve on the Speaker's search committee with my colleagues who are here to find a new Chaplain and was reminded time and time again during that process of the incredible skills that Jim Ford brought to his job.

On November 10, 1999, it was my privilege to help manage H.Res. 373 to appoint Reverend James David Ford as Chaplain Emeritus of the House of Representatives. I described him with these words: ''He has infused this House with spiritual strength in times of triumph and in times of tragedy. He has spent countless thousands of hours providing pastoral care to Members and staff who desperately need his guidance. He has taught us to respect and to nurture the diversity of our own religious faiths and in doing so has reminded us that one of our Nation's greatest strengths is our religious pluralism.''

Looking back, it is somewhat unsettling to realize that I intended to use this quotation on September 11, the original date of that service. Oh, well. I know how we all wished that we had Jim Ford to shepherd us through that horrible day and its aftermath. He would have calmed our fears, he would have made us strong so that we could confront our Nation's challenges, and he would have ensured that our justifiable rage did not turn into hatred and intolerance.

I will also never forget what Jim said at Walter's memorial service. He quoted Martin Luther who said, ''Send your good men into the ministry but send your best men into politics.'' Our Chaplain was both. He was a good man. He was the best of men. He walked the delicate and yet vital line between faith and public life, between religion and politics. He did this with unparalleled skill and devotion.

I have wanted to reach out to Marcy as one widow to another to share with her some of Jim's words of remembrance and prayer which he shared at Walter's memorial service. He wrote them about Walter, and so I am going to give them back with a heart full of sadness and respect and love, and I will insert Jim's name where he put Walter's. I very vividly remember the Chaplain saying these words on that day at the Old Mission in Santa Barbara:

''Ceremonies such as we have today are for the living and the lessons we can learn from our friends. God has already given to James David all of the good gifts of everlasting life. He is in good hands. There is a Bible verse from Psalm 90, verse 12: 'So teach us to number our days that we may gain a heart of wisdom.'Jim did so much with his days, his time here on Earth and in this Congress. He was so at home here in the House, so enthusiastic about doing the work of being a Chaplain. No one knows how many days or years we will be given but we can heed the words of scripture and make the best use of our time. 'So teach us to number our days that we may gain a heart of wisdom.' James David Ford gained a heart of wisdom and we all benefited from his great and wise and loving heart.''

And then Jim prayed this prayer, so I will now pray it for him:

''We commend our friend and colleague to you, O gracious God, and we do so in thanksgiving. We are grateful for his presence in our lives and for the light that he gave us as a father, a husband, a grandfather, as a teacher, and as our beloved Chaplain. We saw the light of his spirit and we were drawn to him in such a special way. How blessed we have been and how grateful we are. Amen.''

Thank you.

MUSICAL INTERLUDE:

Mrs. Judy Snopek, Pianist

REMARKS:

The Honorable Richard A Gephardt, Democratic Leader United States House of Representatives

Mr. GEPHARDT: On behalf of all the Members, we want to say to the Ford family how sorry we are that Reverend Ford has died and passed from our presence and that you have lost him. We also want to celebrate his life, because we think that is what today is really about. I enjoyed all of the speeches; they were wonderful. I expected good speeches from Members of Congress; I didn't quite expect what we got from the Parliamentarian. When he did it, I realized I had never heard him speak in public, other than ''say this, do that.'' It has been a while since I have been able to get that from him, but we are working on it. But I thought he caught the essence of Reverend Ford as well as it can be done. I would note, Charlie, that that speech is well over 5 minutes; but nobody stood up, and there was no Parliamentarian to call you into order.

We are here today as the family of the House of Representatives. We have not only the present Speaker of the House, but two illustrious former Speakers of the House who are here, and lots of others who have a myriad of connections with this place. I have been here a quarter of a century now. Time flies when you are having fun. And I must tell you, I am more in awe of the institution every day than the first day I got here, and I know every Member here feels the same way. This is a place where the hopes and dreams, expectations, grievances of 260 million-or-so people get channeled on a daily basis, for us to sort all of that out and make decisions on their behalf.

I am often saying that politics is a substitute for violence. I used to get snickers at that and even some laughing; and in recent days, as we see suicide bombers blowing themselves up, people being assassinated around the world, we know better, that that really is what it is. That is the magic ingredient of this place. It takes a lot of human effort to allow this institution to do what it is supposed to do.

Jim Ford was an important part of that mix that allows the House to do its work and to do it as successfully as it is done. First of all, he obviously had this wonderful sense of humor. It was kind of what I always recognized was the sparkle in his eyes when he would come up to you on the floor and tell you some kind of silly joke that he had that he thought was pretty funny. Sometimes it was, usually it wasn't, but what the heck. It was the glistening in his eyes and the way he got tickled himself about what he was saying that made it fun. And humor can lubricate and get you over any tough place that you are in, and he used it as well as I have ever seen it done.

He also understood that we all got elected by half a million or so people, but that we

are just people, the same kind of people you would find anywhere in the United States; the same problems, the same difficulties, the same failures, the same high moments that anybody else has; and that we need spiritual help and guidance and counseling and to have a friend as much as anybody else. He provided that friendship, that advice, that council, that help, that human caring that Members often desperately need. He may have had a book, Charlie, and he may have even had names in it; but he did this for 21 years, and I don't know of a time ever that any of the information that he was entrusted with got out anywhere. He was totally in your confidence. He was there to help you, not to do anything else.

Finally, he, in every day of his life, I think exuded what I have come to believe day by day as the most important power in life, and that is simple human love. He really cared about other people and, in truth, loved people, all people. He exuded that and demonstrated that every day.

Probably the most important thing any of us leave behind are our children, and probably there is no greater reflection of who we are and how we live our lives than the way our children live their lives. In the last years, we in the House, a lot of us, got to know Peter Ford because as part of the diplomatic security service, he wound up on some of our trips to foreign countries providing security as we went into sometimes some difficult places. He was there on a number of trips that Speaker Gingrich and I got to take together, and we both got to know him pretty well. And if our children are a guide to how we lived our lives, Jim Ford lived his life as well as it can be done, because Peter Ford, in my view, exemplifies all of the values that Jim Ford was really about.

We were going to do this on September 11. I am glad we got to do it. If we face grave difficulties since September 11, and we do, then it is right for us to remember Jim Ford, because it is going to take the kind of behavior and the kind of values that he represented for us to meet the challenges for America that are represented by September 11. We are sorry. We celebrate his life with you, and we thank God that we were given Jim Ford for such a long time.

REMARKS:

The Honorable J. Dennis Hastert, Speaker, United States House of Representatives

Mr. HASTERT: Well, you learn a lot of things sometimes at these memorials. As a matter of fact, I didn't know that the Parliamentarian and the Chaplain assessed people's 1-minutes every day. Mr. Leader, I think it is probably—what were they saying about the leadership's antics on both sides of the aisle? So I am sure that they had a great deal of enjoyment with that.

You know, Reverend Ford opened the House every day with a prayer. He was a man that you would find in the hallways telling a story, commiserating with Members and staff, more staff than I thought. But anyway, every day you would see him on the House floor at all hours of the day and night when we were there, and you saw him every Thursday morning in the prayer breakfast that the Congress has. He was a participant. That is where I probably got to know him best, because he would tell me stories about being in the Fox Valley and being in Illinois in my district, and he knew the places and some of the people; and he even knew my old uncle who was a Norwegian Lutheran minister in Illinois. But he was always telling those stories too, stories about Norwegians and Swedes, and the Norwegians never won. I am not sure why.

He would also love to talk about Minnesota; and he talked about West Point, a place that he loved and the men and women that served there and the people that he got to know, and the young chaplains that came up underneath him and who he brought along the way and now have churches and ministries of their own.

But I remember his prayers on the House floor. His prayers were like poetry. They were lyrical. They touched the soul. And they made all of us think about what our duties were and responsibilities as citizens and as leaders.

When Jim told me that he was going to retire, I knew that the opening of each session wouldn't be quite the same. Jim Ford was an institution in an institution. He was part of the family, and he was an important part of that family.

We all know about Jim Ford's sense of adventure, of sailing and flying and motorcycling and all of these things that, as a matter of fact, he entranced a lot of Members in his stories about these things; and he actually did them. We know about his love of sailing and motorcycle riding, and we also know that Jim was also a compassionate soul who worked hard to minister to the Capitol Hill family. Really, when it comes down to it, his friendship and his antics and the things that he did and the stories he told endeared himself to Members of this Congress, to people that he worked with every day. He broke down those barriers that sometimes you find in these political places, sometimes the things that stop us from really talking about how we really feel about things and our real appreciation for people.

Through his many years of service, he touched many lives, providing spiritual guidance to Members and staff of all religions and political persuasions. I remember first as a Speaker and in leadership, one thing that happens, you get to go to a lot of funerals; and Jim was always there, and he always had a kind word and a special story. He knew every Member of this Congress. He knew their strengths, and he knew their weaknesses.

Jim Ford was a Lutheran minister, and he had an amazing gift of delivering a positive message that resonated with people of all faiths. He often told me the story over and over again of how Tip O'Neill used to call him Monsignor just because he wore the collar, and he thought that maybe Tip really didn't know. I think maybe Tip really did know.

We will always remember Jim Ford as a charming and an honest man who dedicated himself to God, and he dedicated himself to this Congress and its work with people. He served this body with the utmost distinction. His loving spirit will live in the hearts of all of our lives that he touched.

I think it is fitting and, Peter, I would like to ask you to come up here for a second; and I would like to present to you a flag that was flown over this Capitol in honor of your father and a letter to your mother.

WORDS OF APPRECIATION FROM THE FAMILY AND BENEDICTION

REVEREND CHRISTIAN: Mr. Speaker and Mr. Leader, first, on behalf of the family, I too wish to thank you and certainly Charlie, as has been mentioned, for providing this opportunity. I think it is the case that all of you, all of us, needed a time where we could just be together, think here, repeat here. I suspect that each one of you could tell a story or two; and the biggest, hardest task of this whole event probably for you, Charlie, as well as some of the rest of us who had time for conversation, Jeff, to be sure as well, was how many speeches of course to make.

You have heard the stories, and there are many more that could be said. But I am here as a representative, which I surely cannot do and I understand that, but I am here as a representative of the family just to bring a few closing remarks on behalf of them to all of you.

Mr. Leader, you did speak very kindly and strongly about Peter as the son of Jim Ford, and I only wanted to add to that that each one of the members of the family is an equal to Peter. I have had the great opportunity to be a friend of the family for 25 years and indeed have had a chance to share frequently with Jim Ford, even on the House floor, as I have participated with the opening prayers periodically.

So on behalf of the Ford family, let me say that I know they appreciate and offer to all of you their deep and abiding thanks for your love and for your concern which you have shown during these last months in many different ways, each one appropriate and each one received gratefully. But also, they want to thank you, and I know that is certainly true from Mrs. Ford, Marcy, one and all, to thank you for the joy and the happiness and the laughter and the fun that you all and so many others provided Jim through the years, and through Jim and, therefore, to the family.

Speaking of the family, isn't it wonderful to have Hannah here, sitting on the floor who will, one day, undoubtedly in the great oral tradition of our own family lives, bring forth the stories of the man we gather here to remember and to honor and to give thanks.

The family was all here on September 11, and you need to know that. They came from all over the country and all over really from many parts of the world; and of course many, almost all, of course, are not here today for many obvious reasons. But two of the family, direct family members, are Peter and Sarah; and I know you carry with you the thoughts, the spirit in your hearts of your sisters, spouses, grandchildren, and certainly your mother who is visiting one of those children and grandchildren this very day in Brussels.

So they thank you; and on behalf of them, I wish to bring those thanks to you. Peter is here and Peter did receive the honor of the flag and the letter; but maybe, is there anything you would like to add or just say to the group?

MR. PETER FORD: Yes. I do want to say thank you all for coming. You loved my father, and he loved you all. My father was a giver. He loved a couple of things about this place. He loved religion, of course. You were his flock. He didn't have a church. He always talked to Pastor Steinbrook, because he had a church. He said he was always down there for churches. He felt like he was in a command post here. You were his flock, and also the fact that he loved democracy. When he would go out and speak, I would try to come along with him as often as possible, because he was gone a lot at night. I loved to hear him when he talked about religion, and then afterward he would talk about democracy and talk about the rancor of this place and the debate, and he would talk about loudness. And he thought this was a very honorable profession to be up here.

If you are ever up at West Point, Rear Admiral Carrigan up at West Point, and he is buried 30 feet, 30 yards—the many people he buried in the 1960s during the Vietnam War. So it was sort of interesting to see that. If you see the 2-hour special on West Point, they interviewed him and he talks about MacArthur coming up; and at the beginning, they show my father's face, and they go into the West Point cemetery, and he is buried in plot 34. So if you are ever up there, that is interesting.

He loved you all. Thank you for being very nice to him. This is closure, and we do appreciate it as a family. After September 11, we didn't feel that it was appropriate, so we are glad this happened. I did learn something myself today. My father always told me he didn't want to print his prayers because he wanted to save taxpayer money. But I wish he would have printed them, because right now they are going through the whole house, and my mother saved every prayer. Every day he would bring home the Congressional Record and she would tear it out, and she would put them all in one place. I wish he would have printed them.

I want to say thank you very much. You were his flock. If my father came back right now, my family, we are a totally loving family, and we wouldn't have one question for him. We would just be happy that he was back, but we will see him some day. So thank you from him.

MRS. SARAH FORD STRIKE: I am Sarah Ford Strike, and I just got married just 4 weeks ago, so I am still getting used to my last name. But I am the youngest of the five kids, and again I want to say thank you very much for putting this together. You have all been so honorable to us and to our family, because after September 11, we thought since there are so many other tragedies in this world, let us not do this, we will honor our dad in our own special way; and you all are very nice to continue this, and we appreciate that.

My mom is in Brussels visiting our sister Marie and her family, so she is not here today. But I want to say that we are his family; but you are also his family, because you made his past 21 years here so happy. He didn't tell us about his counseling and his times of need with people, but he did tell us about the friendships; and that is what made us happy. He would come home, and it was just great.

Being five kids, almost all of us working in the District, we were able to come and visit Dad from time to time, and we would just laugh because you could not get five feet in the hallway without him stopping and talking to somebody. It didn't matter who you were or what you did. He knew everybody by name, and that is what I just hope that I have that gift, because he would just say, just remember something about that person; and it just was so special and such an intimate conversation, and then we would walk five more feet and we would get stopped again. So we cherish that.

We miss his bad jokes and we miss his humor, and we love him very much; but we are very happy because who we are is because of our dad. And we are happy that he is healthy and happy. I know he is up there. I got married, and at our wedding his spirit was with us. If you ever saw him at the White House balls or somewhere, he danced very badly, and he would do this; and I know he was up there doing the same thing, and I know he is doing it now; and I know he is happy as can be. So thank you from our family.

REVEREND CHRISTENSEN: Just to bring this then to a close, Mr. Speaker, you did talk about the fact that you remember Jim Ford's prayers. I would like to ask us now to stand, and I am going to read the last prayer that Jim Ford gave at the House of Representatives. These are those words of his final prayer, and then I will conclude with the benediction. Let us pray:

''We are grateful, O merciful God, that you are with us wherever we are and whatever we do. We know that Your spirit gives us forgiveness for the ways of our past, direction for the path ahead, and the comforting assurance that we are never alone. We gain strength from the words of the Psalmist: be still and know that I am God. I am exalted among the nations; I am exalted in the earth, the Lord of hosts is with us, the God of Jacob is our refuge. May Your good word, O God, be with all Your people and give them the peace and confidence that You alone can give. In Your name we pray. Amen.''

The Lord bless you and keep you. The Lord make His face shine upon you and be gracious unto you. The Lord give up His countenance upon you and give you peace.

Amen.

A WONDERFUL MAN, THURSDAY, MAY 9, 2002

(By Stephen Horn)

Mr. HORN. Mr. Speaker, this afternoon we honored a Celebration of the Life of Dr. James D. Ford, the Chaplain Emeritus of the House of Representatives.

When we traveled to meeting with the delegations of the European Parliament, we found that Jim was a very fine companion. Jim Ford was a great teacher. When we met diplomats and officers, Jim was able to lighten up some of us who were stressed from negotiations and differences among various factions.

Jim was a fine scholar of the Bible. When we were in Israel, Jim was well versed in three of the great religions which are in Jerusalem. Before Chaplain Ford came to the House, he had been for 18 years as the Chaplain of the United States Military Academy at West Point. As a result of his experiences at West Point, he knew about youth and how they grow to be leaders for our country. When a delegation of the House met with General Wesley Clark, the Supreme Commander of the North Atlantic Treaty Organization [NATO]. When the General met the Chaplain there was a warm hug. We saw a four star General, but, Dr. Ford remembered him as the very bright senior who was President of the Bible Society during Clark's senior year at West Point.

Dr. Ford was an effective counselor of members that work hard and often needed to be working with people under stress.

One of Jim's great adventures was when he and three volunteer cadets from West Point navigated a boat with sails, guided by the stars. The waves tossed the small boat in the North Atlantic Ocean. It was a great experience.

Jim was a people-person. When colleagues had medical operations at the Walter Reed Army Medical Center, Jim would come out to see us. He brought us cheer. His humor was delightful.

He will not be forgotten. Our condolences to Marcie, his wife, and Peter his eldest son, and the Ford family.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2003

SPEECH OF

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 24, 2002

The House in Committee of the Whole House on the State of the Union had under consideration 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:

Mr. DAVIS of Illinois. Mr. Speaker, I join my colleagues today in support the Treasury and General Government Appropriations Act of 2003, H.R. 5120.

This has been an extraordinary year for our nation, and our civil servants have responded with professionalism to the threats against our borders and assaults against our values. They certainly should be counted among our heroes. It is, therefore, most appropriate that all Federal employees, both civilians and military members, receive the same 4.1% pay raise in FY 2003.

I am also pleased with the Postal Service Appropriations Act of 2003 for it reaffirms some of the basic principles of our universal postal service—6-day mail delivery, rural delivery of mail, and maintenance of post offices in rural areas.

Since 1912, 6-day delivery of mail has been an essential service that the American public has relied upon, particularly working families that depend on the Postal Service for the timely delivery of paychecks. Ending Saturday mail deliveries would not only cause delays in the delivery of mail, but would also cause higher postal costs, due to the additional overtime that would be required to handle the resulting backlog of mail.

Another great efficiency in our country is the ability to send a letter from rural Arkansas to downtown Chicago—and have confidence in knowing it will get there. Whether you live or work in rural or urban America, the satisfaction of knowing that you can communicate provides peace of mind. Many of our communities have limited methods of communication and rely on the post office to provide the glue that binds people together. By maintaining rural post offices, we will continue to bind together our citizenry.

I urge my colleagues to join me in support of this appropriations bill.

FUTURE INFRASTRUCTURE

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. YOUNG. Mr. YOUNG (of Alaska). Mr. Speaker, The House Transportation and Infrastructure Committee, which I chair, is conducting a series of fact finding hearings as we prepare to reauthorize the Nation's highway and mass transit programs next year.

Surface transportation and the immense infrastructure that supports our Nation's transportation system extends to every corner of this country and every Member's district. That is why we are now examining the effectiveness and funding needs of existing programs, as well as the need for any new direction that the infrastructure of our country may need into the future.

I have said many times that I am concerned about the state of the Nation's infrastructure. This concern is shared by many members of my committee.

The hearings underway in the Transportation and Infrastructure Committee are serving to highlight the need for a modern, effective transportation infrastructure. Our economic health depends upon our roadways and transportation infrastructure. To ignore the physical state of these systems is to invite disruption that could have enormous economic consequences to this country.

While we examine our highway programs, we will also review mass transit programs and other programs to address and avoid congestion as well as new technology that might enable us to become more efficient and to improve the transport of people and goods.

During the process of reviewing the infrastructure needs of the Nation and the role of highway and mass transit programs, it is my intention to invite comments on the future benefits and needs for the hydrogen option in our transportation system.

We may be years away from actually employing fleets of, vehicles fueled by hydrogen but we owe it to ourselves to determine how this important new fuel source can be integrated along our transportation infrastructure. Just think of the different dynamic we would face in the Middle East if our transportation system were equipped with hydrogen vehicles and refueling stations based upon hydrogen.

Nearly fifty years ago, during the Presidency of Dwight Eisenhower, the Nation embarked upon the construction of the federal interstate highway system. Today, after thousands of miles of highways have been constructed and billions of dollars expended, we have an interstate highway system that is the envy of the world.

We have a transportation network, five decades in the making, that is the lifeline upon which commerce flows. That system required enormous and sustained federal support as well as cooperation with state and local governments and agencies and the ideas, innovation and hard work of hundreds of thousands of people from the private sector.

Many of the improvements we take for granted today took decades to design, improve and construct. I believe it is time to begin work on an effort that may become just as important as that of President Eisenhower, an effort to use hydrogen as a key component of our transportation base. I believe it is time for us to realize that our future surface transportation system may well be fueled using hydrogen, so we must begin the planning and thinking now.

We are at the question stage of this process. While I am not saying we are ready to set a final course of action to install hydrogen fuel infrastructure, I do believe that hydrogen can become the key part of the nation's future transportation system. As Chairman of the Transportation and Infrastructure Committee, I believe that we should undertake a process, in the reauthorization of our highway programs, to study the feasibility of hydrogen infrastructure in the future.

This process will allow us to question timing and to ask if such a transformation is feasible, is real, is viable, is cost efficient and is in the Nation's best interest. Because our bill will authorize the highway program for at least six years, it is important that we not miss this window of opportunity to ask these questions and possibly, to initiate actions that will expedite any transformation process.

The automobile industry and President Bush have announced an initiative known as Freedom CAR, an industry and government research and development program to develop fuel cell vehicles as well as needed R&D relating to the hydrogen fuel that will power these vehicles.

We already know a great deal about fuel cells and we already know a great deal about the production of hydrogen. But, we clearly do not know enough. The effort of the private industry and the Administration to develop these sources of fuel can be assisted by the review and development of a meaningful infrastructure system to refuel these vehicles.

Industry and government researchers alike have asserted that a focused infrastructure development program likely will garner the confidence needed to produce the vehicles. As we develop the confidence to proceed it also will be necessary to commit to the production of a sufficient number of vehicles for widespread demonstration. Thereafter we would be positioned to move forward towards the manufacture of thousands and then millions of such vehicles.

During each of these stages, a meaningful and effective refueling hydrogen infrastructure will be needed. We should avoid a chicken and egg problem: What comes first the vehicle or the fueling infrastructure? Will the vehicles be produced if the infrastructure is not readily available? Will the infrastructure be made available if the vehicles are not forthcoming?

The infrastructure should be developed in parallel with the vehicles. Consumers are unlikely to buy fuel cell vehicles over traditional vehicles unless the hydrogen fuel is available. We may never see the mass production of fuel cell vehicles, even after they are technically proven, unless the fueling infrastructure is in place.

We are fighting a war on terrorism that is precipitated, in part, by our country's dependence upon foreign supplies of crude oil. The lives of our military personnel are at risk every day. As long as we continue dependence upon foreign sources of oil we will face war and an enormous human and economic toll that is placed upon our society and economy. If we do nothing, our dependency on foreign oil is projected to grow from fifty percent today to more than 60 percent by 2020. That dependency has grown already from 35 percent in the mid-1970's when we first confronted war over oil in the Middle East.

Congress is facing a question that will partially ease the dependence on foreign oil sources as it conferences the energy bill. In the House, we say we should allow exploration and development of a fringe area of the Arctic National Wildlife Refuge in my state. I passionately believe that this is vital right now. The answer to oil dependency is a sensible U.S. domestic oil production in ANWR, as well as looking for other solutions that will ease the problem in years to come.

We need to develop all possible sources of energy to insure that our country has a diversity of energy sources available. Hydrogen, the most abundant element in the universe is a source of energy that should be developed for application in the long term. It can be derived from gasoline, natural gas, methanol, renewables, even water. Someday, like electricity today, hydrogen could become a type of energy used in daily transportation and as a source of fuel for electricity generation to power homes, business and industry.

Now is the time to begin a serious investigation that looks beyond a successful research and development program. We need to consider the need to begin our public and private efforts now to create an infrastructure to serve and fuel a transportation system based in part upon fuel cell vehicles and the need for hydrogen.

I do not know if there will be success or failure of these efforts to perfect the technology but I think it wise to consider those actions we can take. Our design should be to encourage and maintain momentum towards adoption of a new form of transportation based not entirely upon fossil fuels from other lands. We need to begin a process to determine government's proper role in this effort that may be as technically challenging as the Apollo program and as important as the Interstate Highway System.

Regardless of the energy source that propels our vehicles, now or in the future, we must also ensure that it pays its fair share to the Highway Trust Fund, if we are to maintain a user fee based system to invest in our transportation infrastructure.

The reauthorization effort should examine where we are, what needs to be done, what resources will be required, and what partnerships need to be encouraged if we are to add hydrogen as a cornerstone of our transportation sector in a timely manner. The Subcommittee Chairman, Mr. PETRI, and Ranking Member, Mr. BORSKICONGRESSIONAL RECORD, can get the perspectives of all relevant sectors on this issue and address them in the reauthorization bill. I expect to be actively involved in this effort as well.

CONFERENCE REPORT ON H.R. 3763, SARBANES-OXLEY ACT OF 2002

SPEECH OF

HON. DIANA DEGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 2002

Ms. DeGETTE. Mr. Speaker, I rise in support of the conference report to H.R. 3763, the ''Public Company Accounting Reform and Investor Protection Act.'' This agreement accepts almost every Democratic proposal contained in the ''Sarbanes'' bill and has only been altered by adding increased penalties for corporate crimes. I am pleased that the Republicans in Congress agreed to the much stronger Democratic proposals that will reach to the very roots of the problems in corporate America that caused the collapse of companies like Enron, WorldCom, and Adelphia. Unfortunately, the country will most likely continue to see companies fall due to accounting improprieties and, while I believe this is a strong bill, more must certainly be done. However, the changes in our nation's financial accounting structure contained in this agreement will strengthen the confidence and trust of investors and will increase the transparency and acceptability of financial statements.

The agreement that we are considering today is almost identical to the Democratic proposals contained in the ''Sarbanes'' legislation that passed the Senate 97–0. The fact that the Republicans accepted the Democrats' position certainly shows that the Republicans in Congress are feeling the heat over corporate accountability. After all, the American public trusts Democrats to fix the problems in corporate America and to increase investor confidence in the markets.

The proposal offered by Republicans to deal with corporate abuse was to increase penalties for corporate crime, coupled with weak, industry-controlled standard-setting bodies. They wanted to deal only with the ''bad apples'' instead of getting to the heart of the

problem. The conference committee agreed to accept their increased penalties for crime. But, the conference committee recognized that corporate abuses will not end until Congress makes changes that attack the root of the problems. So the conferees accepted the Democratic proposals almost in their entirety.

As we have seen from the collapse of Enron and other large corporations, auditors had guiding principles that were extremely weak and easily ignored by accountants and corporate management. Additionally, accounting improprieties were purposely overlooked because the auditors became too cozy with the companies they audited and made huge profits from non-audit consulting services. To address these problems, this agreement creates a new and independent accounting board that has authority to establish auditing standards, investigate accounting firms that conduct audits of publicly-traded companies, and enforce their rules. The agreement also mandates auditor independence and bans most non-audit consulting services.

As we have seen in the past, much-needed accounting reforms were impeded by industry officials who threatened to withhold funding from the Financial Accounting Standards Board (FASB). The new auditing board and the current FASB will be given an independent funding stream to ensure that important financial standards will not be senselessly squashed by greedy industry executives.

The agreement also increases and strengthens corporate governance by requiring senior executives to attest to the accuracy of their company's financial statements, under penalty of law. It also requires corporate executives to repay any compensation or profits received as a result of their accounting trickery.

Unfortunately, this agreement overlooks some issues that must be addressed, including expensing stock options and mandatory auditor rotation. Stock options that are not included on a company's financial statements can misrepresent the true value of a company. I am pleased that some companies have taken it upon themselves to include employee stock options on their financial statements and I am also pleased that the FASB has indicated that it will move quickly on a rule for expensing stock options. Additionally, requiring companies to rotate their auditors is very important to ensure that senior executives and the people auditing their companies do not become too cozy and allow a company to get away with accounting tricks. While these issues are not included in this agreement, I look forward to continue working on finding ways to deal with them.

This agreement goes to the root of the problem of corporate abuse. It is strong and comprehensive, and will increase investor confidence, transparency, and the strength of the markets.

CENTRAL NEW JERSEY RECOGNIZES AND HONORS GROUND ZERO VOLUNTEER SUZAN VITTI

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. HOLT. Mr. Speaker, I rise today to recognize and honor the selflessness, volunteering spirit and patriotism of Americans. One such American is Ground Zero Volunteer Suzan Vitti.

On September 11, 2001, Suzan Vitti, a nursing student and trained emergency service volunteer, saw the attacks on the World Trade Center unfold on television, immediately put on her uniform and reported to the Kendall Park First Aid building in Central New Jersey. Although the shock and enormity of that tragedy might have overwhelmed and incapacitated some who beheld it that day, Suzan was determined to act. Almost the minute Suzan Vitti heard reports that food and emergency supplies were needed she began calling businesses to solicit donations. Within 48 hours of the attacks, she was on her way to Ground Zero in her own small car, so loaded down with baked goods from Entenmann's of Edison that she had to drive below the speed limit with her hazard lights flashing. She had a sign in the back window of her car that said ''Going to Ground Zero;'' eventually a police officer spotted her and gave her an escort to the site.

From that day until recovery efforts were suspended at Ground Zero at the end of May, Suzan Vitti worked tirelessly and with no thought of her own health or safety to assist the emergency crews at Ground Zero. Food was being delivered to the site for the workers, but it was being dropped off several blocks from the site. The workers refused to leave their posts to feed themselves, so Suzan Vitti brought the food to them. She bandaged their wounds, put drops in their eyes to clear the dust, and distributed aspirin, gloves and goggles. When the winter months arrived, Suzan drove herself around the outskirts of the site in the middle of the night, seeking out the groups of New York City Police Officers hovered over fires they routinely lit in barrels to keep warm a their posts, delivering donuts, bagels, cakes, pies and cookies. Suzan Vitti became such a welcome sight at Ground Zero, that rescue and recovery personnel would announce her presence over the radio—''the Entenmann's Lady just entered the Zone!''—and waive her in with their flashlights. Reliably, two or three days a week from September to May, Suzan Vitti arrived at Ground Zero with donations of food, pastries, and medical supplies and distributed them as needed.

For her efforts, she has received countless honors, including commendations and recognition from several units of the Police and Fire Departments of the City of New York, the Port Authority Police Department, emergency services providers, the Salvation Army and other relief organizations, the Department of Design and Construction, the Army National Guard, the Mayor of South Brunswick and the Governor of New Jersey. One of her most prized possessions is a sweatshirt, upon which she has pinned the more than 150 pieces of collar brass donated to her by grateful rescue and recovery personnel to whom she tended at Ground Zero. As to her volunteering spirit, Suzan has said, simply, ''I'm an American. It's my duty.''

It is an honor to represent Suzan Vitti in Congress.

Once again, I rise to commend Suzan Vitti for her selfless and tireless efforts on behalf of the rescue and recovery personnel at Ground Zero and for her volunteering and patriotic spirit. I wish her much success in her future endeavors, and I ask my colleagues to join me in recognizing her accomplishments.

IN RECOGNITION OF CHIEF COMMANDER ARTHUR FARR AND THE CITY OF MANITOWOC

HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. GREEN of Wisconsin. Mr. Speaker, today before this House I recognize and honor Past Chief Commander Arthur Farr of the United States Power Squadrons, as well as the city of Manitowoc, a Wisconsin community that has fought to preserve the causes of freedom and democracy through its superior ship building enterprise.

When the drums of war sound, and our nation is obliged to heed the calls of the oppressed and threatened, the citizens of the United States dutifully step up—as exemplified by the people of Manitowoc and Past Chief Commander Farr.

Commander Farr served as a naval submarine officer aboard the distinguished USS *Guitarro* throughout World War II. During his service, Commander Farr helped see the *Guitarro* safely through five treacherous war patrols in the Pacific, a tenure that yielded four battle stars and the Navy Unit Commendation. The achievements of Commander Farr and the *Guitarro* are truly deserving of our highest recognition and most earnest thanks.

To equip our forces with the vessels essential for victory during World War II, the citizens of Manitowoc and its neighboring communities rallied to fill posts in the shipyard, often at incredible sacrifice. Farmers milked their cows by day and welded submarines by night. It was the tireless efforts of these citizens that fueled the production of superior vessels, like the *Guitarro*, and ensured naval success and eventual victory for the allies.

The dedication and often unrecognized contributions of Americans like Past Chief Commander Farr and the citizens of Manitowoc are a true testament to the strength and excellence of this great nation.

HONORING TOWN OF GLEN ELLEN AND GLEN ELLEN POST OFFICE ON 130TH ANNIVERSARY

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Ms. WOOLSEY. Mr. Speaker, I rise today to honor the town of Glen Ellen and the Glen Ellen Post Office on the occasion of its 130th anniversary.

Located six miles north of Sonoma and established on July 19, 1872, Glen Ellen and its Post Office enjoy an interesting history. In the beginning, the small settlement was to be named Lebanon by early pioneer John Gibson. A document dated June 4, 1872 indicates he was also first to apply to the postmaster general in Washington, DC, for the creation of a post office. However, for reasons unknown, the application was never answered. Fortunately, another was filed on July 19, 1872 allowing the town to establish the community post office, which was named Glen Ellen after the wife of Colonel Charles Stuart, Ellen Mary Stuart. These early residents had built their

home and ranch at the base of the Mayacamas, just east of what is now Hwy. 12.

Over the past 130 years the Glen Ellen Post Office has been guided by the experienced hands of a long list of postmasters. The first being the highly respected steamboat captain from San Francisco, Charles Justi. He served as postmaster for nine years until the reigns were passed to John Gibson, the original petitioner for what was almost the Lebanon Post Office. Gibson served for three years until his partner, Charles Crofoot succeeded him on November 28, 1888. Crofoot, who served for nearly four years, was followed by a long series of esteemed guardians of Glen Ellen's treasured institution. Today, located in the picturesque vineyards of Jack London country, the Glen Ellen post office is presided over by postmaster Kip Fogarty.

Even during the 1880's Glen Ellen was a tourist destination. During its heyday many people came and stayed at the Glen Ellen Hotel. The area, now known as the Valley of the Moon, was already becoming known for vineyards when winemaker Kate Warfield, daughter of Post Master Mary Overton, won national awards for her Glen Ellen wines produced at Ten Oaks Vineyard on Dunbar Road.

Mr. Speaker, I am pleased to congratulate Glen Ellen on this historic birthday and the Post Office for its 130 years of faithful service and commitment to the residents of the Glen Ellen community.

PAYING TRIBUTE TO: BILL MULDOON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Bill Muldoon of Craig, Colorado for his selfless volunteer efforts to help the less fortunate of this world. For many years, he has dedicated his time and efforts to San Miguel de-Allende (Mexico) and greatly improved the living situation in that region, which is why he is deserving of our praise today.

Bill Mundoon is an outstanding individual actively involved in his community. As a member of the Moffat County Rotary International Association, Bill's prominence is noticeable amongst the many organizations spanning the nation. As the organizer of one of the largest humanitarian efforts in Moffat City Rotary history, Bill was known to spearhead and personally drive 3,000 miles to organize and collect materials for the city of San Miguel, and other Rotarian projects.

Bill supervised the progress and completion of the San Miguel de Allende project. He raised support and funding totaling 6,400 dollars, and captured the hearts and attention of his community by making the journey alone. His adventurous journey towards San Miguel, yielded numerous problems and complications. Bill experienced rockslides, deer, and geese, not to mention treacherous weather at parts, and other barriers and detours. Nevertheless, Bill overcame these obstacles and provided the city hospitals and clinics of San Miguel de Allende with the many needed supplies and modern technology. His thoughtful spirit lifted morale and provided hope to this area.

Mr. Speaker, it is with much admiration I take this moment to honor Bill Muldoon for his charitable deeds. I would like to personally applaud his hard work and determination before this body of Congress and this nation for his efforts will serve to inspire many future generations. Thank you again for your hard work in every humanitarian endeavor.

TRIBUTE TO MR. JAMES B. HUNT, JR.

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Mr. James B. Hunt a gifted musician and native of Greenville, S.C. Mr. Hunt's first experience with music came at the age of six when his parents taught him to sing. In the 8th grade, unable to buy an instrument, he bought a toy clarinet from Kress ''five and dime'' Store. Mr. M.C. Lewis, Sterling High School Band Director, and some members of the band heard him playing Sousa marches on his toy instrument. They gave him an alto tuba, a fingering chart, and a ''march book''. On Tuesdays and Fridays he marched with the band at halftime.

Upon graduating Salutatorian from Sterling High School, Mr. Hunt entered South Carolina State College, now S.C. State University, in 1942 where he won a band scholarship and had the rare honor of being chosen as a freshman to play in the dance band known as the ''State College Collegians.'' At S.C. State College, he studied the trumpet. He earned a B.S. Degree in Mechanical Engineering in 1946, and a Master's Degree in Education in 1958.

Mr. Hunt is often called the ''First Band Director'' because of his many ''first'' achievements. He was the first band director at Wilkinson High School in Orangeburg, a position he held for 25 years. He was the first band director at Sharperson Junior High School, Brookdale Middle School and Bellville Junior High. With the merger of Orangeburg High and Wilkinson High Schools in 1971, he organized and became the first director of the Orangeburg-Wilkinson High School Band. He was the first director of an integrated band to march in the Railroad Daze Festival in Branchville, S.C., and in 1972 this band participated in the Shrine Bowl Parade and halftime show in Charlotte, NC.

Mr. Hunt has placed more than 250 students in South Carolina All-State Bands sponsored by the S.C. Band Masters Association. He served as president of the Band Masters Association for three years and was selected ''Band Director of the Year'' in 1962. His peers recognized him for his significant contributions to music education in South Carolina at the S.C. State College Second Alumni Band Concert in 1976. In 1987 he was inducted into the S.C. State College Jazz Hall of Fame. Mr. Hunt is most proud of the accomplishments of his former students who include Johnny Williams, member of the Count Basic Band since 1970; Shellie Thomas, a retired music teacher in Los Angeles and currently the leader of the Original Honey Drippers Band; Horace Ott, Broadway composer and arranger and sometimes conductor for the Queen of Soul, Aretha Franklin; three of the famous Javis Brothers and Javis Sister, Priscilla; and 2000 Hall of Fame inductee Dwight McMillan.

Mr. Hunt has been married for more than 50 years to the former Lerlon Hilton. They have two daughters: Mrs. Deborah Hunt Woods, a 1999 Teacher of the Year in Lithonia, Georgia, and Dr. Marilyn Hunt Alim, an education analyst at NASA/Marshall Space Flight Center in Huntsville, Alabama. They have eight grandchildren and four great-grandchildren. Mr. Hunt is a member of Mt. Pisgah Baptist Church where he serves on the Deacon Board and teaches the Merfts Sunday School Class. He is a member of Epsilon Omega Chapter of Omega Psi Phi fraternity.

Mr. Speaker, I ask that you and my colleagues join me in honoring an outstanding South Carolinian whose dedication to his profession and family is unparalleled. I wish him good luck and Godspeed.

TRIBUTE TO RAY M. BOWEN

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. BRADY of Texas. Mr. Speaker, I rise today to pay tribute to Dr. Ray M. Bowen, President of Texas A&M University, America's 5th largest university. At the end of this month, Dr. Bowen will be stepping down as the university's 21st President, a position in which he has served with distinction since he took office in June 1994.

Under Dr. Bowen's leadership, Texas A&M has become one of the finest universities in our nation. Academic programs have been enhanced and recognized for excellence. Most recently, Texas A&M was invited to join the prestigious American Association of Universities.

Additionally, during Dr. Bowen's tenure, the George Bush Presidential Library and Museum Center was opened and formally dedicated. Dr. Bowen seized this opportunity to increase the stature of the university throughout the world. And, he has initiated an ambitious program, ''Vision 2020,'' which is designed to propel Texas A&M into the ranks as one of the top-ten best public universities in the nation by the year 2020. Mr. Speaker, Dr. Bowen has also successfully completed a major capital campaign exceeding its $500 million goal by more than $137 million and has already begun a second campaign entitled ''One Spirit, One Vision.''

Dr. Bowen's extensive educational background began when he received 5Bachelor of Science and Doctoral degrees from Texas A&M in the field of Engineering. He earned a Master's degree at the California Institute of Technology and served with distinction as a faculty member at Louisiana State University, Rice University, and the University of Kentucky.

Immediately before joining Texas A&M, Dr. Bowen served as interim President and Provost and Vice President for Academic Affairs at Oklahoma State University. Additionally, Dr. Bowen served as a staff member on two occasions at the National Science Foundation, where he most recently served as Deputy Assistant Director for Engineering and Acting Assistant Director for Engineering and earlier as

Director of the Division of Mechanical Engineering and Applied Mechanics.

Along with carrying the title as educator, Dr. Bowen served his nation serving in the United States Air Force, where he functioned as a faculty member of the Air Force Institute of Technology.

Mr. Speaker, to express their profound appreciation for the work of Dr. Bowen, the Board of Regents at Texas A&M University has conferred upon him the title of President Emeritus, to be effective on the day after his departure from the role of President.

For my part, having the privilege of representing the Aggies for the past six years in Congress, I fail to find adequate words to express my appreciation and deep respect for this unique gentleman.

Dr. Bowen is quiet and intelligent, wonderfully organized and highly disciplined. He has a commanding presence, yet he is as much at home mingling with students and watching an Aggie baseball game as he is discussing education policy with Texas and America's political leaders and advanced technologies with the nation's brightest scientific minds.

As you would imagine, he has surrounded himself with an outstanding and dedicated staff and faculty which reflect his innate leadership as well as his desire to bring out the best in those around him.

I will not soon forget the tragic Bonfire collapse in November 1999, nor Dr. Bowen's calm, compassionate and reassuring leadership during those terribly difficult days and months. Through it all, in public and private, he remained steadfastly focused on the families of those injured and the Aggie family that leaned upon him so heavily.

It is said the times that future generations elect to recall are not those of ease and prosperity, but of adversity bravely borne. Dr. Bowen and his team bore this unimaginable adversity with dignity and purpose.

I am proud to call him my friend. This university and this nation are better for his service.

Mr. Speaker, on behalf of all the students, faculty, former students, and friends of Texas A&M University, I am proud to recognize Dr. Bowen for his outstanding achievements and contributions bestowed not only upon Texas A&M University, but also this great nation.

RECOGNIZING THE SERVICE OF TONY HALL

HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mrs. CLAYTON. Mr. Speaker, I rise today to honor my dear friend and colleague TONY HALL as he prepares to accept the nomination as the ambassador to the Food and Agriculture Agencies of the United Nations. Although I extend my very best wishes to TONY HALL, I rise on this occasion with great sadness at the realization that this Congress will soon be losing one of its finest members. TONY HALL is a man who shows courage in the face of adversity, integrity when there is little to be found, and compassion when the prevailing winds blow with malice.

Throughout his career, TONY HALL has served as the moral conscience of Congress on issues of hunger and poverty. Where there is hardship and injustice TONY HALL is the first to enter the fray and the last to leave. During his career in Congress, TONY HALL has often traveled into the heart of distress. When Ethiopia was in the grips of a massive famine in 1984–1985, TONY was there experiencing firsthand the grim reality that most of us viewed at a distance on our televisions. When reports started trickling out about the growing deprivation in North Korea, TONY was the first to travel there and he later traveled there 5 more times and kept his colleagues here in Congress appraised of the situation. When no one else had the courage to do so, it was TONY who traveled to Iraq, against the advice of many, to assess the suffering of the innocent.

I am certain that you are familiar with the proverb ''Ease and honor are seldom bedfellows.'' This proverb applies to no one more than TONY HALL. It should come as a surprise to no one that TONY HALL has been nominated for the Nobel Peace Prize and I imagine that, as TONY embarks upon his journey as the Ambassador to the United Nations Food and Agriculture Program, we may well hear his name again mentioned in connection with the Nobel Peace Prize.

The departure of TONY HALL from this Congress will leave a void of leadership on the issue of hunger. There are many here who have worked with Tony and supported his efforts in world hunger but there are none who have so relentlessly and singlemindedly reminded this Congress and this country of our obligation to the least among us. As we honor TONY's effort on the eve of his departure, I want to urge my colleagues to step into the space left by TONY's departure and take up the reins of leadership in combating world hunger.

Not only is TONY HALL a man of conviction and compassion, but he is also a man of deep and abiding faith. All of us who know TONY know that his convictions are grounded, first and foremost, in his faith in a God who has charged us to feed the hungry and to shelter the naked. It is this faith that gives TONY such grace in the face of adversity and his firm kindness when he stands alone.

Mr. Speaker, there is a passage from the book of Isaiah that I love and that I think speaks to TONY's steadfast efforts to raise up the struggles of the poor and hungry around the world. I would like to recite it now in honor of TONY's efforts.

And if you give yourself to the hungry
And satisfy the desire of the afflicted,
Then your light will rise in darkness
And your gloom will become like midday.
And the LORD will continually guide you,
And satisfy your desire in scorched places,
And (give strength to your bones;
And you will be like a watered garden,
And like a (spring of water whose waters do not fail.
Those from among you will rebuild the ancient ruins;
You will raise up the age-old foundations;
And you will be called the repairer of the breach,
The restorer of the streets in which to dwell.

Mr. Speaker, TONY HALL has given himself to the hungry and his light has risen in the darkness. In so doing, he has spread this light to his colleagues and he has shed light on the actions that we must take to satisfy the desire of the afflicted.

Because of his efforts, TONY HALL is what the book of Isaiah calls a ''repairer of the breach and the restorer of streets in which to dwell,'' and for this Mr. Speaker, I rise to thank and honor our friend and colleague TONY HALL and to wish him God's blessings as he departs for Rome to continue his work to erase the blight of world hunger.

RECENT VIOLENCE IN NORTHERN IRELAND

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. PALLONE. Mr. Speaker, I rise this evening to condemn the recent sectarian violence, that has occurred in Northern Ireland over the past several weeks. It is quite obvious to me that the parties who are organizing these attacks are hoping the they can derail the 1998 Good Friday Peace Accord.

Mr. Speaker, as you may know, for the first time since January, an individual was killed in Belfast due to sectarian violence. This murder was one of several coordinated acts of violence which occurred Monday evening. At different points throughout the night, several young men were shot at in Catholic neighborhoods. All acts were credited to the Ulster Defense Association, also know as the Red Hand Defenders.

Late Monday evening, Gerald Lawler, a Catholic teenager was walking home from a local Belfast pub, when he was suddenly shot to death in a drive-by attack. His crime: he was a 19 year-old Catholic walking home from a predominately Catholic bar, in a predominately Catholic neighborhood. He was killed solely because of his religion. According to news reports he wasn't even active politically.

This attack occurred only days after the Irish Republic Army (IRA) issued an unprecedented public apology for civilian deaths which occurred over the more than 30 year conflict. This surprise gesture was an obvious sign that the IRA and other Catholic groups want to work to ensure the survival of the new government of Northern Ireland. By apologizing the IRA takes a significant step in showing the world that they are ready to obey the guidelines of the '98 accords. Unfortunately, extremist groups on the other side of the conflict do not feel the same way.

The murder of Gerald Lawler Monday night by the UDA confirms that loyalist groups refuse to give equality to Catholics, called for in the Good Friday Accords. These extremist groups feel that by once again escalating the conflict they can destroy the accords and the power-sharing government thus reverting back to sectarian Protestant control.

Yesterday (Wednesday), Prime Minister Blair called for an end of the violence in Northern Ireland and vowed to toughen its enforcement of paramilitary cease-fires. To enforce these cease-fires, Blair plans to deploy hundreds of extra police and soldiers to spearhead a campaign to keep the peace.

While I am encouraged by Prime Minister Blair's comments, I am worried that an increase in British police and military personnel will do little to stem the violence. In the past, when the offenders of cease-fires were groups which are loyal to the crown, the police frequently turned a blind eye to the violence, refusing to arrest and prosecute offenses

against Catholics. This only caused the conflict to escalate rather than encourage peace.

I call on Prime Minister Blair and First Minister David Trimble, the Protestant government leader, to take real steps to stop the violence. They need to find all the perpetrators of the violence in the North, especially those which occurred most recently, and take appropriate legal action against them. For the Good Friday accord to be successful all parties in Northern Ireland must stop the sectarian violence.

The conflict in Ireland between Catholic and Protestants is centuries old. However, for the first time a real solution, which is equitable to all sides, has been reached and is in the early stages of working. Now both sides need to come together and stop any and all sectarian violence and allow for true democracy to work.

PAYING TRIBUTE TO: KELLER HAYES

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

July 26, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Keller Hayes of Colorado, a remarkable individual who has assisted in building economic prosperity and equality in the Denver business market. It is my honor to applaud an individual who demonstrates determination and perseverance despite the obstacles, and a privilege to pay tribute to such a deserving Coloradan who has donated countless hours towards the betterment of the Denver community.

Keller Hayes was raised on a rural Nebraska ranch, where her grandmother instilled in her ethics and morals that she fervently displays today. Keller overcame hurdle after hurdle throughout her life, and after graduating from college with a minor in women's studies, she embarked on her mission to bring equality to women in the workplace. Keller is a beacon to women everywhere, and she serves on numerous boards and panels working to ensure the rights of working women nationwide. She is an active member of the Colorado Women's Chamber of Commerce, the largest women's chamber in the country. Her assistance in training, mentoring, counseling, and advising women of all ages, has helped build a strong community. Because of Keller's diligence and perseverance, she received the prestigious award of 'Women Business Advocate of the Year'.

Mr. Speaker, it is my sincere honor to pay tribute to Keller Hayes before this body of Congress and this nation. Thank you Keller for providing integrity and dignity to our society, and selflessly donating countless volunteer hours to your community. Congratulations on your award, and good luck in all your future endeavors.

TRIBUTE TO FATHER JOHN GLAROS

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. BILIRAKIS. Mr. Speaker, I would like to honor Father John Glaros, a valued member of the community in Florida's ninth district, who passed away June 22, 2002. Father Glaros had a lifelong history of service to his community and country by fulfilling religious and government roles alike.

Father Glaros was born in 1920 in Plant City, Florida, although he was raised and educated in Greece for the first eighteen years of his life. He returned to America to enlist in the U.S. Army where he was trained in special operations and served as a member of the Office of Strategic Services in World War II.

After his honorable discharge, he returned to Plant city where he owned and operated the Dixie Restaurant. In the late 1950's, he became a Plant City commissioner and was subsequently elected Plant City mayor. Dedicated to remain active in his community, Father Glaros sat on the Hillsborough County Commission from 1967 to 1971.

He began his commitment to the Greek Orthodox Church in 1976 when he was ordained as a priest. For twenty-one years he assisted churches in the Winter Haven, Naples, and Port Charlotte communities on an as-needed basis until his retirement. He will be remembered for his devotion and the tireless effort he contributed to these communities.

Father Glaros was preceded in death by his wife, Dorothy Cribbs Glaros. He leaves two sons, Steve and Jim of Jacksonville and Plant City, respectively; one daughter, Linda Konstantinidis of Clearwater, six grandchildren, and two great-grandchildren.

Mr. Speaker, I pay tribute to the life of Father John Glaros and thank him for the contributions he made. I give my condolences to his family. Father Glaros will be sadly missed throughout our community but will be fondly remembered.

PERSONAL EXPLANATION

HON. SHELLEY BERKLEY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Ms. BERKLEY. Mr. Speaker, due to a family medical emergency, I missed Roll Call votes No. 320, No. 321, No. 322, and No. 323. Had I been present, I would have voted ''yea'' on No. 320, ''yea'' on No. 321, ''nay'' on No. 322, and ''nay'' on No. 323.

HONORING OFFICERS ROBERT ETTER AND STEPHANIE MARKINS

HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. GREEN of Wisconsin. Mr. Speaker, I am profoundly dismayed today to share a piece of dreadful news from my district with this House and with our entire Nation.

On Monday, in an act of terrifying evil, a man deliberately crashed his truck into a police squad car in the Town of Hobart, Wisconsin. The two police officers in the car, Robert Etter and Stephanie Markins, were killed.

Officer Etter, who was known by some in the community as ''Officer Bob,'' served in law enforcement for three decades. He retired a few years ago but soon realized how hard it was to leave behind 30 years of serving and protecting his neighbors—so he returned, bringing his immense experience and skills back to the local law enforcement community. In fact, he was sharing some of that experience with a new officer when their car was hit on July 22. He leaves behind a wife, four daughters, two grandchildren and a community grateful for having had the opportunity to share life with him.

Officer Markins was that new officer learning from Officer Etter. She had served on the force for just a short time. Described by one of her trainers as ''very much a go getter'' who wanted to ''get out and deal with people,'' Officer Markins'' promise as a law enforcement officer was tragically cut short Monday. She was a flance, a daughter, a sister, a friend, a neighbor and a protector who was willing to give everything for the security of others. She will be missed.

Mr. Speaker, this heartbreaking and senseless case tragically demonstrates that law enforcement is a dangerous job whether it's done in New York City or Hobart, Wisconsin. And it shows that the people who choose it as their profession are truly extraordinary in their character, their courage, and their dedication to their fellow citizens.

I offer today these few brief remarks to honor the memories of Officers Etter and Markins, to ensure that they are remembered in the annals of our nation's history, to recognize these families' incredible loss, and to remind all of us of the sacrifices made every day by law enforcement officers and their loved ones.

INTRODUCTION OF THE DEFENSE OF FREEDOM EDUCATION ACT

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. PETRI. Mr. Speaker, today I have introduced the Defense of Freedom Education Act, legislation which is designed to create new, and strengthen existing, post-secondary education programs which teach the nature, history, and philosophy of free institutions, Western Civilization, and the threats to freedom from totalitarianism and fanaticism.

In order to sustain freedom and civilization, it is imperative that every generation be taught to understand their full significance and value, and the threats with which they are faced. However, in almost all of our institutions of higher education today, the study of American history and Western Civilization has been systematically de-emphasized. For a variety of reasons, these subject areas have fallen into disfavor on college campuses, to the point that it is possible at many leading universities to get a liberal arts degree without having taken one course in history or Western Civilization. This perpetuation of ignorance about the philosophical underpinnings of our nation can only have baleful consequences for the future.

To see that this de-emphasis is already having an effect, one must only examine the stunning ignorance about basic facts of American history among recent college graduates, as detailed in a 2000 study conducted by the American Council of Trustees and Alumni. To cite just one of the many horrifying examples

from that report, while 99 percent of the 556 college seniors tested at 55 leading colleges and universities (including Harvard and Princeton) correctly identified Beavis and Butthead as popular cartoon characters, just 23 percent had any idea who James Madison was. The questions used in this study appear in the CONGRESSIONAL RECORD for July 10, 2000 (page H5662–H5663). These multiple-choice questions, which, in truth, a well-educated ninth-grader should be able to breeze through, are increasingly over the heads of college graduates (the average score in the study was 53 percent).

Two years ago, I was very involved in a congressional effort to highlight this appalling situation. This effort led to the unanimous, bicameral passage of a concurrent resolution (S. Con. Res. 129) which stated, in part, that ''the historical illiteracy of America's college and university graduates is a serious problem that should be addressed by the Nation's higher education community.'' The nonbinding resolution urged colleges and universities to review their curriculum and add requirements for American history courses. However, perhaps it is time for Congress to take a more active role in trying to reverse this continuing loss of our collective civic memory.

To that end, the Defense of Freedom Education Act would offer grants to institutions of higher education, specific centers within such an institution, or associated nonprofit foundations. These grants would be used to establish courses at both the undergraduate and graduate levels which teach any or all of the following concepts, which bear both on American history directly and the ideas that serve as America's foundation:

The concepts, personalities and major events surrounding the founding of America. This includes the philosophical background behind the Declaration of Independence, the Constitution, and the free institutions which we take for granted today. Earlier generations were taught these subjects as a matter of course, but we are increasingly moving towards a time where Americans will think of the 4th of July as simply a day when we shoot off fireworks and hold picnics.

Western Civilization and the defining features of human progress which it embodies. These include democracy, universalism, individual rights, market economies, religious freedom, advanced science, and efficient technology. Programs of study funded under this bill can also examine the impact of the West on other civilizations, the Western debt to other civilizations, the comparative study of high civilization, and the process by which Western and other civilizations may be gradually evolving into a world civilization.

Threats to free institutions. Some of these threats emerge from philosophical systems such as Communism, Fascism, Nazism, and totalitarian thinking in all its guises. Others emerge from widespread human predilections subversive of tolerance, individual rights, and civil society, such as racism, caste consciousness, and zealotry. Some are the products of perverse ambition such as autocracy, despotism and militarism. All threaten freedom, provoke war, and induce terrorism. While we who lived through the 20th Century are painfully aware of the depredations caused by ideologies such as Communism, future generations will not have the benefit of such first-hand experience.

Projects supported under this program could include the design and implementation of courses, the development of centers devoted to the ends of this bill, research and publication costs of relevant readers and other course materials, and other clearly related activities. Support will also be given to professional development projects designed to help improve the content and quality of education about the founding and the history of free government at the K–12 level. (After all, a huge part of the problem is the awful quality of American history instruction provided by many school systems. A student really shouldn't have to reach the university level before finding out who James Madison was and why he was important to our country.) While I don't always see the creation of a new government program as the best way to solve pressing societal problems, there are several precedents in the area of higher education. It seems to me that it is a worthy use of government funds to try and arrest the progressive deterioration of America's collective memory which is now occurring. I encourage my colleagues to join in cosponsoring this bill and advancing this effort.

PAYING TRIBUTE TO JAMES SUCKLA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I take this opportunity to pay respect to the passing of James Suckla, who recently passed away at the age of 82 in Cortez, Colorado. James, known as Jack to his family and friends, will always be remembered as a generous, wise cattleman. His voice was heard at many a rodeo, his auctioneering at many a livestock sale, and his advice was sought by many in his community. Jack's wise management of his ranches and his wisdom and whit on committees earned him a respect that many only dream of and his love and care for his family and friends should be a guide for all to live by.

Jack Suckla was born in Frederick, Colorado on July 25th, 1919, to Anthony and Dorothy Suckla. The youngest of seven children, Jack learned many important lessons in his childhood, which served him well throughout his life. He married Helen Bradfield in Aztec, New Mexico on July 29, 1941 and remained with her for the following sixty years in which they were blessed with children and eight grandchildren. Jack joined the Navy during World War II, and after being wounded, returned to Cortez and followed the rodeo circuit as an announcer for twenty years. Jack awed the crowd during his rodeo career as a saddle bronco rider. He purchased the Cortez sale barn in 1953, and operated it with two of his sons, Larry and Jimmy. Jack went on to serve on numerous committees, including the NCA, SWCLA, BLM advisory board, the Forest Service, Vectra Bank Board of Directors, and the American Legion. His service stands as a testament to his dedication to not only his life long love of ranching but to his community and country

Mr. Speaker, Jack Suckla was a remarkable man whose leadership and goodwill towards people have inspired so many and whose good deeds certainly deserve the recognition of this body of Congress and this nation. Jack's departure leaves a gap in many hearts but his memory will surely live on in the thoughts and lives of those who know him. I join many others in expressing my deepest condolences to the friends and family of Jack Suckla.

INDIA SHOULD ACT LIKE A DEMOCRACY—SELF-DETERMINATION FOR KASHMIR, KHALISTAN AND OTHER NATIONS OF SOUTH ASIA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. BURTON of Indiana. Mr. Speaker, India calls itself ''the world's largest democracy'' yet it does not act democratic. As you know, a report from the Movement Against State Repression shows that India admitted to holding 52,268 Sikhs as political prisoners. Fort-two Members of Congress from both parties wrote to President Bush to urge him to work for the release of these political prisoners. There are tens of thousands of other political prisoners also, according to Amnesty International, and they must also be released. Recently, the Council of Khalistan wrote to Secretary of State Colin Powell to urge him to work for the release of political prisoners.

India has killed over 250,000 Sikhs since 1984, over 80,000 Kashmiri Muslims since 1988, over 200,000 Christians in Nagaland since 1947, and tens of thousands of other minorities. Mr. Speaker, this is not acceptable, and it shows that using the term ''democracy'' to describe India may not be the best use of the term.

Recently, former Senator George Mitchell said ''the essence of democracy is the right to self determination.'' I'm not in the habit of quoting Democrats, Mr. Speaker, but Senator Mitchell is right about this. In 1948, India promised the United Nations that it would allow the people of Kashmir to decide their future in a free and fair plebiscite. No such vote has ever been held. Instead, over 600,000 troops have been sent to Kashmir to suppress the legitimate aspirations of the people for freedom. Similarly, in Punjab, Khalistan, which declared its independence from India on October 7, 1987, over half a million troops have terrorized the population to destroy the Sikh Nation's freedom movement, even though the Sikhs were one of the parties to the agreement establishing the independence of India and were supposed to get their own state. Nagaland, which is predominantly Christian, has been trying to secure its freedom and India has reacted with similar terror. All in all, there are 17 freedom movements within India's artificial borders.

Mr. Speaker, it is time for all the people of South Asia to enjoy freedom. Until India allows the people to exercise their legitimate rights, we should stop all U.S. foreign aid to India. We also should formally declare our support for self-determination for Kashmir, Khalistan, Nagaland, and all the people and nations of South Asia. These measures will go a long way towards securing the blessings of freedom to all the people of the subcontinent.

A SPECIAL TRIBUTE TO NORMAN M. WALKER IN RECOGNITION OF HIS 25 YEARS OF SERVICE WITH THE DEFIANCE POLICE DEPARTMENT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. GILLMOR. Mr. Speaker, it is with great pride that I rise today to pay special tribute to an outstanding gentleman from Ohio's Fifth Congressional District. Norm Walker of Defiance, Ohio, will celebrate twenty-five years of dedicated service with the Defiance Police Department on August 15, 2002.

Mr. Speaker, Norm began work with the Defiance Police Department in 1977, and, over the years, has risen through the ranks to his current position serving as Chief of Police. On his way to becoming Chief of Police, he served as a Patrolman, Sergeant, Detective, Lieutenant, and as the Assistant Chief of Police.

Norm has proven his skills as an effective leader and organizational manager. In 1993 he assumed control of the city's law enforcement branch, and since then the Defiance Police Department has become a model after which other local police departments can pattern themselves.

During Norm's tenure as Chief of Police he has led the effort to modernize the departments resources, including the upgrading of all computer and communication equipment. These upgrades also include the installation of Mobile Data Terminals, which are in-car computers that provide real time data to the patrolmen on duty. He has also increased the overall size of the department, and mandated leadership training for all newly promoted officers. Restructuring the department's organizational methodology to a more pro-active approach through the introduction of community oriented policing strategies has been one of Norm's largest accomplishments since taking over as Chief of Police.

Norm has been recognized for his diligent service and unselfish commitment to establishing a modern and pro-active law enforcement agency. Among his numerous awards and recognition, he has received a Certificate of Exemplary Service by the Domestic Violence Task Force for the development and implementation of a countywide response protocol. Norm has also been honored by the Gang Resistance Education and Training (G.R.E.A.T.) Program for his instrumental role in implementing the program within the local school system.

Mr. Speaker, I would ask my colleagues to join me in paying special tribute to Norm Walker. Our local public service agencies and the American people are better served through the diligence and determination of public servants, like Norm, who dedicate their lives to serving the needs of others. I am confident that Norm will continue to serve his community and positively influence others around him. We wish him the very best on this special occasion.

TRIBUTE TO RYAN NOEL

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to a good friend and public servant who is working diligently on behalf of our nation's natural resources. Mr. Ryan Noel was recently named the recipient of the South Carolina Waterfowl Association Public Waterfowl Management Award. This award was given in recognition of excellence in public waterfowl management.

Mr. Noel is leaving his position as manager of the Santee National Wildlife Refuge to take a new job in Denver, and will be sorely missed. Mr. Noel is a consummate team player. His successful leadership of quality staff and local volunteers has resulted in tremendous improvements for waterfowl and wildlife habitat at the Santee National Wildlife Refuge.

Mr. Noel is committed to improving wildlife habitat and sharing this resource with the general public. He and his dedicated staff have successfully increased public use at the Santee National Wildlife Refuge. He has demonstrated that the role of the National Wildlife Refuge System is not only to conserve and enhance wildlife habitat but also to provide quality outdoor recreational opportunities and natural resource education to the general public. Mr. Noel and his staff have added greatly to the quality of life for people within and beyond the Sixth Congressional District of South Carolina.

Mr. Speaker, I ask you and my colleagues to join me and my fellow South Carolinians honoring Mr. Ryan Noel. He is a wonderful example of commitment to career and community alike and is well deserving of public recognition. We wish him Godspeed in his new endeavor.

JOHN'S LAW

HON. FRANK A. LoBIONDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. LoBIONDO. Mr. Speaker, this week marks the second anniversary of the tragic death of one of my constituents. U.S. Navy Ensign John Elliott, who had just received his commission to Naval Flight School in Pensacola, Florida, was struck and killed by a drunk driver on July 22, 2000. The accident instantly killed Elliott and seriously injured his passenger, Kristen Hohenwarter.

Sadly, it was later discovered that Michael Pangle, the driver responsible for Elliott's death, had been arrested for drunken driving earlier that evening. Having called for a ride, he was picked up by a friend and returned to his car. Elliott was on his way home for his mother's birthday party when he crossed paths with Pangle and both were killed.

Two years after that tragic accident, John's parents continue the fight to save other families from the grief they have endured. Lobbying the New Jersey State Legislature, the Elliotts saw to fruition the drafting, passage and ultimate enactment of John's Law. The law ensures that individuals who pick up an arrested driver sign a document accepting custody. Additionally, it gives State Police the authorization to impound the automobile of an arrested driver for up to 12 hours.

Today, I am introducing a resolution expressing the sense of the House that funding should be made available from the Highway Trust Fund to encourage all states to enact legislation to require law enforcement officers to impound motor vehicles of those charged with driving while intoxicated and to issue responsibility warnings to those who take custody of suspects driving while intoxicated. We are making important strides to eliminate the senseless deaths caused by the lethal mix of alcohol and automobiles. Annual deaths from drinking and driving have decreased from approximately 28,000 in 1980 to 16,068 in 2000. In 1982, 57 percent of all traffic fatalities were alcohol-related. In 2000, that percentage fell to 38 percent. However, much work remains to be done. Each death is a preventable one and I am sure this resolution will go a long way in ensuring deaths like Ensign Elliott's are prevented and families are saved from the pain the Elliotts and other families across the nation have endured.

I urge my colleagues in the House to support this resolution.

CELEBRATING THE ANNIVERSARY OF MALCOLM AND CAROLYN REGER

HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. PENCE. Mr. Speaker, I rise today to pay tribute to two of my constituents, Malcolm and Carolyn Reger. August 13, 2002 marks their 30th wedding anniversary. Today, it's rare to see this accomplishment, but I submit that there is a reason for their success. You see, Mr. Speaker, 30 years ago, Malcolm and Carolyn, entered into the holy union of marriage with Jesus Christ and God's Word as their foundation. A building is only as good as its foundation. A marriage based on God's Word will withstand the rain, floods, and winds that blow against it. Troubles will come, but a house built upon the rock will stand.

AMENDING THE INTERNAL REVENUE CODE OF 1986 TO ENCOURAGE THE GRANTING OF EMPLOYEE STOCK OPTIONS

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. Mr. Speaker, I am pleased to join my colleague from Ohio, Mr. HOGHTON, in introducing our bill, the Workplace Employee Stock Option Act of 2002, that would benefit working men and women who would receive a new type of stock option under new section 423(d) of the Internal Revenue Code. This bill is an updated and improved version of bills I introduced in the 105th and 106th Congresses.

We have been through difficult times in the past year. The financial downturn has resulted from a variety of questionable accounting

practices by a number of companies. Unfortunately, stock options of all types have been tarred by a common brush. This proposal is a new approach to options. In spite of current problems, it is good for both employers and employees if workers are also owners of the business.

Congress is considering legislation to impose new laws on corporations and accountants. Volume is reasonably intense in the debate on the advisability of expensing the value of stock options when they are granted. Expensing of options in financial statements may happen—even though there are several unresolved issues. If expensing happens, one hopes that we will leave it to the FASB and SEC to develop the best approach. Having said that, we would propose that the new type of option contained in this bill would be exempt from such valuation as a noncompensatory plan. Why? The option would be priced at market, fully available to nearly all employees, as well as management, on a nondiscriminatory basis, and subject to a relatively modest individual dollar cap. If we require expensing of such a widely held benefit, employers simply will not offer it.

The highlights of the bill include: (1) substantially all full-time U.S. employees would be eligible to participate, (2) the option price would be 100% of the fair market value at time of grant, the maximum annual amount of a grant per employee would be $11,000 (same as indexed 401 (k) amount), (4) no tax to the employee at time of grant or exercise, including AMT, (5) at time of sale the employee would receive ordinary income to the extent of the fair market value at time of exercise, with any excess being capital gain, and (6) the employer's deduction would be the fair market value at time of exercise (same amount as employee reports at sale).

The ever-widening compensation gap between the highly paid and the nation's work force is cause for great concern. Once again, let us emphasize: This new 423(d) option is designed for working men and women, whose everyday, solid work enhances the company's overall performance. This is a broad-based stock option program. Employees ought to be able to build their wealth beyond that which they would ordinarily receive from a salary or bonus. This proposal would add another leg on the stool for employee retirement by providing an additional means of accumulating assets. It would encourage the long-term holding of stock by deferring all tax until sale.

We encourage our colleagues to join in cosponsoring this legislation.

THANKS TO GLAXOSMITHKLINE ON ITS COMMITMENT TO THE LYMPHATIC FILARIASIS ELIMINATION PROGRAM

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. BALLENGER. Mr. Speaker, Last month, the pharmaceutical company GlaxoSmithKline produced the one-millionth donated tablet of albendazole, a drug that is being used to eliminate a devastating tropical disease called lymphatic filariasis (LF). I would like to congratulate GlaxoSmithKline (GSK) on this outstanding accomplishment, and thank the company for its commitment to the World Health Organization's (WHO) Lymphatic Filariasis Elimination Program.

GlaxoSmithKline has its U.S. headquarters in my state, where it employs close to 6,000 North Carolinians in the search for disease treatments and cures that improve the quality of human life by enabling people to do more, feel better and live longer. In addition to developing leading treatments for such diseases as diabetes, depression, asthma and HIV/AIDS, GSK produces an anti-parasitic drug called albendazole that is used to prevent a tropical disease known as lymphatic filiarias, or LF.

LF is a parasitic disease caused by thread-like worms that live in the human lymphatic system after being transmitted by a mosquito bite. LF is one of the leading causes of permanent and long-term disability in the world. The WHO estimates there are a billion people at risk in about 80 countries, mostly in India, Africa, South Asia, the Western Pacific and Central and South America. Over 120 million people have already been affected by LF, and over 40 million of these are seriously incapacitated and disfigured by the disease. In an infected person, the adult worms damage the lymphatic system, causing fluid to collect and cause swelling in the arms, legs, breasts and genitals. Such infections cause a grotesque hardening and thickening of the skin, known as elephantiasis.

LF has been a scourge of civilization for thousands of years, being first depicted on the pharaonic murals of Egypt and in the ancient medical texts of China, India, Japan and Persia. Elephantiasis was first associated with parasitic filarial worms and their mosquito vectors in the late 19th century by French, English and Australian physicians working with patients from Cuba, Brazil, China and India.

The WHO has determined that LF can be eliminated through an intense prevention program that will break the chain of infection through the use of anti-parasitic drugs. When these efforts succeed, LF will be only the second disease in history, after smallpox, to have been eradicated through human intervention.

In December 1997, GlaxoSmithKline formed a collaboration with the WHO to spearhead efforts to eliminate LF. GSK would donate albendazole, one of three essential anti parasitic drugs, for as long as necessary until the disease was eliminated—best estimates put the scale of this commitment at around five to six billion treatments. Since then, the program has evolved into a major public-private partnership known as the Global Alliance to Eliminate Lymphatic Filariasis.

GSK has become an active and involved partner in eliminating LF along with the WHO, organizations in the private and public sectors, and academia. By the end of the program to eliminate LF, GSK will have donated approximately five to six billion albendazole treatments for people in 80 countries. In addition to providing albendazole, GSK is supporting the Global Alliance for the Elimination of LF through help with coalition building, planning, training and communication initiatives.

GSK's production of the millionth dose of albendazole for the LF Elimination Program is an outstanding milestone achievement on the road to what will become the single largest pharmaceutical donation in history. I am pleased to represent the employees of GlaxoSmithKline, and proud to share the news of their historic accomplishment with this chamber.

PAYING TRIBUTE TO WILLIE TRAVNICEK

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to congratulate an outstanding individual from Colorado whose hard work and dedication have earned him the Colorado Division of Wildlife Officer of the Year Award. Willie Travnicek, 59 years of age, has been kicked by deer and poked by horns, he has trapped dangerous bears and looked death in the eye in an upside down kayak. Throughout his obstacles and exciting situations, Willie prevailed and today we applaud his 32 superb years with the Colorado Division of Wildlife. Willie's efforts and achievements deserve the recognition before this body of Congress and this nation.

Willie, of Salida, Colorado, began his career in 1970 as a technician in Hot Sulphur Springs in Northern Colorado. For numerous years, he helped round up and relocate herds of deer and elk. Never one to shy away from danger, Willie worked closely with Ron Dobson and became one of the first wildlife managers in the state to use a kayak for fishing-law enforcement purposes. During his thirty-year career and many years living in Salida, Willie has built a memorable reputation as a biologist, education specialist, and law enforcement officer.

Mr. Speaker, it is clear that Willie Travnicek is a man of great dedication and commitment to his profession and to the people of Colorado. His efforts have greatly added to the protection of Colorado's wildlife and I am honored to bring forth his accomplishments before this body of Congress today. He is a remarkable man and it is my privilege to extend to him my congratulations on his selection as the Colorado Division of Wildlife Officer of the Year. Willie, congratulations and all the best to you in your future endeavors.

A TRIBUTE TO KIM GRANHOLM

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. OBERSTAR. Mr. Speaker, I rise today to honor a fallen hero. Captain Kim Granholm, a member of the Esko, Minnesota Volunteer Fire Department, was tragically killed in the line of duty while fighting a car fire on Interstate 35 near Duluth on July 1, 2002.

Captain Granholm was only 28 when he died, but his legacy will continue for years to come. For four years, he was a dedicated member of the Esko Volunteer Fire Department where he was loved and respected by his fellow firefighters. In the outpouring of grief for Kim Granholm, more than 1,000 people attended his funeral, including hundreds of firefighters and emergency workers from across the state of Minnesota.

Captain Granholm was a caring man who put his wife Aliina and their children Robyn

and Alyssa above all else. Captain Granholm's caring and compassionate spirit guided him throughout his short life and his kindnesses are lasting tributes to all he touched. Kim Granholm died doing what he loved to do, serving his community. He was a father, a husband, a friend and a firefighter. Most of all, he was a hero to all of us.

Most troubling of all is the brutal reality that Kim Granholm was killed when a motorist failed to slow his vehicle at the fire scene. I am encouraged that Esko Fire Chief Jeff Juntunen and his Minnesota fire fighter colleagues are working with the Minnesota State Legislature to enact legislation that will impose severe penalties on drivers who speed through an emergency scene. I commend Chief Juntunen for this important initiative which, when enacted, will serve as a lasting tribute to Captain Kim Granholm.

Since September 11, we have witnessed throughout the land a heightened awareness of the public service and dedication of those first responders who answer the call. All Americans should go further and demonstrate our profound appreciation of these brave men and women by exercising caution at emergency scenes to enable these fire, police and emergency workers to do their job in a less hazardous environment.

TRIBUTE TO MRS. VICTORIA WRIGHT HAMILTON

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Mrs. Victoria Wright Hamilton, who will celebrate her 100th Birthday on September 12, 2002. Mrs. Hamilton, or ''Grandma Vic,'' as many affectionately know her, is a very remarkable woman in many ways. Born on September 12, 1902, in Alvin, S.C., Mrs. Hamilton has lived as an intricate part of the same community for a century. Although she only attended school up to the third grade, as did many women of color in that era, she is a very intelligent women who's knowledge cannot begin to be measured.

In 1920, Mrs. Hamilton married Henry Hamilton and their union produced nine children: Williemena, Christine, Julius, Rayford, Leroy, Nathaniel, Henry Jr., Rosa Mae, and an infant who died shortly after birth. Mrs. Hamilton also raised her husband's half brother Edward Hamilton, as if he were her own son, always filling their lives with love and affection.

Mrs. Hamilton is a very strong woman—in both mind and body. She has been a faithful member of Bethlehem Baptist Church throughout her life. In addition, she is also a dedicated member of the Christian Aid Society, and has been a member of the Laurel Hill Chapter #257, Order of the Eastern Star, for more than 41 years. As a young woman, Mrs. Hamilton worked long days in the fields of South Carolina picking cotton and plowing with oxen teams and mules. Even today, at the age of 100, she is still able to work in her garden to produce delicious fruits and vegetables. And, she never allows an opportunity to visit or help her friends or family pass her by.

In her spare time, Mrs. Hamilton makes beautiful hand-sewn quilts that can be found in many homes from Jamestown, S.C. to various communities along Interstate 95 from Florida, to Maryland. Having made over 100 of these quilts as gifts to her many family members and friends, ''Grandma Vic'', who is a Mother, Grandmother, Great-Grandmother, and Great-Great-Grandmother, has spread and continues to spread tremendous love and affection to everyone with whom she comes in contact.

Mr. Speaker, I ask that you and my colleagues join me in honoring an outstanding South Carolinian whose dedication to her family, and love for her fellow man are legendary. I wish her good luck and Godspeed, and a very Happy 100th Birthday.

RECOGNIZING THE LIFE OF THE LATE PRESIDENT JOAQUIN BALAGUER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. RANGEL. Mr. Speaker, I rise today to recognize the late President of the Dominican Republic, Mr. Joaquin Balaguer.

President Balaguer passed away on July 14th in the national capital of Santo Domingo in the Dominican Republic.

Mr. Balaguer was a long time friend of the United States. He held the presidency of the Dominican Republic from 1966 to 1978 and again from 1986 to 1996.

Mr. Balaguer was born in Navarette in the Dominican Republic. He is the son of a Puerto Rican father of Castilian descent and Dominican mother of Spanish blood.

He wrote books, including volumes of poetry and political science. At the age of 14, he wrote a collection of poems called, ''Pagan Psalms.''

After graduating from law school in Santo Domingo, he became a member of the foreign service, where he served in Madrid and Paris in the 1930s.

He earned his doctorate of law from the Sorbonne in Paris. He also taught law at the University of Santo Domingo before becoming vice president in 1957 and president in 1960.

Mr. Balaguer served under dictator Rafael Trujillo as cabinet member, diplomat, vice president and President for over three decades beginning in the late 1930s.

After General Trujillo was assassinated in 1961, Mr. Balaguer was thrusted into the leadership of the Dominican Republic. He quickly changed the name of the capital from Ciudad Trujillo back to Santo Domingo, the city's original name.

He fled to exile in New York City after riots and political turmoil erupted in 1962. While living in New York City, he formed his lasting right-wing political party.

He returned to the Dominican Republic only after U.S. President Lyndon B. Johnson sent 20,000 U.S. Marines to the island nation to put down a leftist mutiny within the army in April 1965.

With the support of the U.S., he was elected president in 1966 in one of the Dominican Republic's first freely contested elections.

He established, in just a few years of his election victory, the first solid middle class by implementing massive public work projects and economic reform, even though he was elected at a time when 60% of the nation was unemployed and two-thirds of its population was illiterate and its streets and towns were in ruins.

His first term was viewed as ''pseudo'' dictatorial in that he led with a firm grip and used the country's military to rule the country at the same time he made weekly visits through the nations small villages, visiting residents and passing out medicine to the sick and toys to children and listening to the desires of all.

Mr. Balaguer was defeated in presidential elections in 1978 after serving three terms. He remained leader of the political party he founded in the 1960's, now called the Social Christian Reform Party, and in 1986 won another bid to power.

He won elections in 1990 and 1994. In 1996, under increasing pressure from the U.S. and international bodies due to suspected election irregularities, he agreed to resign.

Mr. Balaguer remained an important figure in the political party he created until his death. Some herald him as the most influential Dominican.

[From the Washington Post, NewsBank NewsFile Collection, July 15, 2002]

JOAQUIN BALAGUER DIES AT 95, LONGTIME DOMINICAN LEADER

(By Richard Pearson)

Joaquin Balaguer, 95, the authoritative and paternalistic president of the Dominican Republic for more than 20 years between 1961 and 1996, died July 14 in the national capital of Santo Domingo. He had been hospitalized since July 4 for bleeding ulcers. He served briefly as president in the early 1960s, then held the office again from 1966 to 1978 and a third time from 1986 to 1996.

President Balaguer, who has been called one of Latin America's caudillos, hardly projected the image of a strongman. An award-winning poet, he had been a career diplomat and law professor before entering the political arena. He was a little over five feet tall, was lame and nearly deaf, and wore thick glasses before going blind with glaucoma in the 1980s.

His mentor was the notorious military dictator Rafael Trujillo, who ruled the country with an iron hand from 1930 to 1961. The future president held a variety of posts under Trujillo, dealing largely with education, foreign affairs and administration, before being elected vice president on a ticket headed by Trujillo's brother, Hector, in 1956. In 1960, the brother stepped down, and President Balaguer took office.

Real power remained with Rafael Trujillo until his assassination in 1961. After that, President Balaguer began liberalizing the government with such changes as legalizing political activities, promoting health and education improvements and instituting modest land reforms. But without the army backing of Trujillo, President Balaguer was too closely identified with the late dictator's unpopular actions to continue in office.

He was forced into exile in New York. Juan Bosch, a leftist, became president until overthrown by a military coup. In 1965, Bosch's supporters took to the streets to restore him to power. Chaos seemed to erupt in the nation of 8 million people, which shares its Caribbean island with Haiti.

The United States, fearing that a left-leaning Bosch might help turn his nation into another Cuba, dispatched U.S. Marines to the Dominican Republic, supposedly to protect U.S. lives. Those who had begun protesting U.S. involvement in Vietnam added this action to the list of mistakes made by the Johnson administration.

The Marines were replaced by an Organization of American States presence, order was restored and President Balaguer returned to his native land. He and his Social Christian Reform Party won the 1966 presidential race, despite charges of fraud, and went on to win two more consecutive terms.

Newsweek, which characterized President Balaguer as ''slight, ascetic and sad-eyed,'' reported in 1965 that he was ''neither an orator, nor a schemer,'' adding that many Dominicans considered him ''an honest, kindly reformer.''

President Balaguer lost the 1978 and 1982 presidential races, then was again victorious in 1986. He won reelection in 1996 (defeating Bosch) and in 1994. Two years later, after increasing criticism for vote fraud in the 1994 election, he resigned. He was unsuccessful in a 2000 bid to return to the presidency.

President Balaguer received mixed marks as head of his country. Soon after he took office the first time, critics were stifled, many going into exile while others were imprisoned or disappeared. Vote fraud and corruption seemed constants in the Dominican Republic, regardless of who was president.

He instituted large-scale public works, including the enormous 1992 Christopher Columbus Lighthouse. President Balaguer also brought about modest reforms and made a weekly habit of walking through his nation's small villages, visiting residents and passing out toys to children and medicine to the sick and listening to the desires of all.

Through it all, he managed to largely keep in the good graces of the United States, with the Dominican Republic becoming a huge recipient of U.S. foreign aid.

President Balaguer, whose only interests were collies and antique cars, never married and had no children. He wrote books, including volumes of poetry and political science. He was fluent in English and French as well as Spanish.

But politics became his life. He was head of his political party until his death, continuing to broker political deals and to counsel not only his party colleagues but other high figures, including presidents, as well.

In the 1980s, when foes tried to use his blindness against him during a presidential run, he said, ''I will not be asked to thread needles when in office.''

Joaquin Balaguer Ricardo was born in the small town of Villa Bisono, the only son of eight children. His father was born in Puerto Rico of Castilian descent. His mother was a Dominican of Spanish blood.

The future president, who won a poetry award as a teenager, graduated with a degree in philosophy and letters from the Normal School in Santiago and was a 1929 graduate of the University of Santo Domingo law school. He was a state attorney in the land court before entering the foreign service in 1932. He served in Madrid and then in Paris, where he received a doctorate in law and political economy from the University of Paris in 1934.

In 1936, he was named undersecretary of state for the presidency. In the 1940s, he served as ambassador to Colombia and Venezuela. He entered the cabinet as secretary of education and culture in 1949 and became secretary of foreign affairs in 1954. He also taught law at the University of Santo Domingo before becoming vice president in 1957 and president in 1960.

He defended the Trujillo years as a time when a strong hand was needed to rule a backward nation not yet ready for democracy.

Yet in his 1988 autobiography, President Balaguer admitted that his first presidency, when he was the figurehead chief of state for the brutal and bloody Trujillo, was ''the saddest and most humiliating'' time in his political life.

President Balaguer also had at times deplored the ''unavoidable excesses'' of his own security forces and deplored corruption, though stoutly maintaining that corruption stopped at his door.

IN HONOR OF THE 75TH ANNIVERSARY OF LA-Z-BOY, INC.

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. DINGELL. Mr. Speaker, I rise today to recognize and pay tribute to La-Z-Boy, Incorporated, which was founded and remains headquartered in my Congressional District in Monroe, Michigan. La-Z-Boy is celebrating 75 years of bringing comfort, quality and style into homes and offices worldwide through its extensive selection of furniture.

The La-Z-Boy story is the story of the American dream. On March 24, 1927, in Monroe, Michigan, two young entrepreneurs and cousins, Edward M. Knabusch and Edwin J. Shoemaker, left the security of their jobs to take a leap of faith and begin manufacturing a unique and innovative product. A porch chair wrapped in fabric was the prototype for the La-Z-Boy recliner, a moniker that has become a worldwide household term. Using money from Edwin's mortgaged family farm and donations from relatives, the cousins built their first factory by hand, brick by brick. After introducing the revolutionary chair that both rocked and reclined, La-Z-Boy sales skyrocketed. La-Z-Boy evolved from a small business to having a place on the New York Stock Exchange.

La-Z-Boy has grown immensely in its 75 years of operation. The company has added many new products and features over the years, which have enabled it to remain competitive in the furniture industry since its founding. La-Z-Boy has grown from ''two guys in a garage'' to nearly 19,000 employees worldwide. Today, La-Z-Boy generates annual sales in excess of $2 billion, making it the largest manufacturer of upholstered furniture and the world's leading producer of reclining chairs.

La-Z-Boy is a great success and consistently shares its good fortune with the community of Monroe. Its philanthropy is rooted in small town values that prevailed when Mr. Knabusch and Mr. Shoemaker first launched the company. During World War II, La-Z-News kept the community informed about overseas news, and the company rented out garages to build the most comfortable tank seats and crash pads in the country. La-Z-Boy continues being very much involved in the city of Monroe and is a major asset to Michigan's 16th Congressional District.

Mr. Speaker, I would like you to join me in commending the La-Z-Boy corporation and its employees for their leadership in both their industry and in their community, as we celebrate their 75th anniversary.

PERSONAL EXPLANATION

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Ms. ESHOO. Mr. Speaker, I was absent March 12 through 14 for medical reasons. Had I been here, I would have voted ''yes'' on rollcall votes 53–54, 56–61, 63–64 and ''no'' on rollcall votes 55 and 62.

HONORING THE SERVICE OF MASTER GUNNERY SERGEANT MICHAEL THOMAS FLETCHER, UNITED STATES MARINE CORPS

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. EVANS. Mr. Speaker, on the occasion of his retirement, it is my pleasure to recognize an exceptional United States Marine, Master Gunnery Sergeant Michael Thomas Fletcher. Master Gunnery Sergeant Fletcher has served our Nation with distinction for over three decades in the United States Marine Corps, rising from Private to Master Gunnery Sergeant. He has served in times of both war and peace and has gone from patrolling the jungles of Vietnam to walking the halls of Congress. During the Vietnam War, he was awarded: the Combat Action Ribbon; the Vietnam Service Medal with one star; the Republic of Vietnam Campaign Medal; and the Republic of Vietnam Meritorious Unit Citation of the Gallantry Cross. His personal awards have included two Navy/Marine Corps Achievement Medals, a Navy/Marine Corps Commendation Medal, and he has been recently recommended for the Legion of Merit.

During Master Gunnery Sergeant Fletcher's last six years of service, he has been the Administration Chief in the United States Marine Corps' Office of Legislative Affairs. That office supports Members of Congress and Congressional committees in matters of legislation, protocol, and logistics for Congressional travel. Master Gunnery Sergeant Fletcher brought a wealth of managerial expertise and leadership to this office and contributed significantly to the successful accomplishment of its mission.

During these six years, Master Gunnery Sergeant Fletcher has helped carry the Corp's message to the Congress. He has enabled the Marine Corps' Office of Legislative Affairs to provide consistent and timely responses to the United States Congress, and in doing so, has made a lasting contribution in the containment of today's readiness and shape of tomorrow's Marine Corps. Particularly noteworthy have been his efforts in directing, organizing, and escorting Members of Congress and their staffs around the world. His attention to detail in making these important trips logistically successful is yet another indication of this Marine's talent and professionalism.

Master Gunnery Sergeant Fletcher has made immeasurable contributions to both today's Marine Corps' and to the Corps of the 21st Century. His superior performance of duties highlights the culmination of more than 30 years of honorable and dedicated Marine Corps service. By his exemplary competence, sound judgment, and total dedication to duty, he has served well this body, the United States Marine Corps and our Nation. Please join me in wishing Master Gunnery Sergeant Fletcher, his wife, Barbara, and their sons, Joel and Gary, all the best as he begins this new chapter in life.

TRIBUTE TO THE 13-COUNTY MUTUAL ASSISTANCE ASSOCIATION OF NORTH ALABAMA

HON. ROBERT E. (BUD) CRAMER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. CRAMER. Mr. Speaker, I rise today to recognize the North Alabama 13-County Emergency Management/Civil Defense Mutual Assistance Association as it celebrates over three decades of dedicated service to the North Alabama community. The association, which dates as far back as 1971, consists of the Emergency Management officials in Colbert, Cullman, DeKalb, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan and Winston Counties across North Alabama. This organization has tirelessly protected countless lives in Alabama over the last thirty years, and I rise on behalf of my constituents in North Alabama to express my sincere appreciation to these EMAs.

Formally organized in December 1978, the association was established with a purpose of working together among the thirteen counties across North Alabama to help each other protect lives and property in a coordinated, efficient, reliable and effective way during times of emergencies that exceed the capabilities of any single affected local government. The association works closely with the State of Alabama Emergency Management Agency to better facilitate effective response to critical situations.

The EMAs from these thirteen counties had the foresight over three decades ago to recognize a concept that is today strongly advocated by all levels of government, that being, just how critical it is to cooperate across artificial jurisdictional boundaries in order to respond to emergencies. And now, when securing our homeland and preparing for emergency response is of utmost importance, the rest of the country has begun to realize the value of this kind of cross-district cooperation by strongly promoting and requiring mutual aid and regional response capabilities, I want to commend the North Alabama EMAs in the 13-County Mutual Assistance Association who have worked so hard to protect the livelihood of North Alabama citizens.

The 13-County Mutual Assistance Association serves as a standard for EMAs across our nation. In today's uncertain world, our first responders have to be ready to react quickly and effectively to large-scale emergency situations that cross city and county lines. Mr. Speaker, on behalf of the citizens of North Alabama, I am pleased to recognize and thank the 13-County Mutual Assistance Association of North Alabama for leading the nation with their innovative outlook on cooperative emergency response developed over thirty years ago.

PAYING TRIBUTE TO WARREN BYSTEDT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize an outstanding individual from Grand Junction, Colorado. Over the years, Warren Bystedt has grown to love cross-country running and he continues to run competitively today at the age 72. It is a great pleasure today, to honor Warren Bystedt for his numerous achievements and accomplishments before this body of Congress and this nation.

Earlier in Warren's life when he was an amateur boxer, he trained consistently, but avoided running because he disliked that element of conditioning. Today the Grand Junction resident has a different view, and can be seen pounding the pavement diligently every morning. Warren's passion for running has motivated him to train everyday for fifty or so yearly races. Gus said, ''If I didn't start my morning with that, (run) I wouldn't know what to do.'' Warren provides the same determination and thoroughness to his daily activities and events.

Warren consistently finishes among the top in the sixty or seventy and older of age divisions in races throughout the country. His competitive nature comes from his earlier days as an amateur boxer when he lost only seven of seventy bouts fighting in the flyweight division. A long time educator and administrator in Minnesota, Illinois, and Iowa, he took up running after taking a hard look at his family history noting that his brothers and father all died of heart attacks and not wanting to suffer the same fate, he began running around his neighborhood in Davenport, Iowa, in 1979. Grand Junction, Colorado, has given Warren the optimum climate in which to run on a year-round basis and he is an active member the Mesa Monument Striders.

Mr. Speaker, I rise to acknowledge the work and contributions of Warren Bystedt, a distinguished citizen and role model for his community. His achievements are impressive, and it is my honor to recognize his accomplishments today. Best wishes to Warren, and good luck on all your future races.

HONORING ANDREA FOX

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Andrea Fox of San Rafael, California, a talented professional planner, community volunteer, athlete, and breast cancer activist and an inspiration to many.

Andrea Fox lost her tenacious battle against breast cancer on July 2, at the age of 35, leaving a legacy of extraordinary courage and compassion.

A beautiful young woman with incredible grace and dignity, ''Annie'' Fox was dedicated to finding a cure for breast cancer. Diagnosed with a particularly aggressive cancer in 1998, the former triathlete, who ate organically and exercised regularly, had none of the traditional risk factors for cancer. Undergoing a lumpectomy, she continued her athletic training and the stage IV cancer seemed to disappear. But, in April 2000, cancer came back and, pursuing every treatment she could find, including non-western, untraditional methods, Annie appeared to have beaten it back again.

Andrea focused her considerable energies on increasing public awareness and getting national attention for the serious epidemic of breast cancer in Marin County, joining the board of Marin Breast Cancer Watch. ''Annie was our angel,'' said Board President Roni Peskin Mentzer.

Whether lobbying in Sacramento for breast cancer research or educating the community about the dangerously high rates of cancer in Marin, Annie made a difference, she made history. Never daunted, she participated in athletic events such as the renowned Dipsea Race and the Human Race, and was organizing new events, like the July 20, 2002 foot race from Mill Valley to the Mountain Theater on Mt. Tamalpais to increase public knowledge and raise much needed funds for research.

In October 2001, only two months after her engagement to longtime partner and soul mate, Chris Stewart, the cancer reappeared and Annie mounted still another heroic campaign. Not one to seek sympathy, she was driven to passionately lead the fight for all women to find a cause to this insidious disease. Despite increasing pain, she continued her work at the Marin Civic Center. ''Annie was a special person . . '', Stewart said, ''bringing a wonderful happiness to all those who knew her. . . . She was passionate about her work and about preserving the environment.''

A woman of uncommon positive spirit, Andrea Fox lost her courageous battle with breast cancer surrounded by friends and family, leaving her devoted fiancé, mother, brother, and a grieving community.

We are all more fortunate to have been graced by the presence of Andrea Fox, her beauty, wisdom and strength. Her love, resolve and remarkable will are the cornerstones of the legacy of courage she has left so that we might continue the fight. While Annie is gone, the spirit of this ''angel'' of our community will forever be with us.

STATEMENT ON THE ELI HOME CARIÑO WALK-IN CENTER

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Ms. SANCHEZ. Mr. Speaker, I rise today to congratulate the Eli Home Cariño Walk-In Center in Anaheim which opened its doors on July 13 to families throughout my district.

Many families in my district do not have a place to go to get support, find information, or just ask questions. The Center will help these families, many of whom are dealing with economic crises and other stress creating situations.

The Eli Home is dedicated to providing free, bilingual services to Spanish-speaking families. The center offers parenting classes, weekly forums, case management, counseling, and child-abuse prevention.

The City of Anaheim has recognized this organization and has welcomed it into the community. I would like to do the same.

I would like to personally thank The Eli Home Cariño Walk-In Center staff for their hard work and dedication to the community and for creating a positive environment for my district.

SCOTT DETROW: REACHING TO AMERICA'S FUTURE

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. BARRETT. Mr. Speaker, I wish to recognize Scott M. Detrow from my district, a talented young man who recently won the 2002 Voice of Democracy Broadcast Scriptwriting Contest. Sponsored by the Veterans of Foreign Wars (VFW), this competition provides an opportunity for high school students to voice their opinion on their responsibility to our country. More than 85,000 secondary school students participated this year, with only 58 winning a national scholarship.

Mr. Detrow's essay on the American response to the September 11 terrorist attacks captured the contest's theme of ''Reaching to America's Future.'' He channeled his feelings and emotions to create an inspirational piece upon which everyone can reflect. I ask my colleagues to join me in recognizing Scott M. Detrow for his special achievement, and I submit to the CONGRESSIONAL RECORD the complete text of Mr. Detrow's piece:

A hush fell over the students as they entered the plaza. Their joking and fidgeting suddenly stopped as their eyes came upon the massive sculpture before them. It was a sunny and cool autumn day in lower Manhattan, perfect for a field trip to the World Trade Center Monument. The high-schoolers found it hard to believe that some fifty years before, two of the tallest buildings in the world had stood there, and that they had been destroyed in a matter of minutes.

''Imagine the terror New Yorkers and Americans must have felt that day,'' the tour guide began. ''No one knew what to expect, who had done it, or why. For the first time since the War of 1812, mainland America had been attacked; for the first time since Pearl Harbor, flung headlong by surprise into war.''

''How did the country react?'' piped up one of the more outgoing students. ''Excellent question,'' replied the tour guide. ''From the ashes of the Trade Center and the Pentagon rose the Phoenix of Patriotism, of courage, of will. Americans rushed to blood centers, waiting for hours to give the gift of life. Hundreds of millions of dollars were raised to help the victims. Millions more prayers were offered, as Americans flocked to their mosques, synagogues and churches. Rescue teams were overwhelmed by the crush of volunteers, and the support of the entire nation was heaved upon their president and leaders, wholeheartedly trusting in the American system of democracy.''

''Soon you could not go a block without seeing Old Glory. From the steps of the Capitol—still standing thanks to courageous passengers who fought off suicide hijackers—to the playing fields of professional sports, to schools all across the country came the sweet sound of 'God Bless America.' ''

By now many students had their hands up. ''But I read that the economy went into a recession, and that soon afterward biological terrorism began arriving by mail. How could this spirit be maintained in such a dark time?''

''That's a paradox that helps make America such a great country,'' answered the guide. ''It seems that throughout our history, our darkest hours were also our finest. In 2001 we refused to let the terrorists win. People continued with their regular lives, but a bit more mindful of what was really important. Friendships were bonded, old rifts erased, and the country truly became one nation under God. The country felt up to any challenge, and took it one day at a time. Every time a new problem arose, Americans simply dealt with it and continued to march forward. Everyone rose to the occasion, from the President to the firefighters, to the average Joe.''

The students gazed at the monument, reflecting on the greatness of the generation past. They had never seen their grandparents and great grandparents in this light, and were stunned by the character they showed and the actions they took in the face of adversity. Faced with pure evil, they had stood up to it and won. These were the true heroes, these men and women who stood on the very spot where they were now, working non-stop for months on end sorting through the rubble, hoping against all odds to find survivors.

As a distant clock struck twelve, the sun shone directly upon the monument. The students saw the memorial in its full splendor, a firefighter, a police officer, old man, and young girl, all gazing and pointing off into the distance. The reflecting pool cast a glimmer of hope in the statues' faces: the promise of a new tomorrow.

HUMAN RIGHTS ISSUES

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mrs. MORELLA. Mr. Speaker, while our nation recovers from the tragedy of September 11 and turns its focus toward hemispheric defense, we should also realize that crucial human rights issues are in jeopardy in our own backyard. Unbeknownst to many in this country, the situation in Guatemala is worsening by the day. During the Cold War, a 36-year civil war raged in this Central American nation, resulting in an estimated 200,000 civilian deaths. Now, the infamous architect of Guatemala's most intense period of genocide against the Maya indigenous population, ex-director General Efraín Ríos Montt, has staged a political renaissance thanks to a climate of intimidation and violence produced by the military's death squads.

Andrew Blandford, Research Associate at the Washington-based Council on Hemispheric Affairs (COHA), has recently authored a press memorandum entitled ''Ríos Montt's Political Resurgence in Guatemala Coincides with Increase in Violence with Impunity.'' This important analysis, which was released on July 26, will shortly appear in a revised form in the upcoming issue of that organization's estimable biweekly publication, The Washington Report on the Hemisphere. Blandford's research findings spotlight the developing Guatemalan human rights tragedy and examine the role played by that nation's government and military in violently covering up its sanguinary past.

The inauguration of a second cycle of death squad activity in Guatemala was brought to the world's attention in 1998 when Bishop Juan Gerardi was bludgeoned to death in his garage just two days after delivering his report itemizing the army's responsibility for thousands of massacres during the 1980s. This year, human rights activist Guillermo Ovalle de León was shot at least 25 times while eating lunch at a restaurant in Guatemala City, and a June 7 fax signed by Los Guatemaltecos de Verdad labeled 11 prominent Guatemalan human rights activists as doomed enemies of the state because of their cooperation with UN Special Representative Hina Jilani during her May visit. Clearly, Mr. Speaker, Guatemala's militant regime is willing to commit whatever atrocity is necessary to shield its murderous past from the eyes of the international community.

COHA researcher Blandford calls for the renewal of the 12-year U.S. ban on International Military Education and Training (IMET) to Guatemala. This resolution would illustrate the desire of the United States to attain peace and justice, as well as security, in Central America. By denying funds to the Guatemalan military, the U.S. would inherently be guarding civilians from political intimidation and violence. Consequently, the article is of great relevance since the need to constructively engage Guatemala is likely to grow in intensity in the coming months, given the nation's mushrooming trend of death squad killings.

PAYING TRIBUTE TO PARKVIEW HOSPITAL

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. McINNIS. Mr. Speaker, I stand before you, this body of Congress, and our nation to recognize Parkview Medical Center of Pueblo, Colorado. For the past eighty years, Parkview Hospital has provided medical care to the community in a kind, friendly, and dedicated manner. It is hard to match the kind of integrity and honesty provided by the staff of Parkview, and I thank the staff for their extraordinary contributions.

Parkview Hospital fist emerged because of the influence of six prominent physicians in 1921 after a disastrous flood in 1921. Parkview was officially established in 1923 and had great success from its inception, which required the facility to expand and renovate every ten years. Today, several additional wings have been added to create what is today a state-of-the-art medical center in Southern Colorado. Parkview offers the citizens of Pueblo and surrounding communities a radiological cancer treatment department, obstetrical floor, surgical section, Psychiatric and Chemical Dependency Unit, Neurological Intensive Care Unit, Computer Axial Tomography Whole Body Scanner, Same-Day Surgery Wing, and Kidsville Pediatric Unit. Moreover, Parkview fulfilled requirements to classify their Emergency Room as a Level II Trauma Center.

Mr. Speaker, I am proud to honor the hard work and determination of the staff of Parkview Medical Center. The compassion illustrated by staff members will be reflected in the hearts of patients for years to come. I would especially like to recognize Chief Executive Officer C.W. Smith and former Chief of

Staff Dr. Janice Elaine Kulik for their unrelenting dedication to the medical treatment of patients and coordination of all Parkview activities. Congratulations to Parkview Medical Center on your recent milestone and I wish all the best to the staff.

JIM CIRILLO, MANAGER OF THE RAYBURN BUILDING SPECIAL ORDERS DELI, WINS HOSPITALITY MANAGER OF THE YEAR AWARD

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. NEY. Mr. Speaker, the House has an award winner amongst its workforce. Mr. Jim Cirillo, an employee of one of the House food service contractors Guest Services, Inc. (GSI), won the 2002 Capital Restaurant & Hospitality Award for ''Hospitality Manager of the Year.'' Jim is manager of the Rayburn Building Special Orders Deli and Pazzos Pizza. This annual award given by the Restaurant Association of Metropolitan Washington and the Washington, DC Convention and Tourism Corporation was presented to Jim at the industry's annual Awards Gala on Sunday, June 23, 2002 in Washington D.C.

One of five nominees from facilities in the Washington D.C. Metropolitan area, Jim won top honors for his superior service and extraordinary management skills as the manager of two facilities in the U.S. House of Representatives. Guest Services' President/CEO, Gerry Gabrys commented, ''Members of Congress and their guests and staff have gone out of their way to recognize Jim's attitude and superior service on many occasions.''

In a survey of customer satisfaction last fall, the Rayburn Special Orders deli was found to have the highest satisfaction rating amongst GSI's eleven business locations within the House. Recently, Jim developed two innovative websites where Members of Congress and their staff can conveniently and effortlessly place their food orders.

On behalf of the House of Representatives, I'd like to recognize Jim for this outstanding and well-deserved award, and for Jim's service to the House and his customers. Thank you Jim and keep up the great work!

RECOGNIZING THE WORTHINGTON, OHIO POOCH PARADE

HON. PATRICK J. TIBERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. TIBERI. Mr. Speaker, I would like to recognize the Pooch Parade held in Worthington, Ohio. The Pooch Parade is an annual event dedicated to the strengthening and educating of the unique relationship between dogs and the people who love them. In addition, the Parade helps create awareness of the growing number of homeless pets, the groups who work to find homes for them to end pet overpopulation and the valuable work of the hundreds of dog rescue groups and their volunteers.

In 1989 Robert Haas had the idea of organizing a parade of dogs and their people in Worthington, Ohio. He envisioned an event that would draw thousands, provide a fun time for all, and be a great vehicle for increasing public awareness of homeless pets and pet overpopulation.

In 2000, that idea became the Pooch Parade. In April of that year, approximately 800 dogs and 5,000 people participated in the Parade. Rescue groups were there with dogs looking for a ''forever home.'' There were vendors with an assortment of dog-related items. People and dogs had a great time and an annual event was born. In 2001, the Pooch Parade attracted approximately 2,500 dogs and 8,000 people as well as more rescue groups and vendors. The 2002 Pooch Parade was attended by over 3800 dogs, 9000 dog-lovers and 50 rescue groups making the Worthington Pooch Parade the largest official Pooch Parade in the country.

The theme for the 2002 Parade, held in April, was ''America's Best Friend.'' Ohio search and rescue dogs that worked in New York after the 9/11 terrorist attacks were honored.

I congratulate all of those involved with the Pooch Parade for their dedication to the issues of homeless pets, pet overpopulation and rescue dogs, and wish the Parade many more years of success.

HONORING BILL LAIRD FOR HIS COMMITMENT TO YOUTH

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. GORDON. Mr. Speaker, I rise to speak today about a distinguished member of my district who is being honored by an organization that has had an immeasurable impact on America. Bill Laird, a retired employee of Willis Corroon, is Junior Achievement's National Middle School Volunteer of the Year.

He has volunteered for nine years and taught 25 JA classes in that time. Mr. Laird always goes above and beyond his classroom duties, using his work and life experiences as a way to educate young people about business, economics and the free-enterprise system.

The history of Junior Achievement is a true testament to the indelible human spirit and American ingenuity. Junior Achievement was founded in 1919 as a collection of small, after school business clubs for students in Springfield, Massachusetts.

Today, through the efforts of more than 100,000 volunteers in classrooms all over America, Junior Achievement reaches more than four million students in grades K–12 per year. JA International takes the free enterprise message of hope and opportunity even further to nearly two million students in 113 countries. Junior Achievement has been an influential part of many of today's successful entrepreneurs and business leaders. Junior Achievement's success is truly the story of America—the fact that one idea can influence and benefit many lives.

Mr. Speaker, I wish to extend my heartfelt congratulations to Bill Laird of Franklin for his outstanding service to Junior Achievement and the students of Tennessee. I am proud to have him as a constituent and congratulate him on his distinguished accomplishment.

HONORING TAKIRA GASTON

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. LARSON of Connecticut. Mr. Speaker, I rise today to honor and pay tribute to Takira Gaston of Hartford, Connecticut. On July 4, 2001, Takira was playing at her family's Fourth of July cookout like any 7 years old would be on hot summer afternoon. However, this typical American scene was shattered in an instant by the sound of gunshots. Two drug dealers were exchanging gunfire when one of the bullets struck Takira in the face.

Takira survived and has faced numerous surgeries, with more to come. She has handled the pain and fear with courage that is rare in such a young person. Her brave fight was chronicled by Tina Brown of the Hartford Courant on the one-year anniversary of the shooting. This moving story describe Takira's perseverance and I wish to submit it for the RECORD.

No child should have to go through the ordeal that Takira has gone through. I ask my colleagues to join with me in honoring Takira's courage and continuing to work to rid our cities of the violence that plagues them.

[From the Hartford Courant, July 4, 2002]

THE COURAGE TO HEAL

(By Tina A. Brown)

NEW HAVEN.—After riding the toy cars and playing ''Donkey Kong'' on the computer, Takira Gaston flashes a bright smile that makes others in the pediatric surgery center forget the protruding scars on her face.

She's having a good day on this sunny Thursday despite being at Yale-New Haven Hospital for her second round of reconstructive surgery. She's thinking about splashing in her family's above-ground pool and jumping on the trampoline in her backyard, a safe place in a new neighborhood where gunfire is seldom heard.

After playing, Takira takes time to think of someone else. Someone like her, who was shot in the face.

Takira tells her adoptive mother, Delphine Gaston-Walters, that she wants to visit New Haven police Officer Robert Fumiatti, who's recovering at Yale-New Haven after being shot last month by a suspected drug dealer. They talk briefly with Fumiatti, whose head is stabilized by a metal halo. He calls Takira ''courageous'' and reaches out to shake her hand. But her good mood vanishes. She's scared. She refuses to shake his hand and backs out of his hospital room.

''They are not going to touch my face,'' she says, with anger in her eyes, as she returns to the surgery center. Deep down, she knowns she has no choice, but that doesn't stop her from launching into an hour-long temper tantrum.

Such are the shifting emotions of an 8-year-old girl trying to recover from a stray bullet that tore through her face—and awoke people to the violence in the city—on July 4, 2001. The men responsible for her shooting, Anthony Carter and Maurice Miller, were convicted this spring. But for Takira, the physical and emotional scars continue to heal, in fits and starts.

TAKING A GAMBLE

Unlike a light-skinned person with a bullet wound, Takira faces another obstacle to her

healing simply because she happens to be dark-skinned.

She is prone to keloids, an excessive growth of scar tissue common among African Americans. The skin disorder has left thick, shiny scar tissue in the areas where the bullet cut through her cheek and where surgeons cut under her chin to piece her face back together.

She has returned to surgery to have the keloids removed, a gamble that her doctors and Gaston-Walters believe is worth taking. If the surgery is successful, Dr. James C. Alex, director of the division of facial plastic and reconstructive surgery at the Yale School of Medicine, is hopeful that the remaining scars left on Takira's face will gradually blend in with her otherwise perfect skin tone. But there's a 50 to 80 percent chance the keloids will return, just as bad or worse.

Takira has drifted into drug-induced sleep just before 3 p.m., as she is rolled through the double doors, draped in a cornflower blue paper sheet.

The sheet covers her up to the lower half of her chin, which is facing up toward the satellite dish-shaped lights. As the clock on the wall marks 3:11 p.m., Alex sits on Takira's left side and Dr. Bruce Schneider sits at her right.

Alex begins the delicate process of cutting out the scars and sewing Takira's face back together, much like a master quilter. Nurse John Breslin hands him a scalpel to cut around the U-shaped scar under Takira's chin. Schneider swabs the blood where Alex has cut, and applies medicine to limit the bleeding.

The scar, thick and wide, is in the same spot that Alex and Schneider cut open last July, when they pulled up the skin over her lip line, to expose her shattered jawbone, broken teeth and bullet fragments. The area was cleaned and rebuilt and a metal plate has been serving as her temporary jawbone while the bone grows back.

With methodical movements, Schneider, an oral surgeon and formerly chief resident at the Hospital of St. Raphael in New Haven, uses a small metal tool with two prongs to grasp the outer skin tissue. Alex examines the inner tissue and tests the area for nerve activity. Together, for another 25 minutes, they work on both sides of Takira's face, slowly cutting around the inner tissue of the worst scar.

Alex begins sewing together the inner skin using blue sutures, which look like dental floss, though fine as hair. The goal is to sew the tissue together without gripping it too hard, Alex instructs. ''We are trying not to create tension on the skin. This will give you a more favorable scar. You will always have a scar.''

Another 30 minutes pass. Alex and Schneider pull up the outer skin, and prepare for another ''close.'' Again, they start sewing from opposite sides. A local pain reliever is applied to the scar tissue now sewn together and shaped like a thin cornrow-like braid. Rather than sew in a straight line, they create a ridge-like skin overlay, so that if Takira's new scar expands, it will push down flat rather than bubble up into a keloid, Alex says.

At 5:11 p.m., two hours after they opened it, the first scar under Takira's chin is nearly done. Their work is cov ered with antibiotics and an oily liquid that makes the bandages stick like glue.

Once the chin is finished, they move on to smaller scars on her neck, where incisions were cut to make way for a breathing tube in her throat. Next, they cut out the scars on her cheek, and repeat the process of sewing up the inner tissue and the outer skin, covering them with antibiotics and lotion.

Surgery is over at 6:58 p.m., three hours and 47 minutes after it began.

NIGHTMARES RETURN

Takira, her mother and the surgeons won't know for several months whether the keloids will return.

But it was a risk they took because Takira didn't want the scars to continue giving ammunition to the meanspirited children who call her scarface. Gaston-Walters, a dutiful parent, wants to protect Takira from those kinds of mental scars.

But for Takira, the pain and fear associated with the surgery make it hard to envision the outcome.

''Come on Missy, be nice,'' Gaston-Walters tells Takira four days after the surgery, ''It's time for the stitches to come out.''

Takira is trying to hit Dr. Alex, who wants to remove the stitches from her chin, cheek and neck at a record pace to prevent new scars from forming. But first he has to endure the fight of the tough-spirited little girl. Gaston-Walters grasps Takira's hands to restrain her, and Takira is promised a trip to Chuck E. Cheese's if she behaves. But she continues to cry, scream and fight.

She is given a sedative, and she goes to sleep. She appears at peace, but at home since the surgery, she wakes up at night frightened by her dreams. The nighmares had stopped about eight months after the shooting and the family's move to a quieter neighborhood, but the surgery has brought it all back again.

Takira is lying on her side when she wakes up in the examining room. Alex has finished taking out the stitches on her cheek and chin and is working on her neck when she flinches. She returns to a fighting posture, but avoids a full-blown tantrum when Alex reassures her that the procedure is nearly over.

He applies the oily liquid that smells like evergreen to each scar before placing white strips of tape, which act like sutures, on her face.

Removing keloids through surgery is risky, according to experts who have used a number of techniques to remove the scar tissue, including surgery, radiation and herbal creams.

''The keloids are like cancer that gets bigger and bigger,'' said Dr. Tom Geraghty, a plastic surgeon from Kansas City who has spent the past 24 years removing keloids from patients in Bolivia and the Dominican Republic.

Some patients develop the scarring from a bug bite, others from burns and other injuries that are untreated. Geraghty has seen a boy with a burn on his chest develop a keloid ''thick as armor'' and plenty of girls with keloids ''the size of a grapefruit'' as a result of ear-piercing.

No one can say yet why people with darker complexions are more likely than lighter-skinned people to get keloids. When children like Takira are afflicted with keloids, Geraghty supports the decision to remove the scars through surgery.

''Poor baby. Surgery is always a gamble, but a good gamble if you have no choice,'' he said. ''If it were my daughter, I'd do it.''

SPLASHING AROUND

Almost two weeks after the surgery, Takira got her wish to play in the water. The portable pool hasn't been blown up yet, but she, her brother John and twin sister, Takara, take turns playing with the garden hose in a make-believe game of carwash.

There is no talk of the white bandages that still cover the lower half of Takira's face. The scar on her cheek is no longer covered and seems to be healing normally, no sign of a new keloid.

''Dr. Schneider said it was OK for her to get wet,'' Gaston-Walters said.

After the bandages are off, Gaston-Walters will apply an expensive over-the-counter herbal ointment to each of Takira's wounds, hoping to prevent excessive scarring.

None of that is on Takira's mind as she waits for her turn to rinse off the gold-colored pickup parked in the driveway. The game on this hot summer day, just three days before the anniversary of the shooting, is more about getting wet than washing cars.

''You wet me,'' Takira yells to Takara, who hands her the hose.

You wet me too,'' Takara says.

They yell this loud enough for Gaston-Walters to hear. She laughs aloud as Takira and the others stand, dripping wet, outside the front door of the small Cape-style house. ''They do this all of the time. They've changed clothes three times today already.''

More surgery looms next year to remove the metal plate from Takira's jaw. For now, things are back to normal for Takira and her family.

AS THE ADA ENTERS ADOLESCENCE, ITS PROMISE REMAINS UNFULFILLED BUT WITHIN REACH

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. HOYER. Mr. Speaker, today, we commemorate the 12th anniversary of the landmark Americans With Disabilities Act, the most sweeping civil rights legislation since the Civil Rights Act of 1964.

We do so with pride, as we measure our progress. We do so with sadness, as we mourn the recent passing of Justin Dart Jr., the ADA's ''father'' and an indefatigable soldier of justice. And we do so with deep concern, as the courts continue to issue decisions that limit the ADA's scope and undermine its intent.

Twelve years ago today, the first President Bush signed the ADA into law, hailing it as the ''world's first comprehensive declaration of equality for people with disabilities.''

As the lead House sponsor of this historic law, I knew it would not topple centuries of prejudice overnight. But I knew that, over time, it could change attitudes and change hearts, and unleash the untapped abilities of our disabled brothers and sisters.

The ADA sent an unmistakable message: It is unacceptable to discriminate against the disabled simply because they have a disability. And it is illegal.

The ADA, which enjoyed overwhelming bipartisan support, prohibits discrimination against the more than 50 million disabled Americans—in employment, in public accommodations, in transportation and in telecommunications. It recognizes that the disabled belong to the American family, and must share in all we have to offer: equality of opportunity, full participation, independent living and economic self-sufficiency.

Its first dozen years have ushered in significant change. Thousands of disabled Americans have joined the workforce, many for the first times in their lives. The ramps, curb cuts, braille signs and captioned television programs that were once novel are now ubiquitous.

However, despite such demonstrable progress, the ADA increasingly has become a

legal lightning rod with courts issuing narrow interpretations that limit its scope and undermine its intent.

In its most recent term, for example, the United States Supreme Court issued a series of decisions involving the ADA, ruling against the claimant each time.

In Chevron v. Echazabal, the Court held that an employer can keep a worker from filling a job that could be harmful to the worker's own health, even though the ADA itself only allows employers to deny jobs to those who pose a ''direct threat'' to other workers.

Whether intended or not, this decision stands for the proposition that disabled Americans really cannot exercise independent judgment on what is best for them. Thus, Eehazabal perpetuates the paternalistic attitudes that the ADA sought to combat.

In another devastating blow, the Court held in Toyota Motor Manufacturing v. Williams that a worker needed to show that her condition not only affected her on the job, but also prevented or restricted her from performing ''tasks that are of central importance to most people's daily lives.'' Because the claimant in Williams had not sufficiently demonstrated how her disability limited her in performed tasks such as brushing her teeth, the Court said, she was not ''disabled'' under the ADA.

Is this really what Congress intended when it passed the ADA? That a determination of ''disability'' would require courts to examine whether claimants can brush their teeth? The answer is obviously no.

This decision has put disabled Americans who avail themselves of the law's protection in a Catch-22: They must demonstrate that their impairment is substantial enough so that it constitutes a disability under the ADA, but not so substantial that the claimant cannot do the job without a reasonable accommodation.

In other recent ADA decisions, the Supreme Court has stripped state workers of their right to sue for monetary damages for ADA violations, and held that corrective or mitigating measures such as eyeglasses or medication should be considered in determining whether an individual is ''disabled'' under the law.

The latter decisions have produced absurd results in lower courts, People with diabetes, heart conditions, mental illness and even cancer have been ruled ''too functional''—with corrective or mitigating measures—to be considered ''disabled.''

Mr. Speaker, this is clearly not what Congress intended when it passed the ADA and President Bush signed it into law. We intended the law to have broad application. In fact, any person who is disadvantaged by an employer due to a real or perceived impairment by others may bring a claim under the ADA. That's because, simply put, the point of the law is not disability; the point is discrimination.

Justin Dart Jr., the gentle giant who worked tirelessly on behalf of the ADA and the disabled throughout the world, would no doubt agree.

Perhaps best known as the father of the ADA, Justin passed away on June 22nd. For nearly five decades, he was one of the world's most courageous, passionate and effective advocates for civil and human rights.

Many called him the Martin Luther King of the disability civil rights movement. But he though of himself in more humble terms—simply as a soldier of justice. I was fortunate to call him a dear friend.

As we commemorate this 12th anniversary of the ADA today and pay tribute to a wonderful man who devoted his life to promoting justice and equality for others, let's recognize that our work is far from finished. The series of Supreme Court decisions on the ADA remind us of that, and command us to begin discussing possible legislative responses.

We have come so far in the last dozen years. And we have poured a strong foundation for our house of equality, where Americans are judged by their ability and not their disability.

Yet, the promise of the ADA remains unfulfilled today but still is within reach. It falls to us now to carry on the fight and to realize Justin Dart's vision of a revolution of empowerment. Let's not rest until the work is done.

CONSTITUTIONAL LIBERTIES AND THE COSTS OF WAR AGAINST TERRORISM ACT

HON. CYNTHIA A. MCKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Ms. McKINNEY. Mr. Speaker, the attacks of September 11th, 2001 caused significant changes throughout our society. For our military services, this included increased force protection, greater security, and of course the deployment to and prosecution of the War on Terrorism in Afghanistan and elsewhere. Sadly, one of the first acts of our President was to waive the high deployment overtime pay of our servicemen and women who are serving on the front lines of our new War. The Navy estimates that the first year costs of this pay would equal about 40 cruise missiles. The total cost of this overtime pay may only equal about 300 cruise missiles, yet this Administration said it would cost too much to pay our young men and women what the Congress and the previous Administration had promised them.

In another ironic twist, the War on Terrorism has the potential to bring the U.S. military into American life as never before. A Northern Command has been created to manage the military's activity within the continental United States. Operation Noble Eagle saw combat aircraft patrolling the air above major metropolitan areas, and our airports are only now being relieved of National Guard security forces. Moreover, there is a growing concern that the military will be used domestically, within our borders, with intelligence and law enforcement mandates as some now call for a review of the Posse Comitatus Act prohibitions on military activity within our country.

In the 1960s, the lines between illegal intelligence, law enforcement and military practices became blurred as Americans wanting to make America a better place for all were targeted and attacked for political beliefs and political behavior. Under the cloak of the Cold War, military intelligence was used for domestic purposes to conduct surveillance on civil rights, social equity, antiwar, and other activists. In the case of Dr. Martin Luther King, Jr., Operation Lantern Spike involved military intelligence covertly operating a surveillance operation of the civil rights leader up to the time of his assassination. In a period of two months, recently declassified documents on Operation Lantern Spike indicate that 240 military personnel were assigned in the two months of March and April to conduct surveillance on Dr. King. The documents further reveal that 16,900 man-hours were spent on this assignment. Dr. King had done nothing more than call for black suffrage, an end to black poverty, and an end to the Vietnam War. Dr. King was the lantern of justice for America: spreading light on issues the Administration should have been addressing. On April 4, 1968, Dr. King's valuable point of light was snuffed out. The documents I have submitted for the record outline the illegal activities of the FBI and its ColntelPro program. A 1967 memo from J. Edgar Hoover to 22 FBI field offices outlined the COINTELPRO program well: ''The purpose of this new counterintelligence endeavor is to expose, disrupt, misdirect, or otherwise neutralize'' black activist leaders and organizations.

As a result of the Church Committee hearings, we later learned that the FBI and other government authorities were conducting black bag operations that included illegally breaking and entering private homes to collect information on individuals. FBI activities included ''bad jacketing,'' or falsely accusing individuals of collaboration with the authorities. It included the use of paid informants to set up on false charges targeted individuals. And it resulted in the murder of some individuals. Geronimo Pratt Ji Jaga spent 27 years in prison for a crime he did not commit. And in COINTELPRO documents subsequently released, we learn that Fred Hampton was murdered in his bed while his pregnant wife slept next to him after a paid informant slipped drugs in his drink.

Needless to say, such operations were well outside the bounds of what normal citizens would believe to be the role of the military, and the Senate investigations conducted by Senator Frank Church found that to be true. Though the United States was fighting the spread of communism in the face of the Cold War, the domestic use of intelligence and military assets against its own civilians was unfortunately reminiscent of the police state built up by the Communists we were fighting.

We must be certain that the War on Terrorism does not threaten our liberties again. Amendments to H.R. 4547, the Costs of War Against Terrorism Act, that would increase the role of drug interdiction task forces to include counter intelligence, and that would increase the military intelligence's ability to conduct electronic and financial investigations, can be the first steps towards a return to the abuses of constitutional rights during the Cold War. Further, this bill includes nearly $2 billion in additional funds for intelligence accounts. When taken into account with the extra-judicial incarceration of thousands of immigration violators, the transfer of prisoners from law enforcement custody to military custody, and the consideration of a ''volunteer'' terrorism tip program, America must stand up and protect itself from the threat not only of terrorism, but of a police state of its own.

There does exist a need to increase personnel pay accounts, replenish operations and maintenance accounts and replace lost equipment. The military has an appropriate role in protecting the United States from foreign threats, and should remain dedicated to preparing for those threats. Domestic uses of the

military have long been prohibited for good reason, and the same should continue to apply to all military functions, especially any and all military intelligence and surveillance. Congress and the Administration must be increasingly vigilant towards the protection of and adherence to our constitutional rights and privileges. For, if we win the war on terrorism, but create a police state in the process, what have we won?

INTRODUCTION OF THE CHILDREN'S DEVELOPMENT COMMISSION ACT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mrs. MALONEY of New York. Mr. Speaker, today I am reintroducing legislation (H.R. 1112, 106th Congress) that is intended to help solve the shortage of available, affordable child care facilities. In my congressional district in New York City, more than half of all women with pre-school children are in the workforce and the need for child care is enormous. This is not a local problem but one that is national in nature.

The ''Children's Development Commission Act'' or ''Kiddie Mac,'' (H.R. 1112, 106th), will address this problem by authorizing HUD to issue guarantees to lenders who are willing to lend money to build or rehabilitate child care facilities. It also creates the Children's Development Commission which will certify the loans and create federal child care standards. Kiddie Mac will also give ''micro-loans'' to facilities which need to make the necessary changes to come up to licensing standards, as well as provide them with lower cost fire and liability insurance. Through some of the premiums paid by the lenders, a non-profit foundation will be formed which would focus on research on child care and development, as well as create educational materials to guide potential providers through the certification process.

It is late in the session but I urge my colleagues to consider the proposal and join me in enacting it this year or in a future Congress.

IN HONOR OF TEXAS EQUUSEARCH MOUNTED SEARCH & RECOVERY TEAM AND ITS FOUNDER, TIMOTHY (TIM) A. MILLER

HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. LAMPSON. Mr. Speaker, I rise today to honor Tim Miller and the Texas EquuSearch Mounted Search and Recovery Team (TES).

Since Tim had horses of his own, and given a rash of missing persons in his area, many people suggested that he should start a horse search and rescue team. Tim shared this idea with some friends and was amazed at all the positive interest and support received.

The first official TES officer meeting was held in August of 2000 and then the work started. Tim, and his faithful and incredibly supportive wife Georgeann Miller, never realized how difficult forming an organization like this could be; or that it would require giving up his business as a general contractor to devote himself full time to the founding and operation of TES. Two years later, I'm proud to say that Tim and his all-volunteer TES team are working harder than ever to help bring home loved ones who are missing.

Since Texas EquuSearch was formed, they have been on nearly one hundred searches in two short years. They have an admirable record of working constructively with our nation's local law enforcement agencies and the Federal Bureau of Investigation. As these words were being written Tim and TES are on still another search near TES's headquarters in Dickinson, Texas.

TES was founded in loving memory of Laura Miller, Tim's daughter. The success rate of TES in finding missing people and returning many of them home alive is truly impressive. It is a living tribute to the spirit of Laura Miller. That spirit is alive and well in every volunteer of TES. The following words are Tim's own:

I know how important a search and rescue team can be. My daughter, Laura Miller was abducted in September of 1984. I went to the police department to report her missing and file a missing persons report. Five months prior to Laura's disappearance the remains of a young lady named Heidi Villareal Fye, were found on some property at an abandoned oil field on Calder Road in League City, Texas. I told the police officer taking the report of my concerns, and would they please check the area where she had been found, or tell me where it was located so that I might check myself. Of course they said Laura is sixteen, she ran away and will be coming back home. We called and drove to all of Laura's friends to see of anyone had seen her. Three days went by and I found out that Heidi had only lived 4 blocks from our house. So I went back to the police station to tell them my new worries about the close location of our houses and could they go and check the field where Heidi was or please take me to where it was located. Again they said Laura was sixteen and she had run away so we should go home and wait by the phone for her to call.

The days turned into weeks, weeks into months, several trips to the police station and still no Laura. Seventeen months later, kids were riding dirt bikes on Calder Road when they smelled a foul odor. They felt as though it was a dead animal but walked over to the area of the odor to see anyway. The odor was not a dead animal; it was in fact the remains of a female who had been there approximately two months. The police were called out to investigate, and during the investigation stumbled across the remains of yet another female some sixty feet from the other. These remains of the other girl found were those of my daughter, Laura Miller. The remains of the other girl found there have not been identified to this day and still is only known as Jane Doe.

These were by far the most frustrating and lonely seventeen months of my life and there was some feeling of relief when Laura was found, at least now we know. I often think of what would have changed back in 1984 when Laura disappeared, if there had been a Texas EquuSearch. Would Laura have been found alive? Probably not, but she would have been found and there probably would have been some evidence on the scene to help the police in the investigation. Would Jane Doe have been murdered? My thoughts—probably not or at least not at that spot.

Mr. Speaker, the Texas EquuSearch Mounted Search & Recovery Team, was founded in loving memory of Laura Miller by her father Timothy A. Miller to search for our nation's missing and abducted children and adults. It has received help from the citizens of Houston, the State of Texas and the United States to successfully search for and find the lost, abducted, and missing. Our nation's communities and law enforcement agencies, including the Federal Bureau of Investigation, have already recognized the significance and value of the Texas EquuSearch Mounted Search & Recovery. It is now appropriate that the People and the Congress of the United States of America applaud and urge on Texas EquuSearch to continue forward—assuring that ''The lost are not alone''.

ANIMAL FIGHTING ENFORCEMENT ACT

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. ANDREWS. Mr. Speaker, today I am pleased to introduce the Animal Fighting Enforcement Act. This legislation targets the reprehensible and surprisingly widespread activities of dogfighting and cockfighting, in which animals are bred and trained to fight, often drugged to heighten their aggression, and placed in a pit to fight to the death—all for their amusement and illegal wagering of the animals' handlers and the spectators.

These are indefensible activities, and our state laws reflect public disdain for these forms of animal cruelty. Dogfighting is banned in all 50 states, and it is a felony in 46 states. Cockfighting is banned in 47 states, and it is a felony in 26 states.

Even though there is a something verging on a national consensus that dogfighting and cockfighting should be treated as criminal conduct, the industries continue to thrive. According to The Humane Society of the United States, there are 11 underground dogfighting publications. There are numerous aboveground cockfighting magazines, including The Gamecock, The Feathered Warrior, and Grit & Steel that promote cockfights, rally cockfighters to defend the practice, and advertise and sell fighting birds and the accoutrements of animal fighting.

Earlier this year, the House and Senate passed legislation to close loopholes in Section 26 of the Animal Welfare Act and bar any interstate shipment or exports of dogs or birds for fighting. That was a much-needed and long-overdue action by the House, and I commend the leadership provided on that legislation by Representatives EARL BLUMENAUER, TOM TANCREDO, and COLLIN PETERSON. Senators WAYNE ALLARD and TOM HARKIN led the parallel effort in the other chamber. The legislation was designed to help the states enforce their laws and provide a strong federal statement and statute against dogfighting, and cockfighting. In states where cockfighting is illegal, cockfighters had been using the loophole in federal law as a smokescreen to conceal their animal fighting activities; they claimed that they were merely raising and possessing birds to sell to legal cockfighting states and countries, when in reality they were often engaging in illegal fights in their own states. It makes enforcement of state laws against cockfighting very difficult.

During consideration earlier in this Congress of the Farm bills, the House and Senate passed identical versions of legislation to close the loopholes in the law. Unfortunately, the conferees removed a provision, identical in both bills, to increase jail time for individuals who violate any provision of Section 26 of the Animal Welfare Act. The House and Senate increased the maximum jail time from one year to two years, seeking to make this illegal animal fighting a federal felony.

U.S. Attorneys have told humane organizations and others that they are reluctant to pursue animal fighting cases with such a modest penalty. They will be far more likely to pursue cases if it is a felony offense.

My legislation today seeks to restore what the House and Senate originally passed in terms of penalties. The adoption of this provision will bring federal law in better alignment with state laws. As I mentioned previously, 46 states have either dogfighting or cockfighting felony provisions. It is fitting and appropriate that the federal government treat dogfighting and cockfighting as felony offenses. It is well known that these forms of animal cruelty are often associated with drug traffic, illegal firearms possession, violence to people, and illegal gambling. In short, other criminal conduct goes hand in hand with animal fighting.

My legislation also bans the interstate shipment of deadly knives and gaffs, which are the implements attached to the birds' legs to heighten the bloodletting and expedite the conclusion of fights. These knives and gaffs are sold through cockfighting magazines and through the Internet, and it is time that this traffic in these deadly implements is halted. A number of states have prohibitions on the sale of these implements, but it is time to adopt a national standard.

Finally, this legislation improves and updates other enforcement language in the Animal Welfare Act, provisions that were adopted more than a quarter century ago, on forfeiture and disposition of animals seized by law enforcement once they make arrests of individuals participating in illegal animal fights.

I thank several colleagues for adding their names as original cosponsors, and hope that the committees of jurisdiction give this legislation proper and prompt attention and action. I hope it can be passed before the 107th Congress completes its work.

EGMONT KEY LAND TRANSFER

HON. DAN MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. DAN MILLER of Florida. Mr. Speaker, I rise today to introduce legislation to convey Egmont Key, which is currently under the jurisdiction of the U.S. Fish and Wildlife Service to the Florida State Park Service.

Egmont Key is located at the mouth of Tampa Bay within the Congressional Districts of Mr. BILL YOUNG, Mr. JIM DAVIS, and myself, both of which are greatly supportive of my efforts and are also original cosponsors of the bill. Egmont Key's cultural history dates back to 1830's, as a matter of fact the construction of Fort Dade in 1882 was to protect the city of Tampa during the outbreak of the Spanish-American War. Egmont Key even served as a site for the Union navy to operate their Gulf Coast blockade in the Civil War. Area residents, including my family and I, have enjoyed Egmont Key's historical and recreational benefits for years, and the local support for conveying the ownership of this island to the Florida State Park Service is strong.

The bill will convey the title of Egmont Key, a small island, which is approximately 350 acres, to the Florida State Park Service. This bill will not only improve the management of the public facilities, historical remains and wildlife habitat on the island, but also save the federal government money in the long term by removing it from federal responsibility.

Transfer of this property to the State of Florida will prove to be highly beneficial to its visitors. Providing more efficient facilities and an all around atmosphere of family interaction. Egmont Key serves as a habitat for numerous species of birds, and its white sandy beaches are valuable to the lives of many turtles, animals, and plants. The State of Florida's ownership of this picturesque island would improve the quality of life for its inhabitants and the quality of enjoyment for its enthusiasts.

Mr. Speaker, due to the limited amount of time left in the 107th Congress and my pending retirement this year, it is my hope that this bill will move quickly through the legislative process. I strongly believe that Egmont Key is best operated through the ownership of the Florida State Park Service, therefore I am requesting my colleagues join me today in cosponsoring this legislation. Egmont Key is a valuable resource to our area, and ownership by the State of Florida would simply provide the desired access to the community while also maintaining the ecosystem.

REMARKS ON SUSAN HIRSCHMAN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today, not to bid farewell, but to extend my heartfelt wishes for a future of success and happiness, to Susan Hirschmann.

Susan has served as the Chief of Staff to our Majority Whip, TOM DELAY, since 1997, managing the personal, district and Whip offices for our good friend from Texas.

Many of us have turned to her throughout the years for her political acumen and superb strategic skills.

Since moving to Washington, D.C. in 1987, she has been in the trenches promoting the Republican agenda—America's agenda.

She is more than a colleague. She is a friend.

While she is leaving the Hill, her passion and commitment to priority issues will keep her nearby.

I will surely miss the dinners we shared, as well as the late-night discussions over Chinese food and fried chicken in the Whip's office.

Godspeed Susan!

EQUITY IN EDUCATION ACT

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. KNOLLENBERG. Mr. Speaker, today I urge my colleagues to support H.R. 2041, ''The Equity in Education Act of 2001.''

The rising cost of higher education is one of the major concerns facing American families today. In recent years the cost of college has gone through the roof. Making college affordable is vital to our children, our country's future, and our ability to remain competitive in a global economy.

I introduced the Equity in Education Act to help families save to send their children to college. It would allow individuals to use investments in securities to pay for higher education expenses without being penalized by the tax code.

The Equity in Education Act would provide families with a viable way to secure a good education for their children. By supporting this bill, Congress has the opportunity to ensure that the cost of receiving a higher education does not go beyond the reach of many Americans.

I encourage my colleagues to cosponsor H.R. 2041.

AN ACCURATE HISTORY OF CYPRUS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. BURTON of Indiana. Mr. Speaker, recently several Members of Congress came to the House floor to attack Turkey and enumerate all the bad things that have happened to Cyprus as a result of the 1974 Turkish intervention on Cyprus. As has happened in the past, only one-sided, inaccurate, and incomplete information was provided, which not only ignored the historical reasons for the division of Cyprus, but also ignored the international laws that legitimized the Turkish intervention. For the sake of historical accuracy, I would like to insert in the RECORD an article authored by the Honorable Osman Ertug, the Representative of the Turkish Republic of Northern Cyprus here in Washington, DC. I commend it to anyone who has a sincere desire to understand why Cyprus stands divided today.

IS IT ALL HISTORY?

The month of July is marked by mourning and protestations in Cyprus on the one side, while by jubilations and celebrations on the other. Even this sharp contrast in public mood shows the depth of the division between the two peoples of this eastern Mediterranean island—the Turkish Cypriots and Greek Cypriots. We believe the 28tb Anniversary of the events of 1974 in Cyprus is an appropriate time to reflect on the background of the conflict and the prospects for its peaceful resolution.

Contrary to common belief, the origin of the Cyprus conflict dates back not to 1974, but to December 1963, when the Greek Cypriots, aided and abetted by Greece, launched an all-out attack on the Turkish Cypriot

people aimed at annexing the island to Greece (Enosis).

Turkish Cypriots resisted Greek attempts to ''hellenize'' Cyprus and, with the help of Turkey, which is a Guarantor Power under the Treaty of Guarantee of 1960, succeeded in defending and maintaining their existence in Cyprus as one of the two equal peoples of the island. Yet, this defense came at a heavy cost to the Turkish Cypriots, with thousands of them being killed, wounded or missing; a quarter of the Turkish Cypriot population evicted from their homes and properties in 103 villages; and the entire Turkish Cypriot population condemned to live in enclaves on 3% of the territory of Cyprus deprived of all human rights. The suffering of the Turkish Cypriots prompted a prominent US official, Mr. George W. Ball, former US Undersecretary of State, to write the following in his memoirs entitled ''The Past Has Another Pattern'':

''Makarios' central interest was to block off Turkish intervention so that he and his Greek Cypriots could go on happily massacring Turkish Cypriots. The Greek Cypriots just want to be left alone to kill the Turkish Cypriots.''

The severity of Greek Cypriot attacks was such that The Washington Post of 17 February 1964 reported in a relevant article that ''Greek Cypriot fanatics appear (ed) bent on a policy of genocide. . .''

The years-long campaign of the Greek Cypriots to annex the island to Greece culminated in the coup d'etat of 15 July 1974, which was described as ''an invasion of Cyprus by Greece'' even by the then Greek Cypriot leader Makarios in his dramatic admission before the UN Security Council on 19 July 1974.

Turkey exercised its right of intervention under these circumstances, in order to prevent the wholesale massacre of the Turkish Cypriots; stop the bloodshed on the island and prevent the colonization of Cyprus by Greece. Turkey's legitimate and justified intervention did not only achieve all these aims, but also led to the downfall of the military junta in Greece. The legitimacy of the Turkish intervention was confirmed by prominent outside sources, including the Standing Committee of the Consultative Assembly of the Council of Europe, which, in its decision dated 29 July 1974, stated the following:

''Turkey exercised its right of intervention in accordance with Article IV of the Guarantee Treaty.''

Even the Athens Court of Appeal, in its decision of March 21, 1979, also held that the intervention of Turkey in Cyprus was legal:

''. . . The Turkish military intervention in Cyprus which was carried out in accordance with the Zurich and London Agreements was legal. Turkey, as one of the Guarantor powers, had the right to fulfill her obligations. The real culprits . . . are the Greek Officers who engineered and staged a coup and prepared the conditions of this intervention.''

Decision No. 2658/79 dated 21 March 1979.

The events of 1974 were followed by a population exchange between the North and the South, formally agreed between the two sides in August and implemented in September 1975, enabling the Turkish Cypriots to regroup and reorganize themselves in the North, and the Greek Cypriots in the South. This created the geographical basis for a permanent settlement of the Cyprus issue on a ''bi-zonal'' basis—a term that has since become a permanent feature of the UN's Cyprus vocabulary.

Is this all history? Perhaps; but it is a history from which we must learn so as not to repeat it. A forward-looking strategy in Cyprus must necessarily take into account the above background of events, the existing mistrust between the two peoples of the island and the realities of today, that is the two-state situation on the island evolved in the course of time. The possibility of a just, realistic and viable settlement depends on the acknowledgement of these facts, not a rejection of them. The Turkish Cypriots deserve to have their own State and, what is more, they already have it, albeit without international recognition.

The current face-to-face negotiations, started at the initiative of the Turkish Cypriot side, could produce the desired result if the Greek Cypriots were to accept the Turkish Cypriots as their true partners and equals. However, pampered by the European Union and a world that has come to view the question largely from a Greek Cypriot perspective, treating them as the ''Government of Cyprus'', the Greek Cypriots have little or no reason to settle their scores with their Turkish Cypriot neighbors for a shared future. In view of these realities, it is evident that for the current negotiations to have a real chance of success, third parties need to encourage the Greek Cypriot side to accept that there is no going back to the old days in Cyprus, and that the aim of the talks is the establishment of a NEW PARTNERSHIP on the basis of the sovereign equality of the two parties.

Perhaps we could then reach an outcome in Cyprus that all can celebrate.

IN RECOGNITION OF JOURNALIST JESSICA LEE

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Ms. NORTON. Mr. Speaker, I rise to recognize Jessica Lee for her efforts and success in the field of journalism. Jessica Lee has had a long and illustrious career as a journalist. She was one of the first African American women to cover the White House for a major daily newspaper, and she was one of the first journalists to give a voice in print to those not normally covered in many daily newspapers.

She has traveled all over the world as a White House correspondent for USA Today: from China to Russia, Europe and to South Africa where she covered the election of Nelson Mandela. She has witnessed many major current events and written about them in what has often been called the ''first draft'' of history.

Jessica joined USA Today in 1985 as a congressional correspondent. She was assigned to the White House in 1986 at the height of the Iran-contra scandal, reporting on President Reagan's final two years and President Bush's full term in office.

Jessica, a fluent Spanish speaker, has worked for Gannett Co., Inc., since 1978, when she was hired at the El Paso Times in Texas. She worked five years as a regional and congressional correspondent with Gannett News Service.

Jessica got her first taste of journalism at high school in Washington, D.C., where she grew up. She began her career with the Daily Journal, an English-language daily published in Caracas, Venezuela. She is a graduate of Western College for Women.

Due to her courage and tenacity as a trailblazer, she will remain a role model for many women now joining the ranks of journalists.

INTRODUCING THE SMALL BUSINESS DROUGHT RELIEF ACT

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to introduce the Small Business Drought Relief Act. This legislation provides small businesses who depend upon water supply as a means of income with the opportunity to qualify and apply for disaster assistance from the Small Business Administration when drought affects their ability to earn income. It serves as a companion bill to a similar bill introduced in the Senate.

Under current law, small businesses whose income depreciates as a result of diminishing water supply are unable to even apply for SBA loans. Often these businesses are family-owned and family-run recreational or commercial fishing firms. The majority of them are dependent upon water resources, whether lakes, streams, or rivers, for the ability to operate their businesses. When water levels drop to unbearable points, aside from the obvious water supply issues, boats are unable to make it into lakes and rivers, commercial fishing ceases to exist, and businesses often lay off workers and close their doors for good.

I became interested in drought relief last summer when Florida found itself in the most prolonged drought it had seen in nearly 20 years. The water level in Lake Okeechobee, our country's 2nd largest fresh water lake, and located in my District, had decreased by nearly 25 percent.

Not only did the water shortage in the lake cause problems for agriculture and water management, but it also destroyed the economic well being of small businesses around the Lake who depend on it for income. Realize this too, the clear majority of these businesses are owned by minorities or families who struggle every day just to get by.

As I began to try and help the towns and businesses surrounding the Lake in locating temporary assistance, even if it was only low interest loans, I found that unless a firm was involved in agriculture, assistance is virtually impossible. When it is possible, the bureaucratic red tape applicants must cut through are so discouraging that they don't even try.

The issue at hand, Mr. Speaker, is that droughts are major natural disasters. The Stafford Act says it is, as well as the U.S. Departments of Agriculture, Commerce, and Defense also say it is. Congress said it as recently as 1998. But for some reason, the Small Business Act does not include drought in its definition of disaster. Frankly, this oversight is a disaster of its own.

Today, Mr. Speaker, I am introducing a bill which will reconcile the oversight made by our body's predecessors and ensure that businesses who suffer from drought will live to see another day. I urge my colleagues to support this bill, and I urge the leadership to bring it swiftly to the floor for a vote.

RECOGNIZING HALIE JACOBS FOR HER BRAVERY AND HEROISM

HON. VAN HILLEARY

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 26, 2002

Mr. HILLEARY. Mr. Speaker, I pay tribute today to a brave little girl who lives in Normandy, Tennessee, a small town in the congressional district I represent. Halie Jacobs is only seven years-old. Yet, when her mother's life was in danger, Halie braved darkness, angry dogs and a broken foot to walk two miles to get help for her injured mother.

On July 10th, around midnight, Halie and her mother Crystal were on their way home, driving through fog and misting rain down the kind of narrow, twisting country road that is so common in rural Tennessee. Their car hydroplaned into a ditch, leaving Halie's mother severely hurt and Halie with a cracked bone in her foot. Halie stayed by her mother's side until, according to Halie, ''I couldn't talk to her.''

Not knowing for sure if her mother was living or dead, Halie did something uncommonly brave for a seven year-old. In spite of her own injury, she set out on a pitch-black, lonely road toward home and help for her mother.

Halie found her way home, got help and showed them the way to her mother.

I am happy to report Crystal is regaining her health. She still has a long way to go, but because of her daughter's heroism, Crystal is on her way to recovery.

I know Crystal is proud of her extraordinary daughter. All of us in the Fourth Congressional District are. Bedford County, Halie's home county, awarded her its first ''911 Hero Award'' for making the right call.

Though I haven't met Halie myself, the Tullahoma News, one of the local newspapers at the award ceremony noted Halie ''handled the attention and barrage of questions from television and newspaper reporters with quiet maturity.'' The article went on to state, ''It was the same maturity she exhibited two weeks ago when she walked barefoot more than two miles, in the middle of the night, to get help for her injured mother.''

Mr. Speaker, being in a car accident, seeing your mother gravely injured and then watching her pass out would be highly traumatic for anyone, let alone a seven year-old. Yet Halie Jacobs kept her wits and did what she knew she had to do. I commend Halie for her uncommon courage and I wish her mother Crystal well as she recovers from her injuries.

For the record, I include an account of Halie's heroism that appeared in Bedford County's newspaper, the Shelbyville Times Gazette.

A BRAVE LITTLE GIRL: HALIE JACOBS, 7, DEFIES DARK, DOGS TO HELP MOM

(By ANN BULLARD)

Imagine riding down a narrow, dark country road in the mist and fog when the car runs off the road and noses down into a ditch. You're the passenger in the front seat; the driver has fallen to your side and is bleeding heavily. You have no flashlight, no cell phone. You talk with the driver, your mama, until she can't talk with you any longer.

And you're only 7 years old.

That was the situation Halie Jacobs faced last Wednesday night, as she and her mother, Crystal, were driving on Rowesville Road to their Normandy home. It was close to midnight, and, like most persons of any age, Halie was afraid. Unlike many, Halie took matters into her hands.

''I stayed with Mama until I couldn't talk to her. [Then] I jumped into the back seat, opened the door and got out,'' the petite second-grader said, explaining if she'd tried to exit on her side she'd have been in the creek.

Not knowing whether her mother was dead or alive, Halie started home. In spite of a sprained ankle and bare feet, the youngster ran and walked 2.1 miles from the accident to her grandparents' home. She turned the wrong way initially, walking about .3 miles to Highway 41-A, then reversed her path, ran past the car with her mother inside down Normandy Road to Dement Road and the family trailer.

The youngster passed only one house. The light was on but she didn't know the people and was afraid to stop. As she ran down the middle of unlighted, tree-shrouded roads, she was chased by two dogs. ''Then I walked so they wouldn't come after me,'' she said. And, finally, she reached home.

''I was on the phone with her dad when Halie came in covered with blood,'' her grandmother, Teressia Jacobs, said. ''She told me, 'Me and Mama had a wreck at the end of the road. I talked to her until she could talk no more.'''

Only after reaching home, having family's arms around her and knowing they were getting help for her mama did Halie cry. Teressia called 911 and then drove to the scene, taking a reluctant Halie with her to be sure she found the car.

''I didn't want to look in case it was too bad,'' Halie said, tearing up when she remembered her fear that her mother had been killed.

At a little more than 50 pounds and about 3 feet 9 inches tall, the blond-haired, blue-eyed rising second-grader at Cascade School seems an unlikely candidate to be a hero. The angel pin she now wears expresses her mother's emotions.

When EMS workers arrived, they found Crystal on the passenger side of her 1995 Nissan Sentra in which both air bags had deployed. Neither Crystal nor Halie, who was beside her in the front seat, were wearing seat belts.

''It was rainy and foggy and I think I hydroplaned,'' Crystal said. According to State Trooper Rhett Campbell, the newest officer serving this district, the car had gone off the road, down alongside Shipman's Creek and came to rest on top of a pile of dirt.

How did Crystal get across the console? ''I don't know. I knew Halie was in the car and suppose I tried to protect her. When I regained consciousness, I was on the passenger side.''

''God and Granny were with her that night,'' Teressia said of the child's other grandmother who had died this spring.

Crystal was taken by ambulance to Bedford County Medical Center. It was too foggy for LifeFlight so the ambulance took her on to Vanderbilt University Medical Center in Nashville where she was treated. She was discharged until the facial swelling was reduced, then was admitted to Vanderbilt this morning for reconstruction of both sinus cavities and her cheek.

As for Halie, she is pretty matter-of-fact about it all. She is looking forward to entering Cascade School in the fall, and spends her vacation swimming, watching Rug Rats and Sponge Ball cartoons and playing on the computer.

To adults around her, the 7-year-old is a hero. Cathy Mathis, head of the Bedford County Communications Center and E-911, plans to present Halie with a ''911 Hero Award'' within the next few days.

Daily Digest

HIGHLIGHTS

The House passed H.R. 5005, Homeland Security Act.

The House agreed to the conference report on H.R. 3009, Trade Act of 2002.

Senate

Chamber Action

Routine Proceedings, pages S7391–S7442

Measures Introduced: Ten bills and five resolutions were introduced, as follows: S. 2802–2811, S. Res. 307–310, and S. Con. Res. 132. **Page S7430**

Measures Reported:

S. 2808, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2003. (S. Rept. No. 107–224)

S. 2809, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2003. (S. Rept. No. 107–225)

S. 1992, to amend the Employee Retirement Income Security Act of 1974 to improve diversification of plan assets for participants in individual account plans, to improve disclosure, account access, and accountability under individual account plans, with an amendment in the nature of a substitute. (S. Rept. No. 107–226)

S. 1115, to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, with an amendment in the nature of a substitute. (S. Rept. No. 107–227)

S. 2771, to amend the John F. Kennedy Center Act to authorize the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts. **Pages S7429–30**

Measures Passed:

Congressional Meeting of Remembrance: Senate agreed to H. Con. Res. 448, providing for a special meeting of the Congress in New York, New York, on Friday, September 6, 2002, in remembrance of the victims and the heroes of September 11, 2001, in recognition of the courage and spirit of the City of New York. **Page S7438**

Congressional Representation: Senate agreed to H. Con. Res. 449, providing for representation by Congress at a special meeting in New York, New York on Friday, September 6, 2002. **Page S7438**

Honoring Justin W. Dart, Jr.: Senate agreed to S. Res. 310, honoring Justin W. Dart, Jr., as a champion of the rights of individuals with disabilities. **Pages S7438–39**

Intelsat Extension: Senate passed S. 2810, to amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering. **Page S7439**

Adjournment Resolution: Senate agreed to S. Con. Res. 132, providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives. **Page S7439**

JFK Center Plaza Authorization: Senate passed S. 2771, to amend the John F. Kennedy Center Act to authorize the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts. **Pages S7442–43**

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 S7398–S7413**

Pending:

Reid (for Dorgan) Amendment No. 4299, to permit commercial importation of prescription drugs from Canada. **Page S7398**

McConnell Amendment No. 4326 (to Amendment No. 4299), to provide for health care liability reform. **Pages S7398–S7413**

A unanimous-consent agreement was reached providing for further consideration of the bill on Monday, July 29, 2002.

National Defense Authorization Act: Senate disagreed to the amendment of the House to the Senate amendment to H.R. 4546, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, agreed to the House request for a conference, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators Levin, Kennedy, Byrd, Lieberman, Cleland, Landrieu, Reed, Akaka, Nelson (FL), Nelson (NB), Carnahan, Dayton, Bingaman, Warner, Thurmond, McCain, Smith (NH), Inhofe, Santorum, Roberts, Allard, Hutchinson, Sessions, Collins, and Bunning. **Pages S7397–98**

Nomination—Cloture Vote: By a unanimous vote of 89 yeas (Vote No. Ex. 193), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close debate on the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit. **Pages S7391–96**

Pursuant to the order of July 25, 2002, a vote on confirmation of the nomination will occur at 5:30 p.m., on Monday, July 29, 2002.

Nominations—Agreement: A unanimous-consent agreement was reached providing for consideration of the nominations of Joy Flowers Conti, to be United States District Judge for the Western District of Pennsylvania, and John E. Jones III, to be United States District Judge for the Middle District of Pennsylvania, on Monday, July 29, 2002, with votes to occur thereon; following the disposition of the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit. **Page S7442**

Nominations Confirmed: Senate confirmed the following nominations: Guy F. Caruso, of Virginia, to be Administrator of the Energy Information Administration.

Christopher C. Conner, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania.

W. Roy Grizzard, of Virginia, to be an Assistant Secretary of Labor.

Lex Frieden, of Texas, to be a Member of the National Council On Disability for a term expiring September 17, 2004.

Young Woo Kang, of Indiana, to be a Member of the National Council On Disability for a term expiring September 17, 2003.

Kathleen Martinez, of California, to be a Member of the National Council On Disability for a term expiring September 17, 2003.

Carol Hughes Novak, of Georgia, to be a Member of the National Council On Disability for a term expiring September 17, 2004.

Patricia Pound, of Texas, to be a Member of the National Council On Disability for a term expiring September 17, 2002.

Kathleen P. Utgoff, of Virginia, to be Commissioner of Labor Statistics, United States Department of Labor for a term of four years.

Ray Elmer Carnahan, of Arkansas, to be United States Marshal for the Eastern District of Arkansas for the term of four years.

Theresa A. Merrow, of Georgia, to be United States Marshal for the Middle District of Georgia for the term of four years.

Ruben Monzon, of Texas, to be United States Marshal for the Southern District of Texas for the term of four years.

Gregory Robert Miller, of Florida, to be United States Attorney for the Northern District of Florida for the term of four years.

Kevin Vincent Ryan, of California, to be United States Attorney for the Northern District of California, for the term of four years.

David Scott Carpenter, of North Dakota, to be United States Marshal for the District of North Dakota for the term of four years.

James Michael Wahlrab, of Ohio, to be United States Marshal for the Southern District of Ohio for the term of four years.

Randall Dean Anderson, of Utah, to be United States Marshal for the District of Utah for the term of four years. (Reappointment) **Pages S7396–97, S7443, S7444**

Nominations Received: Senate received the following nominations:

Otis Webb Brawley, Jr., of Georgia, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 2003.

Marion C. Blakey, of Mississippi, to be Administrator of the Federal Aviation Administration for the term of five years.

James C. Miller III, of Virginia, to be a Governor of the United States Postal Service for the term expiring December 8, 2010. **Page S7444**

Messages From the House: **Page S7429**

Measures Placed on Calendar: **Page S7429**

Enrolled Bills Presented: **Pages S7429–30**

Additional Cosponsors: Pages S7430–31

Statements on Introduced Bills/Resolutions: Pages S7431–35

Additional Statements: Pages S7427–29

Amendments Submitted: Pages S7435–37

Notices of Hearings/Meetings: Pages S7437–38

Authority for Committees to Meet: Page S7438

Record Votes: One record vote was taken today. (Total—193) Page S7391

Adjournment: Senate met at 9:55 a.m., and adjourned at 3:54 p.m., until 4 p.m., on Monday, July 29, 2002. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S7443.)

Committee Meetings

(Committees not listed did not meet)

NOMINATIONS

Committee on Armed Services: Committee ordered favorably reported the nominations of Lt. Gen. James T. Hill, USA, for appointment to the grade of general and assignment as Commander in Chief, United States Southern Command, and Vice Adm. Edmund P. Giambastiani, Jr., USN, for appointment to the grade of admiral and assignment as Commander in Chief, United States Joint Forces Command.

Prior to this action, committee concluded hearings, in open and closed sessions, on the aforementioned nominations, after the nominees testified and answered questions in their own behalf. Lt. Gen. Hill was introduced by Senator Graham, and Vice Adm. Giambastiani was introduced by Senator Warner.

BIRTH DEFECTS

Committee on Health, Education, Labor, and Pensions: Subcommittee on Children and Families concluded hearings to examine public health issues related to birth defects, focusing on strategies for prevention and ensuring quality of life, after receiving testimony from Jose F. Cordero, Director, National Center on Birth Defects and Developmental Disabilities, Centers for Disease Control and Prevention, Department of Health and Human Services; Hal Pote, J.P. Morgan Chase Manhattan, on behalf of the Spina Bifida Foundation and the Spina Bifida Association of America, and Nancy S. Green, Albert Einstein School of Medicine, on behalf of the March of Dimes Birth Defects Foundation, both of New York, New York; and Fred Liguori, Granby, Connecticut.

INDIAN MONEY ACCOUNTS

Committee on Indian Affairs: On Thursday, July 25, Committee concluded hearings to examine the July 2, 2002 Report of the Department of the Interior to Congress on historical accounting of Individual Indian Money Accounts, after receiving testimony from McCoy Williams, Director, Financial Management and Assurance, General Accounting Office; James Cason, Associate Deputy Secretary, Bert Edwards, Executive Director, Office of Historical Trust Accounting, and Tom Slonaker, Special Trustee for American Indians, all of the Department of the Interior; and William F. Causey, Nixon Peabody, Washington, D.C.

House of Representatives

Chamber Action

Measures Introduced: 74 public bills, H.R. 5240–5262, 5264–5314; 1 private bill, H.R. 5315; and 15 resolutions, H.J. Res. 109; H. Con. Res. 452–458, and H. Res. 509–515, were introduced. Pages H5993–97

Reports Filed: Reports were filed today as follows:

H.R. 4883, to reauthorize the Hydrographic Services Improvement Act of 1998, amended (H. Rept. 107–621);

H.R. 5012, to amend the John F. Kennedy Center Act to authorize the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts (H. Rept. 107–622);

H.R. 5263, making appropriations for agriculture, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2003, and for other purposes (H. Rept. 107–623);

Conference report on H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act (H. Rept. 107–624); and

H. Res. 509, waiving points of order against the conference report to accompany H.R. 3009, to extend the Andean Trade Preference Act and to grant additional trade benefits under that Act (H. Rept. 107–625). **Pages H5888–H5957, H5962, H5993**

Homeland Security Act: The House passed H.R. 5005, to establish the Department of Homeland Security by a recorded vote of 295 ayes to 132 noes, Roll No. 367. The bill was also debated on July 25. **Pages H5793–H5845, H5845–88**

Agreed to the DeLauro motion to recommit the bill to the Select Committee on Homeland Security with instructions to report it back forthwith with an amendment that prohibits contracting with corporate expatriates by a recorded vote of 318 ayes to 110 noes, Roll No. 366. Subsequently, Majority Leader Armey reported the bill back to the House with the amendment and the amendment was agreed to. **Pages H5885–87**

Agreed To:

Rogers of Kentucky Amendment No. 14 printed in H. Rept. 107–615, debated on July 25, that gives permissive authority to the Secretary to establish and operate a permanent Joint Interagency Homeland Security Task Force; **Pages H5799–H5800**

Shays Amendment No. 17 printed in H. Rept. 107–615 that protects the union rights of employees transferred into the Department of Homeland Security and allows the President to exempt applications where there would be a substantial adverse impact on the Department's ability to protect homeland security (agreed to by a recorded vote of 229 ayes to 201 noes, Roll No. 356); **Pages H5800–04**

Quinn amendment No. 19 printed in H. Rept. 107–615 that requires collaboration with employee representatives in the planning, development, and implementation of any human resources management system (agreed to by a recorded vote of 227 ayes to 202 noes, Roll No. 358); **Pages H5809–13**

Armey en bloc manager's amendment No. 21 printed in H. Rept. 107–615 that includes various technical amendments and amendments requested by the Committees on Energy and Commerce, Science, Transportation and Infrastructure, Agriculture, Appropriations, and Government Reform (agreed to by a recorded vote of 222 ayes to 204 noes, Roll No. 361; and **Pages H5817–29, H5837–38**

Chambliss amendment No. 26 printed in H. Rept. 107–615, as modified, that establishes the Homeland Security Information Sharing Act to facilitate the sharing of security information. **Pages H5854–61**

Rejected:

Waxman Amendment No. 3 printed in H. Rept. 107–615 that sought to codify and strengthen the White House Office of Homeland Security which was established in Executive Order 13228 (rejected by a recorded vote of 175 ayes to 248 noes, Roll No. 352); **Pages H5793–98**

Oberstar Amendment No. 1 printed in H. Rept. 107–615, debated on July 25, that sought to retain FEMA as an independent agency with responsibility for natural disaster preparedness, response, and recovery (rejected by a recorded vote of 165 ayes to 261 noes, Roll No. 353); **Pages H5798–99**

Cardin Amendment No. 8 printed in H. Rept. 107–615, debated on July 25, that sought to preserve the Customs Service as a distinct entity within the Department of Homeland Security (rejected by a recorded vote of 177 ayes to 245 noes, Roll No. 354); **Page H5799**

Morella amendment No. 18 printed in H. Rept. 107–615 that sought to protect the rights of union employees who are transferred into the Department of Homeland Security with the same job responsibilities (rejected by a recorded vote of 208 ayes to 222 noes, Roll No. 357); **Pages H5804–09**

Turner amendment No. 22 printed in H. Rept. 107–615 that sought to indemnify companies who sell anti-terrorism technologies to Federal, state, and local governments (rejected by a recorded vote of 214 ayes to 215 noes, Roll No. 359); **Pages H5829–36**

Waxman amendment No. 20 printed in H. Rept. 107–615 that sought to strike section 761 which establishes a human resources management system and inserts various provisions including the authority for the Director to adjust pay schedules except that employees transferred to the Department of Homeland Security may not have their pay reduced, provides for suspension and removal of employees in the interests of national security; and provides remedies for retaliation against whistleblowers (rejected by a recorded vote of 208 ayes to 220 noes, Roll No. 360); **Pages H5813–17, H5837**

Oberstar amendment No. 23 printed in H. Rept. 107–615 that sought to strike section 409 which extends the deadline to fully utilize explosive detection systems to screen all checked baggage to December 31, 2003 (rejected by a recorded vote of 211 ayes to 217 noes, Roll No. 362); **Pages H5838–45, H5868–69**

Schakowsky amendment No. 24 printed in H. Rept. 107–615 that sought to strike subtitle C of title VII, the Critical Infrastructure Information Act, and to strike section 762, Advisory Committees, and to insert a new section dealing with remedies for retaliation against whistleblowers (rejected by a recorded vote of 188 ayes to 240 noes, Roll No. 363); **Pages H5845–50, H5869**

Tom Davis of Virginia amendment No. 25 printed in H. Rept. 107–615 that sought to define the

term "covered Federal agency," for purposes of exemption from disclosure under the Freedom of Information Act, to mean the Department of Homeland Security and agencies with which the Department shares critical infrastructure information (rejected by a recorded vote of 195 ayes to 233 noes, Roll No. 364); and **Pages H5850–53, H5869–70**

Weldon of Florida amendment No. 27 printed in H. Rept. 107–615 that sought to transfer the visa office of the Bureau of Consular Affairs of the Department of State to the Department of Homeland Security (rejected by a recorded vote of 118 ayes to 309 noes, Roll No. 365). **Pages H5861–65, H5870–71**

Rejected the Murtha motion that the Committee rise and strike the enacting clause by voice vote. **Pages H5871–72**

The Clerk was authorized to make technical corrections and conforming changes in the engrossment of the bill. **Page H5888**

H. Res. 502, the rule that provided for consideration of the bill was agreed to on July 25.

Recess: the House recessed at 9:56 p.m. and reconvened at 11:15 p.m. **Page H5888**

Terrorism Risk Protection Act—Go To Conference: The House disagreed with the Senate amendment to H.R. 3210, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism, and agreed to a conference. Appointed as conferees: From the Committee on Financial Services, for consideration of the House bill and the Senate amendment thereto, and modifications committed to conference: Chairman Oxley and Representatives Baker, Ney, Kelly, Shays, Fossella, Ferguson, LaFalce, Kanjorski, Bentsen, Maloney of Connecticut, and Hooley. From the Committee on the Judiciary, for consideration of section 15 of the House bill and sections 10 and 11 of the Senate amendment thereto, and modifications committed to conference: Chairman Sensenbrenner and Representatives Goodlatte and Conyers (The Chair announced that Representative Goodlatte had replaced Representative Coble as a conferee). **Pages H5962, H5969**

Trade Act of 2002: The House agreed to the conference report on H.R. 3009, to extend the Andean Trade Preference Act and to grant additional trade benefits under that Act by a yea-and-nay vote of 215 yeas to 212 nays, Roll No. 370. **Pages H5969–86**

The House agreed to H. Res. 509, the rule waiving points of order against consideration of the conference report by a yea-and-nay vote of 220 yeas to 200 nays, Roll No. 369. **Pages H5962–69**

Earlier agreed to H. Res. 507, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules by a yea-and-nay vote of 217 yeas to 207 nays, Roll No. 368. **Pages H5888, H5957–61**

Summer District Work Period: The House agreed to S. Con. Res. 132, providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives. Subsequently read a letter from the Speaker wherein he appointed Majority Leader Armey, pursuant to section 2 of S. Con. Res. 132, to act jointly with the Majority Leader of the Senate or his designee, in the event of his death or inability to notify the Members of the House and the Senate, respectively. **Pages H5986–87**

Committee Election: The House agreed to H. Res. 510, electing Representative Gekas to the Committee on Agriculture. **Page H5987**

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, Sept. 4. **Page H5987**

Resignations—Appointments: Agreed that notwithstanding any adjournment of the House until Wednesday, September 4, 2002, the Speaker, Majority Leader and Minority Leader be authorized to accept resignations and make appointments authorized by law or by the House. **Page H5987**

Consideration of Motions to Suspend the Rules: Agreed that it be in order on Wednesday, September 4 for the Speaker to entertain motions to suspend the rules. **Page H5987**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Wolf or if he is not available to perform this duty Representative Gilchrest to act as Speaker pro tempore to sign enrolled bills and joint resolutions through September 4. **Page H5987**

U.S. Group of the North Atlantic Assembly: Read a letter from Representative Borski wherein he announced his resignation from the NATO Parliamentary Assembly. Subsequently, the Chair announced the Speaker's appointment of Representative Tanner to the United States Group of the North Atlantic Assembly to fill the existing vacancy thereon. **Page H5987**

Additional Conferees to Bob Stump National Defense Authorization Act: The Chair announced additional conferees to H.R. 4546, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces: As additional conferees from the committee on Small Business, for

consideration of sections 243, 824, and 829 of the Senate amendment and modifications committed to conference: chairman Manzullo and Representatives Kelly and Velázquez. Page H5987

Senate Messages: Message received from the Senate today appears on page H5845.

Referrals: S. 2771 was held at the desk.

Quorum Calls—Votes: Three yea-and-nay votes and sixteen recorded votes developed during the proceedings of the House today and appears on pages H5797–98, H5798–99, H5799, H5800, H5804, H5809, H5812–13, H5836, H5837, H5837–38, H5868–69, H5869, H5869–70, H5870–71, H5886–87, H5887–88, H5960–61, H5968–69, and H5986. There were no quorum calls.

Adjournment: The House met at 10 a.m. and at 3:40 a.m. on Saturday, July 27, pursuant to the provisions of S. Con. Res. 132, the House stands adjourned until 2 p.m. on Wednesday, September 4, 2002.

Committee Meetings

"OATH TAKING, TRUTH TELLING, AND REMEDIES IN THE BUSINESS WORLD"

Committee on Energy and Commerce: Held a hearing entitled "Oath Taking, Truth Telling, and Remedies in the Business World." Testimony was heard from public witnesses.

OVERSIGHT REPORT

Committee on Government Reform: Subcommittee on Criminal Justice, Drug Policy, and Human Resources approved for full Committee action an oversight report entitled: "Federal Law Enforcement at the Borders and Ports of Entry: Challenges and Solutions."

ANTI-DRUG MEDIA CAMPAIGN CONTRACTORS—IMPACT OF POTENTIAL RESTRICTIONS

Committee on Government Reform: Subcommittee on Criminal Justice, Drug Policy, and Human Resources held a hearing on "Impact of Potential Restrictions on Anti-Drug Media Campaign Contractors." Testimony was heard from Christopher Marston, Deputy Chief of Staff, Office of National Drug Control Policy; Michael Jaggard, Executive Director, Acquisition and Business Management, Office of the Assistant Secretary, Research, Development and Acquisition, Department of the Navy; and a public witness.

TRADE ACT OF 2002—CONFERENCE REPORT

Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the conference report and against it consideration. The rule provides that the conference report shall be considered as read.

CONGRESSIONAL PROGRAM AHEAD

Week of July 29 through August 3, 2002

Senate Chamber

On *Monday,* at approximately 5:30 p.m., Senate will vote on confirmation of the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit; following which, Senate will consider the nominations of Joy Flowers Conti, to be United States District Judge for the Western District of Pennsylvania, and John E. Jones III, to be United States District Judge for the Middle District of Pennsylvania, with votes to occur thereon; following which, Senate will resume consideration of S. 812, Greater Access to Affordable Pharmaceuticals Act.

On *Tuesday,* Senate will continue and expects to complete consideration of S. 812, Greater Access to Affordable Pharmaceuticals Act.

During the balance of the week, Senate will consider any other cleared legislative and executive business, including appropriations bills, and conference reports, when available.

Senate Committees

(Committee meetings are open unless otherwise indicated)

Committee on Armed Services: July 30, Subcommittee on Emerging Threats and Capabilities, to hold hearings to examine the report of the General Accounting Office on nuclear proliferation and efforts to help other countries combat nuclear smuggling, 2:30 p.m., SR–232A.

July 31, Full Committee, to hold hearings to examine the status of Operation Enduring Freedom, 3 p.m., SD–106.

August 1, Full Committee, to resume open and closed (in Room SR–222) hearings to examine the implications of the Strategic Offensive Reductions Treaty (Treaty Doc. 107–8), 9 a.m., SD–106.

Committee on Banking, Housing, and Urban Affairs: July 30, to hold hearings on the nominations of Ben S. Bernanke, of New Jersey, and Donald L. Kohn, of Virginia, each to be a Member of the Board of Governors of the Federal Reserve System, 10 a.m., SD–538.

August 1, Subcommittee on International Trade and Finance, to hold oversight hearings to examine the role of charities and non-governmental organizations in the financing of terrorist activities, 2:30 p.m., SD–538.

Committee on Commerce, Science, and Transportation: July 30, to hold hearings to examine finances in the telecommunications marketplace, focusing on maintaining the operations of essential communications facilities, 9:30 a.m., SR–253.

July 30, Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism, to hold hearings to examine improvement in consumer choice with regard to automobile repair shops, 2:30 p.m., SR–253.

July 31, Full Committee, to hold hearings on the nomination of Rebecca Dye, of North Carolina, to be a Federal Maritime Commissioner, 9:30 a.m., SR–253.

July 31, Subcommittee on Surface Transportation and Merchant Marine, to hold hearings to examine railroad shipper issues, 9:45 a.m., SR–253.

Committee on Energy and Natural Resources: July 30, Subcommittee on Public Lands and Forests, to hold hearings on S. 2016, to authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior; S. 2565, to enhance ecosystem protection and the range of outdoor opportunities protected by statute in the Skykomish River valley of the State of Washington by designating certain lower-elevation Federal lands as wilderness; S. 2587, to establish the Joint Federal and State Navigable Waters Commission of Alaska; S. 2612, to establish wilderness areas, promote conservation, improve public land, and provide for high quality development in Clark County, Nevada; S. Con. Res. 107, expressing the sense of Congress that Federal land management agencies should fully support the Western Governors Association "Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment", as signed August 2001, to reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a National prescribed Fire Strategy that minimizes risks of escape; and S. 2652, to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, 2:30 p.m., SD–366.

July 31, Full Committee, business meeting to consider pending calendar business, 9:30 a.m., SD–366.

July 31, Subcommittee on Water and Power, to hold hearings on S. 1577, to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act; S. 1882, to amend the Small Reclamation Projects Act of 1956; S. 934, to require the Secretary of the Interior to construct the Rocky Boy's North Central Montana Regional Water System in the State of Montana, to offer to enter into an agreement with the Chippewa Cree Tribe to plan, design, construct, operate, maintain and replace the Rocky Boy's Rural Water System, and to provide assistance to the North Central Montana Regional Water Authority for the planning, design, and construction of the noncore system; S. 2556, to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho; S. 2696, to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project; S. 2773, to authorize the Secretary of the Interior to cooperate with the High Plains Aquifer States in conducting a hydrogeologic characterization, mapping, modeling and monitoring program for the high Plains Aquifer and for other purposes; and H.R. 2990, to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act, 2:30 p.m., SD–366.

Committee on Environment and Public Works: July 30, to hold hearings to examine the effectiveness of the current Congestion Mitigation and Air Quality (CMAQ) program, conformity, and the role of new technologies, 9:30 a.m., SD–406.

July 31, Subcommittee on Superfund, Toxics, Risk, and Waste Management, to hold oversight hearings to examine the Environmental Protection Agency Inspector General's Report on the Superfund Program, 10 a.m., SD–406.

Committee on Finance: July 30, to hold hearings to examine the role of the Extraterritorial Income Exclusion Act (P.L. 106–519) in the international competitiveness of U.S. companies, 10 a.m., SD–215.

August 1, Full Committee, to hold hearings on the nomination of Pamela F. Olson, of Virginia, to be an Assistant Secretary of the Treasury, 10 a.m., SD–215.

Committee on Foreign Relations: July 30, business meeting to consider the Protocol Concerning Specially Protected Areas and Wildlife to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, done at Kingston on January 18, 1990, with accompanying papers (Treaty Doc. 103–5); Protocol to Amend the 1949 Convention on the Establishment of an Inter-American Tropical Tuna Commission, done at Guayaquil, June 11, 1999, and signed by the United States, subject to ratification, in Guayaquil, Ecuador, on the same date (Treaty Doc. 107–02); the Convention on the Elimination of All Forms of Discrimination Against Women, adopted by the United Nations General Assembly on December 18, 1979, and signed on behalf of the United States of America on July 17, 1980 (Treaty Doc. 96–53); S. 1777, to authorize assistance for individuals with disabilities in foreign countries, including victims of landmines and other victims of civil strife and warfare; and pending nominations, 9:30 a.m., SD–419.

July 30, Full Committee, to hold hearings on the nominations of Nancy J. Powell, of Iowa, to be Ambassador to the Islamic Republic of Pakistan, and Richard L. Baltimore III, of New York, to be Ambassador to the Sultanate of Oman, 11 a.m., SD–419.

July 31, Full Committee, business meeting to consider pending calendar business, 9:30 a.m., SD–419.

July 31, Full Committee, to hold hearings to examine threats, responses, and regional considerations surrounding Iraq, 10:30 a.m., SD–419.

July 31, Full Committee, to continue hearings to examine threats, responses, and regional considerations surrounding Iraq, 2:30 p.m., SD–419.

August 1, Full Committee, business meeting to consider pending calendar business, 9:30 a.m., SD–419.

August 1, Full Committee, to hold hearings to examine national security perspectives regarding Iraq, 10 a.m., SD–419.

August 1, Full Committee, to continue hearings to examine national security perspectives regarding Iraq, 2 p.m., SD–419.

Committee on Governmental Affairs: July 29, Subcommittee on International Security, Proliferation, and Federal Services, to hold hearings to examine certain measures to strengthen multilateral nonproliferation regimes, 2:30 p.m., SD–342.

July 30, Permanent Subcommittee on Investigations, to resume hearings to examine the role of financial institutions in the collapse of Enron Corporation, focusing on the contribution to Enron's use of complex transactions to make the company look better financially than it actually was, 9:30 a.m., SD–342.

July 31, Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia, to hold hearings to examine consumer safety and weight loss supplements, focusing on the extent of the use of supplements for weight loss purposes, the validity of claims currently being made for and against weight loss supplements, and the structure of the current federal system of oversight and regulation for dietary supplements, 10 a.m., SD–342.

Committee on Health, Education, Labor, and Pensions: July 31, business meeting to consider S. 2328, to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education, and outreach, and to develop improved and more accurate data collection related to maternal morbidity and mortality; S. 2394, to amend the Federal Food, Drug, and Cosmetic Act to require labeling containing information applicable to pediatric patients; S. 2758, entitled "The Child Care and Development Block Grant Amendments Act"; S. 1998, to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools; S. 2054, to amend the Public Health Service Act to establish a Nationwide Health Tracking Network; S. 2053, 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; S. 2246, to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools; S. 2549, to ensure that child employees of traveling sales crews are protected under the Fair Labor Standards Act of 1938; proposed legislation regarding the National Science Foundation Doubling Act; and the nominations of Edward J. Fitzmaurice, Jr., of Texas, and Harry R. Hoglander, of Massachusetts, each to be a Member of the National Mediation Board, 10 a.m., SD–430.

Committee on Indian Affairs: July 30, to hold hearings on proposed legislation concerning the Department of the Interior/Tribal Trust Reform Task Force; and to be followed by S. 2212, to establish a direct line of authority for the Office of Trust Reform Implementations and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determinations Act, 10 a.m., SD–106.

August 1, Full Committee, to hold oversight hearings to examine the Secretary of the Interior's Report on the Hoopa Yurok Settlement Act, 10 a.m., SR–485.

August 1, Full Committee, to hold oversight hearings to examine problems facing Native youth, 2 p.m., SR–485.

August 2, Full Committee, to hold hearings on S. 958, to provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326–A–1, 326–A–3, 326–K, 2 p.m., SD–106.

Select Committee on Intelligence: July 31, to hold hearings to examine S. 2586, to exclude United States persons from the definition of "foreign power" under the Foreign Intelligence Surveillance Act of 1978 relating to international terrorism, and S. 2659, to amend the Foreign Intelligence Surveillance Act of 1978 to modify the standard of proof for issuance of orders regarding non-United States persons from probable cause to reasonable suspicion, 2:30 p.m., SDG–50.

Committee on the Judiciary: July 30, Subcommittee on Crime and Drugs, to hold hearings to examine criminal and civil enforcement of environmental laws, 10:30 a.m., SD–226.

July 31, Full Committee, to hold hearings to examine class action litigation issues, 10 a.m., SD–226.

July 31, Full Committee, to hold hearings on S. 2619, to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape, 1:30 p.m., SD–226.

August 1, Full Committee, to hold hearings on pending judicial nominations, 2 p.m., SD–226.

House Chamber

The House is not in session. Pursuant to the provisions of S. Con. Res. 132, the House stands adjourned for the Summer District Work Period. It will reconvene at 2 p.m. on Wednesday, September 4.

House Committees

No committee meetings are scheduled.

Next Meeting of the SENATE

4 p.m., Monday, July 29

Senate Chamber

Program for Monday: After the transaction of any morning business (not to extend beyond 5:30 p.m.), Senate will vote on the confirmation of the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit; following which, Senate will consider the nominations of Joy Flowers Conti, to be United States District Judge for the Western District of Pennsylvania, and John E. Jones III, to be United States District Judge for the Middle District of Pennsylvania, with votes to occur thereon; following which, Senate will resume consideration of S. 812, Greater Access to Affordable Pharmaceuticals Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

2 p.m., Wednesday, September 4

House Chamber

Program for Wednesday: To be announced.

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