United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, THURSDAY, JUNE 19, 2003 No. 91

House of Representatives

The House met at 10 a.m.

The Reverend Bob Warren, Pastor, Arlington Heights Evangelical Free Church, Arlington Heights, Illinois, offered the following prayer:

Our gracious and loving Heavenly Father, we worship You and thank You that You have revealed Your heart to us through Your Son.

We come at the beginning of this legislative session today to ask that Your wisdom and guidance prevail. We confess that maybe too often we are self-seeking. Forgive us and help us to exercise the entrusted authority in a way that would be pleasing to You.

Even throughout the course of this day, remind us that every aspect of life is from Your hand, and in these challenging days, help us to see all the issues of life, faith and freedom through Your eyes. I pray that You would guide each of these elected representatives to lead our Nation in right paths.

We acknowledge our dependence upon You. Yours, O Lord, is the greatness and the power, and the splendor and the majesty, where everything in heaven and on earth is Yours.

Hear our prayers. May Your blessing be upon our Nation. In Your name, Jesus, we pray, Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from California (Ms. LOFGREN) come forward and lead the House in the Pledge of Allegiance.

Ms. LOFGREN led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

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

H.R. 389. An act to authorize the use of certain grant funds to establish an information clearinghouse that provides information to increase public access to defibrillation in schools.

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

S. 1276. An act to improve the manner in which the Corporation for National and Community Service approves, and records obligations relating to, national service positions.

The message also announced that the Senate disagrees to the amendments of the House to the amendments of the Senate to the bill (H.R. 1308) ''An Act to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes,'' and requests a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and appoints Mr. GRASSLEY, Mr. NICKLES, Mr. LOTT, Mr. BAUCUS and Mrs. LINCOLN to be the conferees on the part of the Senate.

WELCOMING THE REVEREND BOB WARREN, PASTOR, ARLINGTON HEIGHTS EVANGELICAL FREE CHURCH, ARLINGTON HEIGHTS, ILLINOIS

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

Mr. KIRK. Mr. Speaker, Reverend Robert Warren currently serves as the Pastor of Adults and Compassion Ministries at the Arlington Heights Evangelical Free Church in Arlington Heights, Illinois. The church has 2,200 Members.

Pastor Warren is remarkable for his service to his fellow man, his congregation and our community. Bob has been in the ministry for 30 years, helping to lead four churches, as well as teaching college.

At the Arlington Heights Evangelical Free Church, he has led the enhancement of the church's participation in suburban and international churches for the needy. In addition, he leads a team that mentors unemployed men and women and led the development of the church's lay care ministry.

Pastor Warren is deeply committed to his family, his wife, Nancy, and their two children, Noel and Rob. Next week they will celebrate their 32nd anniversary.

Arlington Heights is the largest town in my district, a place where common sense Midwestern values of family and faith and freedom reign supreme. Pastor Warren embodies those values and is one of our most cherished leaders, and we are honored that he took the time to lead the House in prayer today.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 5 one minutes on each side.

PASSING MEANINGFUL REFORM ON MEDICARE

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

Mr. BURNS. Mr. Speaker, the House is in the midst of debate that will improve Medicare for millions of seniors. We will provide a prescription drug

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benefit. We will construct a fairer, consumer-oriented and better managed system for seniors to receive health care.

Mr. Speaker, a prescription drug benefit is the next logical step in the construction of an improved Medicare system for our seniors. Not only will we incorporate a prescription drug benefit, but we will work to ensure the solvency of the Medicare system for future generations.

I call on my colleagues from both sides of the aisle to come together in the spirit of bipartisanship, work together to pass meaningful reform to Medicare now, and to provide a prescription drug benefit for our seniors.

AMERICORP MUST BE PRESERVED

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

Ms. LOFGREN. Mr. Speaker, the President, in the State of the Union in 2002 vowed to increase opportunities in AmeriCorp, and he went all over the United States saying that he would increase AmeriCorp by 50 percent, from about 50,000 members to 75,000.

However, this program is being destroyed. It has not been funded, the GAO has caused problems, we have not funded the scholarship program, and, in fact, the President's request for fiscal year 2004 actually asked for $40 million less in AmeriCorp grants than he requested in 2003.

In San Jose, California, AmeriCorp volunteers are helping young students with tutoring, recycling, doing volunteerism and really making our community better.

So I am here today to say the President did not tell the truth to the American people in the State of the Union. He lied to the American people around the country when he promised to expand this program.

Please, Mr. President, let us come forward—

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMMONS). The gentlewoman is not in order. She must refrain from personal criticism of the President.

Ms. LOFGREN. I would hope the President would take steps to make sure that what he promised the American people actually comes true, instead of the sad state of deception that exists today.

SUPPORT HEALTH ACCESS AND FLEXIBILITY ACT

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

Mr. BURGESS. Mr. Speaker, I rise today to talk about H.R. 2114, the Health Access and Flexibility Act.

This bill, Mr. Speaker, will increase access to consumer-based health coverage for all Americans, regardless of income. Under H.R. 2114, the availability of Medical Savings Accounts will be greatly expanded and it will create similar types of accounts for low-income Americans.

Since the mid-1990s, Medical Savings Accounts have allowed their owners to purchase health services tax free by building funds in interest earning accounts. Medical Savings Accounts promote savings and direct health care purchasing and are designed to simplify the doctor-patient relationship.

As a physician, I know firsthand the difficulty that some patients have working through their insurance companies and what services are covered by their policies. With Medical Savings Accounts, patients can focus their attention on their medical care and they can discuss their needs with their doctors frankly and honestly, and they can proceed with appropriate treatment when medical care is necessary.

Unfortunately, these innovative savings tools are severely restricted and there have been caps placed on the number of the Medical Savings Accounts established in any given year.

TEACHER RECRUITMENT AND RETENTION ACT OF 2003

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

Mr. WILSON of South Carolina. Mr. Speaker, I am proud of President Bush for making positive change in our education system through the landmark No Child Left Behind legislation, which was championed by the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce in the House.

To promote this Act, we need to help disadvantaged school districts in our country, which are struggling hard to compete for high quality teachers in the basic skills. That is why I have introduced the Teacher Recruitment and Retention Act of 2003, which passed the Committee on Education and the Workforce last week.

This bill will attract highly qualified teachers to low income and rural areas by expanding the teacher loan forgiveness program from the current $5,000 to a maximum of $17,500 for teachers who commit to teaching math, science or special-ed in a disadvantaged district for 5 years. The goal is to ensure that America's children are prepared to succeed in a world based on science and technology.

Mr. Speaker, I ask my colleagues to join me in cosponsoring H.R. 438.

In conclusion, God bless our troops.

TRIBUTE TO BILL MAYS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is not often that we come to the floor to speak of a special person, and, when we do so, I hope that it is understood that whatever their contribution, they have had an impact on our lives.

I speak this morning about Bill Mays. Many of you would not be familiar with that name. Bill Mays was an employee of this House. In fact, he worked in the Rayburn Building, where many of us have our offices, and he served us in providing service through the elevator system.

Bill Mays was someone who we saw every day as we rushed to the floor of the House, a very generous and kind person, a very calm person, always with a smile on his face. Just a few months ago, he lost his wife after her long battle with cancer. We always heard of how they were working with each other to keep each other supported. And, just last week, not more than 3 months after her death, Bill Mays had a heart attack.

We want to pay tribute to Bill, because many times our good friends who work in this building go unnoticed. But we just want to simply say we appreciated you, Bill. Our sympathy to Annette, your daughter, and her family.

□ 1015

As I close on that note in thanking him, I would just simply say, Mr. Speaker, it is also time to tell the American people the truth about the weapons of mass destruction. So I will be filing legislation for an independent commission and a special prosecutor to be able to know what truth was known, what truth was said, and whether we as policymakers, who are obligated to the American people to be truthful as we take our oath of office, that we are always with the truth, to be able to tell the truth.

CONSULAR CARDS THREATEN HOMELAND SECURITY

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute.)

Mr. SMITH of Texas. Mr. Speaker, today the Subcommittee on Immigration will hold a hearing on consular identification cards such as those issued by Mexican consulates to illegal immigrants in the United States.

A number of cities and dozens of banks now recognize these cards for identification purposes. In several States, in fact, they can be used to obtain a driver's license.

The cards are not reliable, not secure, and make it easier for illegal immigrants to stay in the U.S. A person's identity is not verified and false identities are easy to obtain. To anyone worried about homeland security, these cards should be seen as a red alert.

The Treasury Department recently approved these consular identification cards for bank use, yet no major bank in Mexico accepts them. So we have U.S. banks relying on Mexican identification cards that even Mexico will not recognize.

Perhaps the Treasury Department did not hear that the President is concerned about homeland security. Treasury officials may want to call the White House.

SUPPORT OUR MILITARY FAMILIES

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to voice concern over the undue hardship that President Bush is placing on our military families.

At a time when our Nation is asking a tremendous amount from our armed services, the administration has proceeded to deliver blow after blow to our men and women in uniform.

The Bush tax cut failed to extend a child tax credit to nearly 200,000 low-income military personnel. And then, of course, $200 million has been cut from programs providing assistance to public schools on military bases.

The Bush administration said they would Leave No Child Behind. Well, what is happening to the children of the brave troops who are in Iraq?

The latest tax cut also scraped $1.5 billion away from military housing. Furthermore, it cuts $14.6 billion over 10 years from veterans benefits.

During the 2000 campaign, the President vowed to give our Armed Forces better pay, better treatment, and better training. Well, Mr. President, it is time to keep your promise.

PARLIAMENTARY INQUIRY

Mr. HAYES. Mr. Speaker, I have a parliamentary inquiry.

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

Mr. HAYES. Mr. Speaker, a few moments ago, the gentlewoman from California (Ms. LOFGREN) called the President of the United States a liar. My question is, is it too late to ask that her words be taken down? This is inappropriate by our rules.

The SPEAKER pro tempore. The Chair has already ruled on that matter. At the time the Chair ruled that the gentlewoman was out of order.

Mr. HAYES. Thank you, Mr. Speaker. It bothers me. I appreciate the ruling.

AMERICA'S SENIOR CITIZENS DESERVE PRESCRIPTION DRUG BENEFIT UNDER MEDICARE

(Mr. HAYES asked and was given permission to address the House for 1 minute.)

Mr. HAYES. Mr. Speaker, I rise today in support of legislation that is vitally important to our Nation's seniors: a prescription drug benefit for Medicare.

We know that treating diseases with prescription medications can help reduce the chance of costly hospital stays and expensive medical procedures. I urge my colleagues to work together to ensure a fair and responsible Medicare plan that lowers the cost of prescription drugs now so that senior citizens can better afford the medicines they need to live healthier lives and to improve their quality of life.

No American should be forced to choose between food, shelter, or prescription drugs. Last August, I toured the eighth district of North Carolina with a petition gathering signatures of seniors who agreed that we need that prescription drug benefit now. At each stop, seniors told me of their disappointment of promises that were made, but not kept. The time is long overdue for us to make good on this promise.

Medicare is a program that has been helping millions of older Americans meet their health care needs since that first day back in 1965. We can and should strengthen Medicare to make it even better for our seniors. One critical way we can make this program better is by adding a prescription drug benefit.

Our seniors deserve no less.

PROVIDING FOR CONSIDERATION OF H.R. 660, SMALL BUSINESS HEALTH FAIRNESS ACT OF 2003

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 283 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 283

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 660) to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees. The bill shall be considered as read for amendment. The amendment recommended by the Committee on Education and the Workforce now printed in the bill shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except—

(1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce;

(2) the further amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Kind of Wisconsin or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and

(3) one motion to recommit with or without instructions.

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

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), 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. LINCOLN DIAZ-BALART of Florida asked and was given permission to revise and extend his remarks.)

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, House Resolution 283 is a rule that provides for the consideration of H.R. 660, the Small Business Health Fairness Act of 2003. The resolution makes in order a minority party substitute that provides ample opportunity to discuss this important legislation before us, while addressing certainly the concerns of our colleagues on the other side of the aisle.

The rule provides 1 hour of general debate, evenly divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce.

This is a bipartisan bill. In fact, the legislation has 162 cosponsors on a bipartisan basis, and many, many groups that are interested in this issue are supporting this legislation.

H.R. 660 was introduced by the gentleman from Kentucky (Mr. FLETCHER). It has the strong support of the Speaker, of the Committee on Small Business chairman, the gentleman from Illinois (Mr. MANZULLO), and the Subcommittee on Employer-Employee Relations chairman, the gentleman from Texas (Mr. SAM JOHNSON).

Association Health Plans, or AHPs, allow access to needed health insurance for many who do not have health insurance. The House, I believe, Mr. Speaker, must act now to pass this long overdue legislation.

Really, the Nation is at a crossroads. We currently have over 40 million Americans without health insurance, approximately 60 percent of whom work or depend on small employers who often cannot afford these very important and needed benefits. This bill will help small business, in turn, help working families.

Mr. Speaker, H.R. 660 will allow for small businesses across the country to band together through established and respected trade or professional organizations to lower health care costs. This same model already works for large companies. We believe that small businesses should also be allowed to benefit from it.

Estimates predict that anywhere from 350,000 to 8 million uninsured workers will receive health care benefits through these AHPs even at the lowest projection, and that means positive progress for many currently uninsured men and women.

Now, we may hear all sorts of arguments concerning, for example, state-by-state regulations. We have already, however, seen many large companies provide health insurance because they

are allowed these procedures. These same benefits will now be obtainable through collective bargaining by the AHPs while, at the same time, reducing burdensome administration fees, precisely by having to comply with only one set of Federal regulations and not 50 individual sets of State regulations.

This bill also ensures that AHPs adhere to the important regulations in the Health Insurance Portability and Accountability Act of 1996, meaning that coverage cannot be denied based on health or claims experience.

I am very pleased that the Committee on Rules did a fine job in providing a full and fair process of debate through, among other things, permitting a Democrat substitute that addresses many of the points brought out through testimony in the Committee on Rules.

Mr. Speaker, H.R. 660 is a good bill and House Resolution 283 is a fair rule. It is very important to the over 40 million uninsured Americans and the vitality of small business in the United States. Through this legislation, the House of Representatives continues its work to relieve many of the existing burdens on American families.

I would like to thank the gentleman from Ohio (Mr. BOEHNER) and the gentleman from Texas (Mr. SAM JOHNSON) for their leadership on this issue, and I urge my colleagues to support this rule and the underlying legislation.

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, I support the idea behind the association health plans. Helping small businesses has been a priority of mine for a long while. At the same time, I strongly believe that we have a moral obligation to help every American get the health coverage they and their families need.

So I am glad that the Democrats on the Committee on Education and the Workforce, particularly the gentleman from Wisconsin (Mr. KIND) and the gentleman from new Jersey (Mr. ANDREWS), have written the Democratic substitute. It is a sensible and affordable plan to ensure health coverage for small businesses and their employees that is at least as good as Federal employees get. If you think small businesses deserve the same health coverage that Members of Congress get, then the Democratic plan is for you.

Unfortunately, Mr. Speaker, the Republican Party controls the House of Representatives. That gives them the power to block important priorities, and they have no problem using it.

For instance, they are still blocking tax relief for millions of military and working families. Six times Democrats have tried to give the child tax credit to these families because we believe that they deserve at least a fraction of the tax breaks that Republicans gave to millionaires last month. But six times, House Republicans have used their power to deny these families. Today, Mr. Speaker, the Republican leadership is using their power and this restrictive rule to undermine patient protections.

Now, perhaps Republicans will say that we should not be surprised. More than 90 percent of the rules in this Congress have been restricted, a shameful record of stifling democracy and blocking critical American priorities. But the rule on the floor today perfectly illustrates how the Republican majority has operated during this Congress.

In the Committee on Rules, Democrats offered 14 amendments on issues that are critical to the health of the people who might participate in these plans, but the Committee on Rules Republicans voted down all but one of them, the Democratic substitute.

Consider patients' rights, for example. Republicans have successfully blocked a national Patients' Bill of Rights for the past several years, and the base bill would undermine the patient protections that various States have passed, making it a kind of anti-Patients Bill of Rights.

So the gentleman from Massachusetts (Mr. TIERNEY) and the gentleman from Maryland (Mr. VAN HOLLEN) went to the Committee on Rules with an amendment to ensure that these new association health plans comply with State patient protections, like prohibitions on doctor gag rules and access to emergency rooms, OBGYNs, and specialists. But Republicans on the Committee on Rules defeated their amendment on a party-line vote.

Or take prostate cancer and breast cancer. The gentlewoman from New York (Mrs. MCCARTHY) tried to ensure that these new health plans cover screenings for these deadly diseases, but Republicans refused to allow the House to vote on her amendments.

The gentleman from Wisconsin (Mr. KIND) and the gentleman from Ohio (Mr. KUCINICH) each tried to protect Americans with autism.

The gentlewoman from Minnesota (Ms. MCCOLLUM) tried to ensure maternity and well-child benefits continue to be covered in States that require this coverage.

□ 1030

And the gentleman from New Jersey (Mr. ANDREWS) tried to protect small businesses and their employees from discrimination based on race, gender or age. Each of these is an important issue when you are creating a new system that could affect the health of millions and millions of Americans. But Republicans refuse to allow the House to even vote on their amendments. As a result, Mr. Speaker, if the Republican-based bill passes the House, millions of Americans will lose out on important patient protections, and that is just one example of how Americans are harmed by what the Republican leadership does on the Committee on Rules.

Of course, none of these amendments would have been necessary in the Republican bill were they not so deficient, but it is. In fact, the Republican plan is opposed by more than 475 organizations representing State governors, insurance commissioners, attorneys general and State legislators, as well as physician groups, consumer organizations, Chambers of Commerce, farm bureaus and small business associations. The American Nurses Association, for example, wrote that it ''would undermine the protections provided by State laws while doing little to provide coverage for the uninsured.''

The nonpartisan Congressional Budget Office found that premiums would increase for 80 percent of small employers, while as many as 100,000 of the sickest people would lose coverage altogether.

In my home State of Texas, more than 1.5 million people would pay higher premiums if the Republican bill passes, according to an analysis of a report by the nonpartisan Congressional Budget Office.

Despite this, Mr. Speaker, the Republican leadership refused to allow votes on the Democratic amendments to fix their bill. That means that the Democratic alternative is the only way to protect patients and increase coverage for small business employees.

It sets up a Small Employer Health Benefits Plan that would work like health plans that now cover Federal employees. It covers all small businesses and their employees, offers affordable premiums, and ensures that people get coverage at least as good as what Members of Congress gets. And unlike the Republican bill, it preserves State patient protections.

To pass the Democratic alternative and provide affordable and comprehensive health coverage to small businesses, we need Republicans to stand up to their leadership and vote ''yes'' on the Democratic alternative. But before that, Republicans have yet another opportunity to stop blocking tax relief for millions of military and working families. To do that, all they have to do is stand up to the Republican leadership on the important parliamentary vote on the previous question. If we defeat the previous question, the Democrats can amend the rule to allow the House to vote on the child tax credit and the Armed Forces Fairness Act. The President could sign both of these bills tomorrow if only Republicans would finally stop standing in the way.

Mr. Speaker, I urge the Republicans to put the American people above their leadership today.

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

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

Mr. Speaker, the legislation that we are bringing to the floor today, what it does is that it gives small businesses the ability to come together and have

the purchasing power and the leverage, if you will, that currently only large corporations have with the concept, with the goal of bringing down health care costs and offering products, offering health insurance, to those workers who work the overwhelming majority of workers in the United States who work for small businesses. That is what we are trying to do.

I heard my friend on the other side of the aisle say that they have other ideas. Well, we granted the Democrats the ability to bring forth to the floor today their substitute, and so let the debate begin. And if the membership believes that concerns are better addressed in their substitute, the membership may be swayed to support the substitute. We happen to believe our legislation is better. But that is why we will have this debate. So we granted the substitute. And we strongly believe that small businesses should have that ability to come together across State lines and acquire much more leverage and much more purchasing power when they are trying to provide health insurance for their workers. That is what we are trying to do today.

So we hear all sorts of things because we live in a wonderful democracy and everything can be brought out under the sun. But that is what we are trying to do. We are trying to lower health care costs. We are trying to provide health insurance to more people in this country by permitting small businesses to come together. That is what we are trying to do today. Democrats say they have a better idea. That is why we granted their substitute. We do not happen to believe they have a better idea, but we allowed the debate.

After hearing all sorts of confusing things, I wanted to, in case somebody is listening to the debate, get back to what we are actually trying to do, Mr. Speaker.

We think it is a fair rule. We think it is fair in this case to provide the opportunity to debate by making in order the minority party's substitute and we think we have a good product. A lot of Members have worked hard on this product. So we want to get to the debate and we would urge support for the rule by the membership.

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

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Texas (Mr. FROST), the ranking member, for yielding me time.

My good friend from Florida, I believe, has in some way characterized the dilemma that we face continuously in this body. Where there are opportunities for us to come together around both a common good and a common cause, leave it to the majority to throw a stinker in the mix. This bill has a number of co-sponsors and I know why. Because all of us have small businesses and have heard from them repeatedly about a very important concept and that is to be allowed to join together to promote good health plans for their employees.

Any of us who have large numbers of constituents who are small business owners or have come to this floor at any time, we have remarked that small business is the backbone of America. And so the idea of associated health plans is a reasonable idea, Mr. Speaker. But what is unreasonable is the very fact that we could not have a common agreement around the idea that we do not want to banish the sickest of the group. We do not want to disenfranchise them from being able to join in these plans.

We do not want women in Maryland or women in Texas who, under their regulated plans, can get mammograms and then find that this plan is subject to the management of the Department of Labor without any regulations, that they would, if you will, disallow or give permission that you do not have to grant the mammogram provision or the prostate cancer testing provision in these plans. That is what we are arguing about.

That is why the Democratic substitute stands more worthy of our consideration. And that is why I am concerned about this legislation because I, frankly, believe it should be 435 to zero helping small businesses. But I have great difficulty with looking at this legislation, I was considering co-sponsoring it, inasmuch as it takes away the regulatory arm, and I do not know why we are here running away from regulations when we have regulated things to the positive.

We have helped to save lives with regulations in this country; but yet now we want to pass legislation that leaves small businesses, of all groups, the very nature of their size means that they need extra help, the Small Business Administration. So we want to take away the regulations and give them plans that may be, at best, unhelpful to their employees who will get sick and very sick, and then give them simply a plan that maybe 2 or 3 of their 10-person business could be able to be associated with.

Mr. Speaker, we can do better than this, and I would ask my colleagues to defeat the rule on the previous rule question so that we can get back to the drawing board of making this a better bill.

I would add something else, Mr. Speaker, that while we are doing this and fixing problems, can I get the attention of my colleagues on the other side and ask the question why we cannot pass the low income tax credit for children? It was passed by the Senate more than 2 weeks ago. It is a $10 million plan. It will help 19 million children, 2,129,000 in the State of Texas. I have that embossed in my brain, if you will, literally, in my brain and the reason is because I see these people all the time.

I do not know if any Members, that Fort Hood in Texas sent more troops to Iraq than we sent in World War II. Many of these young people are in Iraq as we speak. Many of those people are in Iraq as we speak and the way the tax laws, Mr. Speaker, are configurated now, because were they in combat pay, they would not be eligible for the low income tax credit, even though they fall within the salary range, which is $10,000 to $26,000, because those young men and women are making somewhere around $1,000 to $1,200 a month.

So my concern is that we have it languishing probably with a conference, and if any of us knows what a conference means, there is no way of telling how long that bickering would occur, when we could take the Senate bill sitting at the desk, the Speaker could lift that Senate bill. It could pass. That is the bill, $3.5 billion is what that bill would cost, and now we have an $82 billion white whale languishing in the shallow waters of a conference committee, never to be heard from again.

Mr. Speaker, let me close by saying that the Wall Street Journal says that the gentleman from Texas (Mr. DELAY) and others in the House deliberately made their child tax credit bill richer than the Senate version because they knew that the Senate conferees would walk away and pass nothing instead.

Mr. Speaker, let me just say, we have got to do a better job of fixing problems for Americans.

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

Mr. Speaker, the underlying legislation that we are bringing to the floor today is very important, as I stated before. We believe in small business. We believe in the fact that the overwhelming majority of workers in this country work in small businesses, and we want to incentivate those small businesses in providing health care, health insurance to their workers.

I think it is important to reduce the over 40 million number of workers in this country who do not have insurance. We think we are going to do so in a significant way with this legislation.

With regards to some of the allegations my friend from Texas, the previous speaker, said with regard to the low income tax credit, we passed that last week and we really do not believe, her words were, ''a white whale'' we passed. We do not think it is a white whale to pass the legislation that we passed. We do not think it is a white whale to include, as we did, tax breaks for military families. We do not think it is a whale to include tax breaks, as we did, for victims of the Shuttle crash tragedy. We do not think it is a whale to extend, as we did last week, in precisely the low income tax credit legislation, the child tax credit until the year 2010. We do not believe that is a whale. We believe it is important legislation.

But back to the point of what we are doing this week, because that we did last week, despite the fact that our

friends on the other side of the aisle voted against it, but it is a free country. What we are doing this week is bringing forth with this rule, that permits the Democratic substitute, legislation that will permit small businesses to come together and pool their resources and increase their leverage so that they can provide, so that they can provide to the millions of workers who work for small businesses and do not have health insurance, health insurance at better rates and with better terms. That is what we are doing.

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

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. CROWLEY).

□ 1045

Mr. CROWLEY. My colleagues, when debate is completed here on the rule, my colleagues on the other side of the aisle will order the previous question. And I would ask my colleagues on the Democratic side of the aisle to vote ''no'' on the previous question to allow the consideration of the Armed Forces Tax Fairness Act, which is currently pending before the Speaker's desk, and allow for the Senate language for the child tax credit to come before this House. It will allow us to have a vote on that legislation.

Mr. Speaker, I appreciate the fact that under this rule we will have the opportunity to have a substitute, and I do express my appreciation for that. I intend to vote for the substitute and against the majority bill before us. But if I could, I will use this opportunity to speak about what will then be offered later on again today in the IRS substitute, the Rangel substitute, that will once again have a substitute that will include the Senate language on the child tax credit so it will give our colleagues on the other side of the aisle an opportunity to vote up or down on the Senate language.

But I do not think that that substitute will pass at the end of the day. I am a realist. I do not think so because I believe my Republican friends on the other side of the aisle have, unfortunately, shamelessly, brought a sham child tax credit bill before the House this last week, a bill our President opposes, a bill that a Republican-controlled Senate opposes as well. They knew when the House voted on that bill that it would never, and I say never, be enacted. In fact, their own Republican Senate leaders have admitted that it will never be enacted, the House version.

Instead, the Republicans would rather play politics with this issue, politics with the lives of 6.5 million Americans and working families. Yes, they work. They are not on welfare, as some would have you wrongly believe. And they do have children. Believe it or not working people have families, and they do make babies, and they do have expenses to pay for. Playing politics is what is happening with the lives of 260,000 children, their families on active military duty in Iraq who lose this credit under the Republican sham bill.

This Republican scheme is so egregious that even Senator JOHN MCCAIN said he did not understand how the Republican leadership and President Bush left enlisted men and women out of this tax package.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMMONS). Members should avoid references to statements made in the Senate.

Mr. CROWLEY. Only in a positive way, Mr. Speaker. Only in a positive way did I make reference to the Senator.

They play politics with the 3.1 million Americans who have lost their jobs since President Bush became President, with even more job losses projected.

Again, it is shameful to be offering a tax cut to the rich while cutting benefits for working people, cutting benefits for our enlisted personnel and their families, cutting benefits for veterans, cutting benefits for seniors on Medicare, and allowing 3.1 million Americans who have lost their jobs, jobs that have dispersed since President Bush became President and the Republicans began their economic policies 3 short years ago.

Mr. President, you have the power, it is in your hands, to demand the Senate bill be brought before this House for a vote. You can bring the needed pressure to bear on our colleagues on the other side of the aisle for an up or down vote on the Senate bill, and you can have that bill on your desk this evening. Do not let us leave here today, do not let us finish the work of this House this week before demanding that the Senate bill be brought up in this House and passed so that you can sign it, Mr. President, this evening or sometime this week before we leave.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman is reminded to address the Chair and not the President.

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

I think it is important to point out, because my dear friend who just spoke stated that the President of the United States opposed, that is what the gentleman said, the legislation that we here in the House passed last week to provide precisely the low-income child tax credit and, in addition to that, provide tax breaks for military families and for families of the shuttle crash tragedy and extending the child tax credit through the year 2010.

The President supports the legislation. In fact, I am handed here the statement officially put out by the administration in support of the legislation that the House passed. This official statement of administration policy is dated June 12. So I wanted to make that clear on the record.

We are very proud of what we did last week, and we hope and certainly would encourage those who are now resolving any differences that may exist with our friends in the other body that they get that legislation to the floor of both bodies as soon as possible. That is what we did last week.

What we are doing this week is we are providing incentives for small businesses to provide health insurance to the millions of Americans who work for small businesses in this country and do not have health insurance. We think there are few issues as important as that issue. That is why we want to bring that legislation to the floor as soon as possible, and that is why we have brought a fair rule to the floor to be able to do so, a rule that makes in order the Democratic substitute and makes in order, in addition to that, a Democratic motion to recommit.

So we have been doubly fair in this rule and are very proud of the underlying legislation, the work product of Members that have worked long and hard to reduce the number, those millions of Americans who do not have health insurance and who work for small businesses. We want small businesses to have the same leverage, to have the same opportunities to pool their resources, to come together and do so like large corporations can do so today. That is why we feel so strongly about this legislation and are in support of it, and that is why we have brought it forward under a fair rule.

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

Mr. FROST. Mr. Speaker, I yield 2 additional minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman for yielding me this time and for his leadership and his kindness.

Mr. Speaker, I wish to respond to some of the comments that I believe my very, very good friend from Florida has raised, as I think it is important that we understand that that big, big white whale is languishing in shallow waters and that is a very difficult journey for that whale to make. And I do maintain that that whale is languishing.

First of all, I am disappointed that there is now a printed administration position, because it was very clear that we heard on the wings of the passage of the Senate bill, the other body, excuse me, Mr. Speaker, that there was great excitement and we wanted to pass the freestanding child tax credit bill, $3.5 billion, versus $82 billion that was going to help our military families immediately.

The reason why I say we are languishing is because, Mr. Speaker, we are. We have a tank of a bill put forward by the Republicans not moving at all, and we have low-income families making $10,000 to $26,000 literally suffering because we know that bill is not going to be passed any time soon. The Wall Street Journal today said, ''Mr. DELAY and others in the House deliberately made their child tax bill richer

than the Senate version because they knew the Senate conferees would walk away and pass nothing.'' Nothing. Instead, the whale is languishing.

And with respect to this small business health bill, there is not a soul here who does not advocate for small businesses. But how in the world can we strap them with a health plan that has no regulations and we are going to tell women, who either own small businesses and/or work for them, that there is no room at the inn as relates to mammograms, or men that there is no room at the inn as relates to prostate cancer testing? Devastating diseases.

Mr. Speaker, we do have a problem, and this rule should be defeated so we can get the child tax credit. My friends need to go back to the drawing board and bring us a small business bill that I would like to vote for that protects all of small business in America. I think that is what we need to do.

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

First of all, I would tell my dear friend the legislation that we passed last week, number one, is not a whale; and, number two, it is not languishing. And I am informed, I know I am not supposed to mention the other body, but I would wonder how I could get this fact across without doing so, the conference has begun. The conference has begun this morning. Or they have agreed to go to conference. Today there has been the agreement to go to conference precisely on the legislation that is not a whale. And, thus, the whale that is not is not languishing.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. LINCOLN DIAZ-BALART of Florida. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. That is good news, that they have gone to conference. But how many of the conferees, and you know it takes a majority vote, are agreeing to the $82 billion package from here as opposed to the unanimous agreement on the $3.5 billion?

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, reclaiming my time, again I do not know the answer to that, but I would say the following:

I would say to my good friend that, number one, I cannot get into the brain of all the conferees. I think we have to allow them to meet so that there will be a meeting of the minds, number one. But we certainly do not think that it is a whale to increase the child tax credit of $1,000 per child through the year 2010. We do not think that is a whale. We do not think it is a whale to eliminate the marriage penalty in the child credit. We do not think it is a whale to accelerate the increase in the refundable child credit. We do not think it is a whale to provide tax relief and enhance tax fairness for members of the Armed Forces. We do not think it is a whale to suspend the tax exempt status of designated terrorist organizations or to provide tax relief for astronauts' families, those who died on the space mission. So we think it is very important what the House did last week.

Now, another statement was made before by one of our friends on the other side of the aisle that the President does not support the measure that the House passed last week. Oh, no, no, no. The President is fully in support of the measure that the House passed last week. So the legislation that we passed last week we are extremely proud of and the President supports it.

But we are also very proud of and we are also strongly in support of what we are trying to do this week, Mr. Speaker. Because we believe that it should not only be the large corporations that have the ability to use their great leverage of numbers to offer health insurance to their workers with the best possible terms. We think small business, which is the backbone of the American economy, and hires the majority, employs the majority of the workers in this country, that small business also should have the opportunity to pool their numbers to acquire leverage in negotiating terms with those insurance companies and bring down the rates and offer the best possible terms to the millions of workers precisely because they work for the backbone of the American economy, small business. That is what we are doing this week.

So, no, what we did last week is not a whale. What we did last week is something we are very proud of, and we have the support of the President of the United States. But what we are doing this week is also very important, Mr. Speaker, and that is why, with all due respect, I tell my friends on the other side of the aisle that we have brought this important piece of legislation to the floor today with a rule that is fair, a rule that provides the minority party a substitute, the opportunity to bring forth any concerns they may have in the form of a substitute; and, in addition, to be doubly fair, we grant our friends on the other side of the aisle the opportunity to present a motion to recommit with any further and additional concerns they may have.

□ 1100

So we are very fair this morning, Mr. Speaker. We are very proud of the legislation that we are bringing to the floor.

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

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Mr. Speaker, let us talk about this child tax credit. When we began with the child tax credit, we were thinking about families. We were talking about families. We said in this difficult economic time, it is important for us to hold families together, to help those struggling, families which have to educate their children, provide child care, be good parents, sometimes both parents are working.

It is important to keep families together and to honor the fact that families want to be together and bring children up in a good environment.

But the Republicans proved something when they got to the child tax credit. It was not about all families and keeping all families together and working with all families, there were some families they did not care much about, those were poor families. They did not care if you were a waitress and you had to provide child care for your child and you had financial constraints, and you had to get them to the soccer game. They did not care if you were a maid or a janitor. They did not care if you were making minimum wage trying to afford an apartment so your children had a roof over their heads. They did not care about you, they cut you out. In the dark of the night, they cut you out.

But can Members imagine that they did not care about our men and women overseas in Iraq? They did not care about them either. They did not care about our military families. They said it is great, they are doing a great job. They are so brave, but they did not care about the children, they did not care about those families because they caught cut those families out of the child tax credit also.

So let us say, for example, that I am the wife who is staying home with the two kids while my husband is in Iraq. I have no problems, I have no financial constraints. They are over there, the President declared a victory on that aircraft carrier, but my husband is still in Iraq. By the way, every day someone is killed out there. It could be my husband; but I do not have any problems. I do not have any anxieties. The Republicans did not care about those families. I do not have to get my kids to soccer or worry about their education. I do not have to worry about additional child care or taking them over to my mom or something to take care of because my husband is not here. He is serving his country. He is keeping our freedoms safe. But the Republicans did not care about that kind of family.

Okay, we would anticipate that they would not care about poor families; but could we anticipate that they would not care about military families? I am sitting there as a wife, and I have got no problems. But somebody who makes $80,000 a year, they got the child tax credit, not me. Not my children, not my husband. And then they said oh, they got caught. People figured it out. So they put it back in, but not all of them. There are still military families cut out because they make too little money. But in order to put some of the families back, they put in more tax cuts for people who make $100,000 a year and $150,000 a year and $3 million a year, but not someone who makes $10,000 a year or someone who makes $14,000. Those families do not count. Those children are not important enough.

Mr. Speaker, they have no problems. They have no financial anxiety. Remember why we wanted this child tax credit, to ensure that families could come together and work together and be together. That is why we wanted the child tax credit.

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

Mr. Speaker, precisely because we are concerned about and care about the majority of the workers of this country who happen to work for small businesses, that we want to create the possibility that they will be able to have health insurance just like those who work for large corporations have health insurance, so precisely to mention some of the people who were mentioned by my friend, the previous speaker, yes, we think if someone is a janitor or a maid or work in a restaurant or drive a truck or deliver packages, you should also have health insurance, and your employer should be able to pool its resources to acquire the leverage and the purchasing power that large corporations have when they get into the room to negotiate terms and conditions with the insurance companies. That is what we are trying to do today.

I am very pleased that this debate has given us the opportunity to point out to our colleagues and to the American people what precisely the hard-working Members who have brought forth this work product, this legislation today, are allowing the Congress to do for the American people. And that is the majority of workers in this country who work for small businesses should also have the right to have health insurance, should also have the right to have their employer have the purchasing power and the leverage and negotiating terms and conditions for health insurance for the workers of America that the large companies have.

So that is the essence of what we are doing this week with regard to what we did last week, which was to provide the low-income child tax credit and to also provide an increase in the child credit through the year 2010 and eliminate the marriage penalty in the child credit and accelerate the increase in the refundable child credit, provide tax relief and enhanced tax fairness for members of the Armed Forces, suspend the tax-exempt status of terrorist organizations, provide tax relief for the families of astronauts who die on space missions. We think it is important to do that, and that is what we did last week.

They have agreed to go to conference today on that important piece of legislation, but let us not focus on one important piece of legislation to the detriment of another important piece of legislation, which is the one we are bringing forth today, and that is let us allow small business to have the leverage, have the purchasing power to face health insurance like large companies can. That is what we are doing today. We are proud of it, and we want to get to a debate under a fair rule which provides the Democrats a substitute and a motion to recommit. That is what we are doing today.

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

Mr. Speaker, I urge Members to vote no on the previous question. If the previous question is defeated, I will offer an amendment to the rule. My amendment will provide that immediately after the House passes the Small Business Health Fairness Act, it will take from the Speaker's table the Senate passed version of H.R. 1307, the Armed Forces Tax Fairness Act.

Additionally, my amendment will add to H.R. 1307 the text of H.R. 1308 as passed by the Senate, which restores the refundable child tax credit that was removed from the Republican tax bill. This will allow the House to combine these two Senate passed bills and immediately send them back to the Senate and then hopefully on to the White House for the President's signature. If this happens, we can begin helping America's low and modest income working families right away and we can give tax relief to those brave members of the military who are in combat overseas.

As my colleagues know, this is the seventh time we have tried to bring the child tax credit to the floor for a clean up or down vote. The reason we have continued to persevere is because this is so important to America's families, particularly those making at or near the minimum wage, families who struggle every day to get by. They have no one else to fight their battle for them. They cannot afford to hire expensive lobbyists, and they cannot afford to be a Bush pioneer. We are here for them and we will keep fighting for their voices to be heard.

Vote no on the previous question so we can finally consider these two Senate passed tax plans, tax plans which will help those most in need of relief. I would like to stress that a no vote will not stop us from considering the Small Business Health Fairness Act. However, a yes vote will once again, for the seventh time, block the House from having an opportunity to vote to restore the child tax credit that was unceremoniously stripped from the Republican reward-the-rich tax bill that was passed last month. Again, vote no on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment and extraneous materials be printed in the RECORD immediately prior to the vote on the previous question.

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

There was no objection.

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

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

Mr. Speaker, we say vote yes. We say vote yes to allowing small businesses to have the leverage and purchasing power that large businesses have, to increase significantly the number of American workers, the majority of whom work for small businesses, who can have health insurance. We think the issue is that important that we should vote yes. Vote yes on the previous question, vote yes on the rule, and let us get to the underlying legislation, legislation which is as important as the legislation we passed last week.

The material previously referred to by Mr. FROST is as follows:

PREVIOUS QUESTION FOR H. RES. 283—RULE ON H.R. 660: SMALL BUSINESS HEALTH FAIRNESS ACT OF 2003

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

''SEC. 2. Immediately after disposition of the bill(H.R. 660), the House shall be considered to have taken from the Speaker's table the bill (H.R. 1307) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes, with the Senate amendment thereto, and a motion that the House concur in the Senate amendment with an amendment consisting of the text of the Senate amendment to the text of H.R. 1308 shall be considered as pending without intervention of any point of order. The senate amendment and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The previous question shall be considered as ordered on the motion to final adoption without intervening motion.''

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

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

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

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 224, nays 198, not voting 12, as follows:

[Roll No. 289]

YEAS—224

Aderholt	Bereuter	Bonner
Akin	Biggert	Bono
Bachus	Bilirakis	Boozman
Baker	Bishop (UT)	Bradley (NH)
Ballenger	Blackburn	Brady (TX)
Barrett (SC)	Blunt	Brown (SC)
Barton (TX)	Boehlert	Brown-Waite, Ginny
Bass	Boehner	Burgess
Beauprez	Bonilla	

Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—198

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Clay
Clyburn
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Wexler
Woolsey
Wu
Wynn

NOT VOTING—12

Bartlett (MD)
Carson (IN)
Conyers
Gephardt
Grijalva
Hastings (FL)
Johnson (IL)
Lewis (GA)
Miller (MI)
Smith (NJ)
Smith (WA)
Weiner

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1133

Messrs. ABERCROMBIE, POMEROY, and DAVIS of Tennessee changed their vote from ''yea'' to ''nay.''

Mr. MORAN of Kansas changed his vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated for:

Mr. JOHNSON of Illinois. Mr. Speaker, on rollcall No. 289 I was inadvertently detained had I been present, I would have voted ''yea.''.

The SPEAKER pro tempore (Mr. QUINN). The question is on the resolution.

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

RECORDED VOTE

Mr. FROST of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 224, noes 199, not voting 11, as follows:

[Roll No. 290]

AYES—224

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—199

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Clay
Clyburn
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick

Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Wexler
Woolsey
Wu
Wynn

NOT VOTING—11

Bartlett (MD)
Carson (IN)
Conyers
Gephardt
Hastings (FL)
Hunter
Lewis (GA)
Miller (MI)
Smith (NJ)
Smith (WA)
Weiner

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1140

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.

TAXPAYER PROTECTION AND IRS ACCOUNTABILITY ACT OF 2003

The SPEAKER pro tempore. Pursuant to the order of the House of Wednesday, June 18, 2003, proceedings will now resume on the bill (H.R. 1528) to amend the Internal Revenue Code of 1986 to protect taxpayers and ensure accountability of the Internal Revenue Service.

The Clerk read the title of the bill.

The SPEAKER pro tempore. When proceedings were postponed on that day, all time for debate on the bill had expired.

Mr. PORTMAN. Mr. Speaker, the legislation before the Committee contains important improvements in taxpayer rights and IRS accountability. This bill is very similar to legislation approved by the House twice in 2002.

Practically all the taxpayer provisions in the bill are based on recommendations by the Joint Committee on Taxation, the Treasury Department, the IRS, the National Taxpayer Advocate, and on hearings held by the Ways and Means Subcommittee on Oversight during the past several years.

The provisions also are consistent with, and in some cases are a refinement of, the IRS Restructuring and Reform Act of 1998 that enacted important taxpayer protections and reforms of the IRS.

Just to mention some of the provisions in the bill before us today:

1. It encourages greater use of the more efficient electronic filing by taxpayers.

2. It authorizes more support for Low Income Taxpayer Clinics to help provide legal assistance to more low-income citizens involved in disputes with the IRS.

3. It ensures that taxpayers receive the confidentiality they deserve, by reforming the punishment for code of conduct violations by IRS employees, and providing for dismissal of IRS staff who browse tax records without authorization.

4. It adjusts the so-called ''ten deadly sins'' in other ways to give the Commissioner more discretion.

5. It reforms penalty and interest provisions by raising the safe harbor for failure to pay estimated taxes and allowing taxpayers to enter into installment agreements for less than the full amount of their tax liability, and it includes many other pro-taxpayer provisions.

The bill has a small revenue impact. The Joint Committee on Taxation estimates that it will raise $607 million over 5 years and lose $352 million over 10 years.

Our colleagues, Oversight Subcommittee Chairman AMO HOUGHTON and ranking member EARL POMEROY played key roles in constructing this legislation and we appreciate their efforts.

One new provision allows individuals greater access to the healthcare tax credit previously adopted as part of the Trade Act. Individuals would be permitted to waive certain requirements in TAA and thus receive coverage under state based healthcare plans. This is a short transition measure, effective for less than two years, and will increase the availability of qualified health insurance for individuals who would otherwise not have access to such coverage.

Another new provision would extend the joint House-Senate review of the Internal Revenue Service.

Let me provide some details on this provision, as it was not considered in the Ways and Means Committee. This legislation would reauthorization for 5 additional years, the annual joint review of the strategic plans and budget of the IRS. Unlike other federal agencies, the IRS is subject to oversight by six committees of Congress and the Joint Committee on Taxation. The National Commission on Restructuring the IRS, that I co-chaired, recognized that the IRS would be better managed if the committees that share primary jurisdiction over the IRS budget and IRS administration coordinated their efforts. The Joint Review grew out of a recommendation by the National Commission.

While the Joint Review has met the objective of coordinating Congressional oversight of the IRS, the original legislation imposed a burden on the Joint Committee on Taxation to report on every aspect of the IRS's budget and strategic plans on an annual basis, even when the Joint Review hearing has focused on a more narrow set of issues. The reauthorizing language that is included in this legislation therefore allows the JCT to confine its annual report to the issues addressed at the annual Joint Review hearing. It is anticipated that the topics to be addressed at the Joint Review will be decided well in advance of the annual hearing by the JCT Chairman, in consultation with the staff of the JCT and the six participating committees.

I believe it is important to continue the joint review, and this provision will increase the focus on key areas of the IRS that need attention by the relevant committees of Congress.

In summary, Mr. Speaker, this is a good bill. I urge my colleagues to support this legislation that promotes common sense solutions to some of the most frustrating and time-consuming aspects of our tax system.

Mr. BACA. Mr. Speaker, I rise in opposition to H.R. 1528—the Taxpayer Protection and IRS Accountability Act. This bill contains an amendment that will hurt the thousands of workers entitled to the health benefits under the Trade Adjustment Assistance Act. These benefits were created so that workers who lost their jobs to overseas labor could have access to healthcare.

But instead making sure that American workers are protected or that our working families are protected, Republicans are cutting those few benefits workers have to help them during times of unemployment. Don't they care about the hardworking Americans? Why are Republicans passing tax cuts for the wealthy and cutting benefits that help those that need it most?

One of the most devastating effects of job loss is the loss of health care coverage. These health credits pay 65 percent of the cost of health care premiums for unemployed workers. The McCrery amendment allows workers to keep these health credits, but only if they surrender all consumer protections. This is wrong! Workers need consumer protections because the health credits are useless otherwise.

What about the middle-aged welder with a heart condition who will be deemed uninsurable because he has a ''pre-existing'' condition?

What about the engineer who will have to pay twice as much for his health insurance?

What about the foreman whose routine illness is no longer covered?

This is part of the Republican plan to leave American workers behind. American workers deserve better! They deserve to have jobs available here in America and they deserve access to healthcare!

Mr. Speaker, I urge my colleagues to please join me in opposing this bill unless the McCrery amendment is taken out.

Mr. MOORE. Mr. Speaker, I rise in opposition to H.R. 1528 and in support of the Democratic substitute.

I strongly support the underlying purpose of this bill—protecting taxpayers and increasing the fairness, efficiency and confidentiality of our tax system. I intended to vote in favor of this bill. Unfortunately, the majority party has attached an unrelated provision to this bill that will make it more difficult for thousands of working Americans to obtain health coverage.

Mr. Speaker, under the Trade Adjustment Assistance (TAA) program, workers who lose their jobs as a result of competition from foreign trade can receive a tax credit for 65 percent of health insurance premiums for the taxpayer and his or her family. The TAA program also contains consumer protections designed to ensure that everyone eligible for the tax credit can actually claim it, regardless of age or health status. Like many of my colleagues, I have supported free trade legislation in part because of the protections the TAA program provides for workers who are adversely affected by foreign trade.

Now the majority party is seeking to repeal TAA protections in the name of ''consumer choice.'' In reality, the controversial consumer choice provisions of H.R. 1528 will allow individual to waive TAA consumer protections, which will, in turn, give insurers the leverage necessary to ''cherry pick'' healthy workers while excluding those most in need of care. Only young and healthy workers are likely to take advantage of this provision. The end result will be that older workers and workers with health problems will be left without any options for affordable health coverage. Further, this provision will undermine efforts currently underway in many states to negotiate health coverage for thousands of TAA-eligible workers.

I am truly saddened that the majority party has inserted this extraneous provision in a good and otherwise non-controversial bill. The health care protections included in the TAA program were formulated through months of bipartisan negotiation and compromise. In a single partisan act, the majority party has reneged on its promises and placed the health coverage of thousands of our most vulnerable families in jeopardy.

Mr. Speaker, I support the underlying purpose of this bill. In addition to reforming the penalty and interest sections of the Internal Revenue Code, the bill also provides new safeguards against unfair IRS collection procedures and improves the efficiency of tax administration. More specifically, the bill will grant a first-time penalty waiver to individual taxpayers in cases where minor negligence results in liability that is disproportionate and unreasonable. This legislation will also enhance the efficiency of the tax system by allowing electronic filers until April 30th to file their individual income tax returns. Additionally, the legislation will protect taxpayer confidentiality by limiting IRS inspection of tax return preparers and allowing taxpayers to consult with the National Taxpayer Advocate on a confidential basis.

Mr. Speaker, I urge my colleagues to support the substitute which contains the taxpayer protections of the base bill while preserving TAA consumer protections for working Americans.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MCDERMOTT

Mr. MCDERMOTT. Mr. Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. Is the gentleman the designee of the gentleman from New York (Mr. RANGEL)?

Mr. MCDERMOTT. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. MCDERMOTT:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Taxpayer and Fairness Protection Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.

TITLE I—ELIMINATION OF ABUSIVE TAX STRATEGIES

Sec. 101. Findings and purpose.

Subtitle A—Tax Shelters

PART I—PROVISIONS DESIGNED TO CURTAIL TAX SHELTERS

Sec. 111. Clarification of economic substance doctrine.
Sec. 112. Penalty for failing to disclose reportable transaction.
Sec. 113. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 114. Penalty for understatements attributable to transactions lacking economic substance, etc.
Sec. 115. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 116. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 117. Disclosure of reportable transactions.
Sec. 118. Modifications to penalty for failure to register tax shelters.
Sec. 119. Modification of penalty for failure to maintain lists of investors.
Sec. 120. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 121. Understatement of taxpayer's liability by income tax return preparer.
Sec. 122. Penalty on failure to report interests in foreign financial accounts.
Sec. 123. Frivolous tax submissions.
Sec. 124. Regulation of individuals practicing before the Department of Treasury.
Sec. 125. Penalty on promoters of tax shelters.
Sec. 126. Statute of limitations for taxable years for which listed transactions not reported.
Sec. 127. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.

PART II—OTHER PROVISIONS

Sec. 131. Limitation on transfer or importation of built-in losses.
Sec. 132. Disallowance of certain partnership loss transfers.
Sec. 133. No reduction of basis under section 734 in stock held by partnership in corporate partner.
Sec. 134. Repeal of special rules for FASITS.
Sec. 135. Expanded disallowance of deduction for interest on convertible debt.
Sec. 136. Expanded authority to disallow tax benefits under section 269.
Sec. 137. Modifications of certain rules relating to controlled foreign corporations.
Sec. 138. Basis for determining loss always reduced by nontaxed portion of dividends.
Sec. 139. Affirmation of consolidated return regulation authority.

Subtitle B—Prevention of corporate expatriation to avoid United States income tax

Sec. 151. Prevention of corporate expatriation to avoid United States income tax.

TITLE II—SIMPLIFICATION OF EARNED INCOME TAX CREDIT

Sec. 201. Simplification of earned income tax credit.
Sec. 202. Profiling of earned income tax credit beneficiaries.

TITLE III—TAXPAYER PROTECTIONS AND IRS ACCOUNTABILITY

Subtitle A—Penalty and Interest Reforms

Sec. 301. Failure to pay estimated tax penalty converted to interest charge on accumulated unpaid balance.
Sec. 302. Abatement of interest.
Sec. 303. Deposits made to suspend running of interest on potential underpayments.
Sec. 304. Expansion of interest netting for individuals.
Sec. 305. Waiver of certain penalties for first-time unintentional minor errors.
Sec. 306. Frivolous tax submissions.
Sec. 307. Clarification of application of Federal tax deposit penalty.

Subtitle B—Fairness of Collection Procedures

Sec. 311. Partial payment of tax liability in installment agreements.
Sec. 312. Extension of time for return of property.
Sec. 313. Individuals held harmless on wrongful levy, etc., on individual retirement plan.
Sec. 314. Seven-day threshold on tolling of statute of limitations during tax review.
Sec. 315. Study of liens and levies.

Subtitle C—Tax Administration Reforms

Sec. 331. Revisions relating to termination of employment of Internal Revenue Service employees for misconduct.
Sec. 332. Confirmation of authority of tax court to apply doctrine of equitable recoupment.
Sec. 333. Jurisdiction of Tax Court over collection due process cases.
Sec. 334. Office of Chief Counsel review of offers in compromise.
Sec. 335. Access of National Taxpayer Advocate to independent legal counsel.
Sec. 336. Payment of motor fuel excise tax refunds by direct deposit.
Sec. 337. Family business tax simplification.
Sec. 338. Suspension of tax-exempt status of terrorist organizations.
Sec. 339. Tax refund anticipation loans.
Sec. 340. Fairness in tax audit coverage.

Subtitle D—Confidentiality and Disclosure

Sec. 341. Collection activities with respect to joint return disclosable to either spouse based on oral request.
Sec. 342. Taxpayer representatives not subject to examination on sole basis of representation of taxpayers.
Sec. 343. Disclosure in judicial or administrative tax proceedings of return and return information of persons who are not party to such proceedings.
Sec. 344. Prohibition of disclosure of taxpayer identification information with respect to disclosure of accepted offers-in-compromise.
Sec. 345. Compliance by contractors with confidentiality safeguards.
Sec. 346. Higher standards for requests for and consents to disclosure.
Sec. 347. Notice to taxpayer concerning administrative determination of browsing; annual report.

Sec. 348. Expanded disclosure in emergency circumstances.
Sec. 349. Disclosure of taxpayer identity for tax refund purposes.
Sec. 350. Disclosure to State officials of proposed actions related to section 501(c)(3) organizations.
Sec. 351. Confidentiality of taxpayer communications with the Office of the Taxpayer Advocate.

Subtitle E—Miscellaneous

Sec. 361. Clarification of definition of church tax inquiry.
Sec. 362. Expansion of declaratory judgment remedy to tax-exempt organizations.
Sec. 363. Employee misconduct report to include summary of complaints by category.
Sec. 364. Annual report on awards of costs and certain fees in administrative and court proceedings.
Sec. 365. Annual report on abatement of penalties.
Sec. 366. Better means of communicating with taxpayers.
Sec. 367. Explanation of statute of limitations and consequences of failure to file.
Sec. 368. Amendment to Treasury auction reforms.
Sec. 369. Enrolled agents.
Sec. 370. Financial management service fees.
Sec. 371. Extension of Internal Revenue Service user fees.

Subtitle F—Low-Income Taxpayer Clinics

Sec. 381. Low-income taxpayer clinics.
Sec. 382. Matching grants to low income return preparation clinics.

TITLE IV—CHILD TAX CREDIT

Sec. 401. Acceleration of increase in refundability of the child tax credit.
Sec. 402. Reduction in marriage penalty in child tax credit.
Sec. 403. Application of EGTRRA sunset to this section.

TITLE V—UNIFORM DEFINITION OF CHILD

Sec. 501. Uniform definition of child, etc.
Sec. 502. Modifications of definition of head of household.
Sec. 503. Modifications of dependent care credit.
Sec. 504. Modifications of child tax credit.
Sec. 505. Modifications of earned income credit.
Sec. 506. Modifications of deduction for personal exemption for dependents.
Sec. 507. Technical and conforming amendments.
Sec. 508. Effective date.

TITLE VI—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

Sec. 601. Exclusion of gain from sale of a principal residence by a member of the Uniformed Services or the Foreign Service.
Sec. 602. Exclusion from gross income of certain death gratuity payments.
Sec. 603. Exclusion for amounts received under Department of Defense homeowners assistance program.
Sec. 604. Expansion of combat zone filing rules to contingency operations.
Sec. 605. Modification of membership requirement for exemption from tax for certain veterans' organizations.
Sec. 606. Clarification of the treatment of certain dependent care assistance programs.
Sec. 607. Clarification relating to exception from additional tax on certain distributions from qualified tuition programs, etc. on account of attendance at military academy.
Sec. 608. Suspension of tax-exempt status of terrorist organizations.
Sec. 609. Above-the-line deduction for overnight travel expenses of National Guard and Reserve members.
Sec. 610. Tax relief and assistance for families of Space Shuttle Columbia heroes.

TITLE VII—OTHER PROVISIONS

Sec. 701. Revision of tax rules on expatriation.
Sec. 702. Extension of Customs user fees.

TITLE I—ELIMINATION OF ABUSIVE TAX STRATEGIES

SEC. 101. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress hereby finds that:

(1) Many corporate tax shelter transactions are complicated ways of accomplishing nothing aside from claimed tax benefits, and the legal opinions justifying those transactions take an inappropriately narrow and restrictive view of well-developed court doctrines under which—

(A) the taxation of a transaction is determined in accordance with its substance and not merely its form,

(B) transactions which have no significant effect on the taxpayer's economic or beneficial interests except for tax benefits are treated as sham transactions and disregarded,

(C) transactions involving multiple steps are collapsed when those steps have no substantial economic meaning and are merely designed to create tax benefits,

(D) transactions with no business purpose are not given effect, and

(E) in the absence of a specific congressional authorization, it is presumed that Congress did not intend a transaction to result in a negative tax where the taxpayer's economic position or rate of return is better after tax than before tax.

(2) Permitting aggressive and abusive tax shelters not only results in large revenue losses but also undermines voluntary compliance with the Internal Revenue Code of 1986.

(b) PURPOSE.—The purpose of this title is to eliminate abusive tax shelters by denying tax attributes claimed to arise from transactions that do not meet a heightened economic substance requirement and by repealing the provision that permits legal opinions to be used to avoid penalties on tax underpayments resulting from transactions without significant economic substance or business purpose.

Subtitle A—Tax Shelters

Part I—Provisions Designed to Curtail Tax Shelters

SEC. 111. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects and, if there is any Federal tax effects, also apart from any foreign, State, or local tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

''(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) SUBSTANTIAL NONTAX PURPOSE.—In applying subclause (II) of paragraph (1)(B)(i), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

''(D) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(E) TREATMENT OF LESSORS.—In applying subclause (I) of paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease, the expected net tax benefits shall not include the benefits of depreciation, or any tax credit, with respect to the leased property and subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 13, 2003.

SEC. 112. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

''(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

''(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

''(A) IN GENERAL.—In the case of a failure under subsection (a) by—

''(i) a large entity, or

''(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

''(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

''(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

''(c) DEFINITIONS.—For purposes of this section—

''(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a reportable transaction other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact;

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction,

''(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.''

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 113. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

''SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

''(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

''(A) the product of—

''(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

''(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

''(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

''(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

''(A) any listed transaction, and

''(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

''(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

''(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

''(2) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

''(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

''(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

''(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

''(2) COORDINATION WITH OTHER PENALTIES.—

''(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

''(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

''(5) CROSS REFERENCE.—

''For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).''

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

''The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.''

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

''(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

''(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

''(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

''(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

''(B) there is or was substantial authority for such treatment, and

''(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

''(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

''(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

''(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

''(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

''(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

''(I) the tax advisor is described in clause (ii), or

''(II) the opinion is described in clause (iii).

''(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

''(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

''(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

''(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

''(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

''(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

''(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

''(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

''(III) does not identify and consider all relevant facts, or

''(IV) fails to meet any other requirement as the Secretary may prescribe.''

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting ''FOR UNDERPAYMENTS'' after ''EXCEPTION''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking ''(as defined in section 6662(d)(2)(C)(iii))'' in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

''(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

''(i) a partnership or other entity,

''(ii) any investment plan or arrangement, or

''(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking ''this part'' and inserting ''section 6662 or 6663''.

(5) Subsection (b) of section 7525 is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(6)(A) The heading for section 6662 is amended to read as follows:

''SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.''

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

''Sec. 6662. Imposition of accuracy-related penalty on underpayments.

''Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 114. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

''SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(m)(1)) for the transaction giving rise to the claimed tax benefit or the transaction was not respected under section 7701(m)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty

to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

''(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

''(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).''

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 13, 2003.

SEC. 115. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

''(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

''(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

''(ii) $10,000,000.''

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

''(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or''.

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

''(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 116. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

''(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

''(1) between a federally authorized tax practitioner and—

''(A) any person,

''(B) any director, officer, employee, agent, or representative of the person, or

''(C) any other person holding a capital or profits interest in the person, and

''(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 117. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

''SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

''(1) information identifying and describing the transaction,

''(2) information describing any potential tax benefits expected to result from the transaction, and

''(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

''(b) DEFINITIONS.—For purposes of this section—

''(1) MATERIAL ADVISOR.—

''(A) IN GENERAL.—The term 'material advisor' means any person—

''(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

''(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

''(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

''(ii) $250,000 in any other case.

''(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

''(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

''(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

''(2) exemptions from the requirements of this section, and

''(3) such rules as may be necessary or appropriate to carry out the purposes of this section.''

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6111. Disclosure of reportable transactions.''

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

''SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

''(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

''(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

''(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.''

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting ''written'' before ''request'' in paragraph (1)(A), and

(ii) by striking ''shall prescribe'' in paragraph (2) and inserting ''may prescribe''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.''

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.''

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

SEC. 118. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

''SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the reportable transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

''(c) RESCISSION AUTHORITY.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

''(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''tax shelters'' and inserting ''reportable transactions''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 119. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

''(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 120. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

''(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

''(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

''(1) that the person has engaged in any specified conduct, and

''(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

''(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.''

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

''SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.''

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

''Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.''

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

SEC. 121. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking ''realistic possibility of being sustained on its merits'' in paragraph (1) and inserting ''reasonable belief that the tax treatment in such position was more likely than not the proper treatment'',

(2) by striking ''or was frivolous'' in paragraph (3) and inserting ''or there was no reasonable basis for the tax treatment of such position'', and

(3) by striking ''UNREALISTIC'' in the heading and inserting ''IMPROPER''.

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking ''$250'' in subsection (a) and inserting ''$1,000'', and

(2) by striking ''$1,000'' in subsection (b) and inserting ''$5,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 122. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

''(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

''(I) $25,000, or

''(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

''(ii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 123. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 6159 (relating to agreements for payment of tax liability in installments),

''(II) section 7122 (relating to compromises), or

''(III) section 7811 (relating to taxpayer assistance orders).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines

that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 124. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting '', or censure,'' after ''Department'', and

(B) by adding at the end the following new flush sentence:

''The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure.''

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

''(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.''

SEC. 125. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: ''Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 126. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

''(C) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

SEC. 127. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

Part II—Other Provisions

SEC. 131. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

''(e) LIMITATIONS ON BUILT-IN LOSSES.—

''(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

''(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

''(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this paragraph if—

''(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

''(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

''(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.''

''(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

''(A) IN GENERAL.—If—

''(i) property is transferred in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

''(ii) the transferee's aggregate adjusted bases of the property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

''(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

''(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.''

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

''(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the

hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

''(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

''(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act.

SEC. 132. DISALLOWANCE OF CERTAIN PARTNERSHIP LOSS TRANSFERS.

(a) TREATMENT OF CONTRIBUTED PROPERTY WITH BUILT-IN LOSS.—Paragraph (1) of section 704(c) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) if any property so contributed has a built-in loss—

''(i) such built-in loss shall be taken into account only in determining the amount of items allocated to the contributing partner, and

''(ii) except as provided in regulations, in determining the amount of items allocated to other partners, the basis of the contributed property in the hands of the partnership shall be treated as being equal to its fair market value immediately after the contribution.

For purposes of subparagraph (C), the term 'built-in loss' means the excess of the adjusted basis of the property (determined without regard to subparagraph (C)(ii)) over its fair market value immediately after the contribution.''

(b) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY ON TRANSFER OF PARTNERSHIP INTEREST IF THERE IS SUBSTANTIAL BUILT-IN LOSS.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 743 (relating to optional adjustment to basis of partnership property) is amended by inserting before the period ''or unless the partnership has a substantial built-in loss immediately after such transfer''.

(2) ADJUSTMENT.—Subsection (b) of section 743 is amended by inserting ''or with respect to which there is a substantial built-in loss immediately after such transfer'' after ''section 754 is in effect''.

(3) SUBSTANTIAL BUILT-IN LOSS.—Section 743 is amended by adding at the end the following new subsection:

''(d) SUBSTANTIAL BUILT-IN LOSS.—

''(1) IN GENERAL.—For purposes of this section, a partnership has a substantial built-in loss with respect to a transfer of an interest in a partnership if the transferee partner's proportionate share of the adjusted basis of the partnership property exceeds by more than $250,000 the basis of such partner's interest in the partnership.

''(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of paragraph (1) and section 734(d), including regulations aggregating related partnerships and disregarding property acquired by the partnership in an attempt to avoid such purposes.''

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 743 is amended to read as follows:

''SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BUILT-IN LOSS.''

(B) The table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking the item relating to section 743 and inserting the following new item:

''Sec. 743. Adjustment to basis of partnership property where section 754 election or substantial built-in loss.''

(c) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY IF THERE IS SUBSTANTIAL BASIS REDUCTION.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 734 (relating to optional adjustment to basis of undistributed partnership property) is amended by inserting before the period ''or unless there is a substantial basis reduction''.

(2) ADJUSTMENT.—Subsection (b) of section 734 is amended by inserting ''or unless there is a substantial basis reduction'' after ''section 754 is in effect''.

(3) SUBSTANTIAL BASIS REDUCTION.—Section 734 is amended by adding at the end the following new subsection:

''(d) SUBSTANTIAL BASIS REDUCTION.—

''(1) IN GENERAL.—For purposes of this section, there is a substantial basis reduction with respect to a distribution if the sum of the amounts described in subparagraphs (A) and (B) of subsection (b)(2) exceeds $250,000.

''(2) REGULATIONS.—

''For regulations to carry out this subsection, see section 743(d)(2).''

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 734 is amended to read as follows:

''SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BASIS REDUCTION.''

(B) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking the item relating to section 734 and inserting the following new item:

''Sec. 734. Adjustment to basis of undistributed partnership property where section 754 election or substantial basis reduction.''

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to transfers after the date of the enactment of this Act.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to distributions after the date of the enactment of this Act.

SEC. 133. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) IN GENERAL.—Section 755 is amended by adding at the end the following new subsection:

''(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

''(1) no allocation may be made to stock in a corporation which is a partner in the partnership, and

''(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 134. REPEAL OF SPECIAL RULES FOR FASITS.

(a) IN GENERAL.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 56(g) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking ''a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies,'' and inserting ''or a REMIC to which part IV of subchapter M applies,''.

(3) Paragraph (1) of section 582(c) is amended by striking '', and any regular interest in a FASIT,''.

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5) Paragraph (5) of section 860G(a) is amended by adding ''and'' at the end of subparagraph (B), by striking '', and'' at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(6) Subparagraph (C) of section 1202(e)(4) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(7) Subparagraph (C) of section 7701(a)(19) is amended by adding ''and'' at the end of clause (ix), by striking '', and'' at the end of clause (x) and inserting a period, and by striking clause (xi).

(8) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) 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, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act.

(B) TRANSFER OF ADDITIONAL ASSETS NOT PERMITTED.—Except as provided in regulations prescribed by the Secretary of the Treasury or the Secretary's delegate, subparagraph (A) shall cease to apply as of the earliest date after the date of the enactment of this Act that any property is transferred to the FASIT.

SEC. 135. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) IN GENERAL.—Paragraph (2) of section 163(l) is amended by striking ''or a related party'' and inserting ''or equity held by the issuer (or any related party) in any other person''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 163(l) is amended by striking ''or a related party'' in the material preceding subparagraph (A) and inserting ''or any other person''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after the date of the enactment of this Act.

SEC. 136. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) IN GENERAL.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

''(a) IN GENERAL.—If—

''(1)(A) any person acquires stock in a corporation, or

''(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

''(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance,

then the Secretary may disallow such deduction, credit, or other allowance.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 137. MODIFICATIONS OF CERTAIN RULES RELATING TO CONTROLLED FOREIGN CORPORATIONS.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive investment company) is amended by adding at the end the following flush sentence:

''Such term shall not include any period if there is only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i) of subpart F income of such corporation for such period.''

(b) DETERMINATION OF PRO RATA SHARE OF SUBPART F INCOME.—Subsection (a) of section 951 (relating to amounts included in gross income of United States shareholders) is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULES FOR DETERMINING PRO RATA SHARE OF SUBPART F INCOME.—The pro rata share under paragraph (2) shall be determined by disregarding—

''(A) any rights lacking substantial economic effect, and

''(B) stock owned by a shareholder who is a tax-indifferent party (as defined in section 7701(m)(3)) if the amount which would (but for this paragraph) be allocated to such shareholder does not reflect such shareholder's economic share of the earnings and profits of the corporation.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years on controlled foreign corporation beginning after February 13, 2003, and to taxable years of United States shareholder in which or with which such taxable years of controlled foreign corporations end.

SEC. 138. BASIS FOR DETERMINING LOSS ALWAYS REDUCED BY NONTAXED PORTION OF DIVIDENDS.

(a) IN GENERAL.—Section 1059 (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) BASIS FOR DETERMINING LOSS ALWAYS REDUCED BY NONTAXED PORTION OF DIVIDENDS.—The basis of stock in a corporation (for purposes of determining loss) shall be reduced by the nontaxed portion of any dividend received with respect to such stock if this section does not otherwise apply to such dividend.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dividends received after the date of the enactment of this Act.

SEC. 139. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: ''In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.''

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

Subtitle B—Prevention of Corporate Expatriation to Avoid United States Income Tax

SEC. 151. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

''(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

''(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

''(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

''(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

''(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

''(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

''(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

''(v) SPECIAL RULES.—For purposes of this subparagraph—

''(I) a series of related transactions shall be treated as 1 transaction, and

''(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

''(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

''(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

''(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

''(III) RELATED FOREIGN PARTNERSHIP.—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename.''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

TITLE II—SIMPLIFICATION OF EARNED INCOME TAX CREDIT

SEC. 201. SIMPLIFICATION OF EARNED INCOME TAX CREDIT.

(a) REPEAL OF DENIAL OF CREDIT WHERE INVESTMENT INCOME.—Section 32 is amended by striking subsection (i).

(b) EARNED INCOME TO INCLUDE ONLY AMOUNTS INCLUDIBLE IN GROSS INCOME.—Section 32(c)(2)(B) is amended by striking ''and'' at the end of clause (iv), by striking the period at the end of clause (v) and inserting '', and'', and by adding at the end the following new clause:

''(vi) the requirement under subparagraph (A)(i) that an amount be includible in gross income shall not apply if such amount is exempt from tax under section 7873 or is derived directly from restricted and allotted land under the Act of February 8, 1887 (commonly known as the Indian General Allotment Act) (25 U.S.C. 331 et seq.) or from land held under Acts or treaties containing an exception provision similar to the Indian General Allotment Act.''

(c) MODIFICATION OF JOINT RETURN REQUIREMENT.—Subsection (d) of section 32 is amended to read as follows:

''(d) MARRIED INDIVIDUALS.—

''(1) IN GENERAL.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and his spouse file a joint return for the taxable year.

''(2) MARITAL STATUS.—For purposes of paragraph (1), an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

''(3) CERTAIN MARRIED INDIVIDUALS LIVING APART.—For purposes of paragraph (1), if—

''(A) an individual —

''(i) is married and files a separate return, and

''(ii) has a qualifying child who is a son, daughter, stepson, or stepdaughter of such individual, and

''(B) during the last 6 months of such taxable year, such individual and such individual's spouse do not have the same principal place of abode,

such individual shall not be considered as married.''

(d) EXPANSION OF MATHEMATICAL ERROR AUTHORITY.—Paragraph (2) of section 6213(g) is amended by striking ''and'' at the end of subparagraph (K), by striking the period at the end of subparagraph (L) and inserting '', and'', and by inserting after subparagraph (L) the following new subparagraph:

''(M) the entry on the return claiming the credit under section 32 with respect to a child if, according to the Federal Case Registry of Child Support Orders established under section 453(h) of the Social Security Act, the taxpayer is a noncustodial parent of such child.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 202. PROFILING OF EARNED INCOME TAX CREDIT BENEFICIARIES.

(a) FINDINGS.—The Congress hereby finds that:

(1) Current law authorizes the Internal Revenue Service to impose additional earned income tax credit eligibility requirements, such as the current recertification program, only in cases in which a taxpayer has made prior improper claims of the earned income tax credit.

(2) The Internal Revenue Service is planning to implement an earned income tax credit precertification program that differs from what is authorized under current law in that it would apply to taxpayers who fall within broad categories even though they made no prior improper claims for the credit.

(3) There is no precedent in the Internal Revenue Code of 1986 for denying or delaying a tax refund that is apparently properly claimed on a tax return merely because the taxpayer meets a certain profile.

(4) The proposed earned income tax credit precertification program is an affront to our sense of fairness because compliant taxpayers are treated differently solely by reason of differing family structures or relationships and solely by reason of the fact that they are claiming a tax benefit designed to assist the working poor.

(5) No other family-related tax benefit, such as the dependency exemption or child tax credit, is subject to such a precertification requirement; and there is no such precertification requirement for abusive tax shelters purchased by corporations or for tax benefits claimed by higher income individuals.

(b) PROPOSED EITC PROFILING NOT PERMITTED.—The Internal Revenue Service shall not implement any system of precertification for the earned income tax credit that applies to taxpayers who have not made prior improper claims unless such a system is hereafter specifically authorized by law.

TITLE III—TAXPAYER PROTECTIONS AND IRS ACCOUNTABILITY

Subtitle A—Penalty and Interest Reforms

SEC. 301. FAILURE TO PAY ESTIMATED TAX PENALTY CONVERTED TO INTEREST CHARGE ON ACCUMULATED UNPAID BALANCE.

(a) PENALTY MOVED TO INTEREST CHAPTER OF CODE.—The Internal Revenue Code of 1986 is amended by redesignating section 6654 as section 6641 and by moving section 6641 (as so redesignated) from part I of subchapter A of chapter 68 to the end of subchapter E of chapter 67 (as added by subsection (e)(1) of this section).

(b) PENALTY CONVERTED TO INTEREST CHARGE.—The heading and subsections (a) and (b) of section 6641 (as so redesignated) are amended to read as follows:

''SEC. 6641. INTEREST ON FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

''(a) IN GENERAL.—Interest shall be paid on any underpayment of estimated tax by an individual for a taxable year for each day of such underpayment. The amount of such interest for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

''(b) AMOUNT OF UNDERPAYMENT; INTEREST RATE.—For purposes of subsection (a)—

''(1) AMOUNT.—The amount of the underpayment on any day shall be the excess of—

''(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

''(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

''(2) DETERMINATION OF INTEREST RATE.—

''(A) IN GENERAL.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

''(B) INSTALLMENT UNDERPAYMENT PERIOD.—For purposes of subparagraph (A), the term 'installment underpayment period' means the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).

''(C) DAILY RATE.—The rate determined under subparagraph (A) shall be applied on a daily basis and shall be based on the assumption of 365 days in a calendar year.

''(3) TERMINATION OF ESTIMATED TAX INTEREST.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year.''.

(c) INCREASE IN SAFE HARBOR WHERE TAX IS SMALL.—

(1) IN GENERAL.—Clause (i) of section 6641(d)(1)(B) (as so redesignated) is amended to read as follows:

''(i) the lesser of—

''(I) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or

''(II) the tax shown on the return for the taxable year (or, if no return is filed, the tax for such year) reduced (but not below zero) by $1,600, or''.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 6641 (as so redesignated) is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Paragraphs (1) and (2) of subsection (e) (as redesignated by subsection (c)(2)) and subsection (h) of section 6641 (as so designated) are each amended by striking ''addition to tax'' each place it occurs and inserting ''interest''.

(2) Section 167(g)(5)(D) is amended by striking ''6654'' and inserting ''6641''.

(3) Section 460(b)(1) is amended by striking ''6654'' and inserting ''6641''.

(4) Section 3510(b) is amended—

(A) by striking ''section 6654'' in paragraph (1) and inserting ''section 6641'';

(B) by amending paragraph (2)(B) to read as follows:

''(B) no interest would be required to be paid (but for this section) under 6641 for such taxable year by reason of the $1,600 amount specified in section 6641(d)(1)(B)(i)(II).'';

(C) by striking ''section 6654(d)(2)'' in paragraph (3) and inserting ''section 6641(d)(2)''; and

(D) by striking paragraph (4).

(5) Section 6201(b)(1) is amended by striking ''6654'' and inserting ''6641''.

(6) Section 6601(h) is amended by striking ''6654'' and inserting ''6641''.

(7) Section 6621(b)(2)(B) is amended by striking ''addition to tax under section 6654'' and inserting ''interest required to be paid under section 6641''.

(8) Section 6622(b) is amended—

(A) by striking ''PENALTY FOR'' in the heading; and

(B) by striking ''addition to tax under section 6654 or 6655'' and inserting ''interest required to be paid under section 6641 or addition to tax under section 6655''.

(9) Section 6658(a) is amended—

(A) by striking ''6654, or 6655'' and inserting ''or 6655, and no interest shall be required to be paid under section 6641,''; and

(B) by inserting ''or paying interest'' after ''the tax'' in paragraph (2)(B)(ii).

(10) Section 6665(b) is amended—

(A) in the matter preceding paragraph (1) by striking '', 6654,''; and

(B) in paragraph (2) by striking ''6654 or''.

(11) Section 7203 is amended by striking ''section 6654 or 6655'' and inserting ''section 6655 or interest required to be paid under section 6641''.

(e) CLERICAL AMENDMENTS.—

(1) Chapter 67 is amended by inserting after subchapter D the following:

''Subchapter E—Interest on Failure by Individual to Pay Estimated Income Tax

''Sec. 6641. Interest on failure by individual to pay estimated income tax.''.

(2) The table of subchapters for chapter 67 is amended by adding at the end the following new items:

''Subchapter D. Notice requirements.

''Subchapter E. Interest on failure by individual to pay estimated income tax.''.

(3) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6654.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to installment payments for taxable years beginning after December 31, 2003.

SEC. 302. ABATEMENT OF INTEREST.

(a) ABATEMENT OF INTEREST WITH RESPECT TO ERRONEOUS REFUND CHECK WITHOUT REGARD TO SIZE OF REFUND.—Paragraph (2) of section 6404(e) is amended by striking ''unless—'' and all that follows and inserting ''unless the taxpayer (or a related party) has in any way caused such erroneous refund.''.

(b) ABATEMENT OF INTEREST TO EXTENT INTEREST IS ATTRIBUTABLE TO TAXPAYER RELIANCE ON WRITTEN STATEMENTS OF THE IRS.—Subsection (f) of section 6404 is amended—

(1) in the subsection heading, by striking ''PENALTY OR ADDITION'' and inserting ''INTEREST, PENALTY, OR ADDITION''; and

(2) in paragraph (1) and in subparagraph (B) of paragraph (2), by striking ''penalty or addition'' and inserting ''interest, penalty, or addition''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to interest accruing on or after the date of the enactment of this Act.

SEC. 303. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) IN GENERAL.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

"SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

''(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

''(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

''(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

''(d) PAYMENT OF INTEREST.—

''(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

''(2) DISPUTABLE TAX.—

''(A) IN GENERAL.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

''(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

''(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

''(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

''(i) has a reasonable basis for its treatment of such item, and

''(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

''(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

''(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

''(e) USE OF DEPOSITS.—

''(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

''(B) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

''Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 304. EXPANSION OF INTEREST NETTING FOR INDIVIDUALS.

(a) IN GENERAL.—Subsection (d) of section 6621 (relating to elimination of interest on overlapping periods of tax overpayments and underpayments) is amended by adding at the end the following: ''Solely for purposes of the preceding sentence, section 6611(e) shall not apply in the case of an individual.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest accrued after December 31, 2003.

SEC. 305. WAIVER OF CERTAIN PENALTIES FOR FIRST-TIME UNINTENTIONAL MINOR ERRORS.

(a) IN GENERAL.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

''(i) TREATMENT OF FIRST-TIME UNINTENTIONAL MINOR ERRORS.—

''(1) IN GENERAL.—In the case of a return of tax imposed by subtitle A filed by an individual, the Secretary may waive an addition to tax under subsection (a) if—

''(A) the individual has a history of compliance with the requirements of this title,

''(B) it is shown that the failure is due to an unintentional minor error,

''(C) the penalty would be grossly disproportionate to the action or expense that would have been needed to avoid the error, and imposing the penalty would be against equity and good conscience,

''(D) waiving the penalty would promote compliance with the requirements of this title and effective tax administration, and

''(E) the taxpayer took all reasonable steps to remedy the error promptly after discovering it.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

''(A) the Secretary has waived any addition to tax under this subsection with respect to any prior failure by such individual,

''(B) the failure is a mathematical or clerical error (as defined in section 6213(g)(2)), or

''(C) the failure is the lack of a required signature.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 2004.

SEC. 306. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission is based on a position which the Secretary has identified as frivolous under subsection (c).

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 7811 (relating to taxpayer assistance orders),

''(II) section 6159 (relating to agreements for payment of tax liability in installments), or

''(III) section 7122 (relating to compromises).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''.

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 307. CLARIFICATION OF APPLICATION OF FEDERAL TAX DEPOSIT PENALTY.

Nothing in section 6656 of the Internal Revenue Code of 1986 shall be construed to permit the percentage specified in subsection (b)(1)(A)(iii) thereof to apply other than in a case where the failure is for more than 15 days.

Subtitle B—Fairness of Collection Procedures

SEC. 311. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking ''satisfy liability for payment of'' and inserting ''make payment on'', and

(B) by inserting ''full or partial'' after ''facilitate''.

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the

matter preceding paragraph (1) by inserting ''full'' before ''payment''.

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

''(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 312. EXTENSION OF TIME FOR RETURN OF PROPERTY.

(a) EXTENSION OF TIME FOR RETURN OF PROPERTY SUBJECT TO LEVY.—Subsection (b) of section 6343 (relating to return of property) is amended by striking ''9 months'' and inserting ''2 years''.

(b) PERIOD OF LIMITATION ON SUITS.—Subsection (c) of section 6532 (relating to suits by persons other than taxpayers) is amended—

(1) in paragraph (1) by striking ''9 months'' and inserting ''2 years'', and

(2) in paragraph (2) by striking ''9-month'' and inserting ''2-year''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) levies made after the date of the enactment of this Act, and

(2) levies made on or before such date if the 9-month period has not expired under section 6343(b) of the Internal Revenue Code of 1986 (without regard to this section) as of such date.

SEC. 313. INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC., ON INDIVIDUAL RETIREMENT PLAN.

(a) IN GENERAL.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

''(f) INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC. ON INDIVIDUAL RETIREMENT PLAN.—

''(1) IN GENERAL.—If the Secretary determines that an individual retirement plan has been levied upon in a case to which subsection (b) or (d)(2)(A) applies, an amount equal to the sum of—

''(A) the amount of money returned by the Secretary on account of such levy, and

''(B) interest paid under subsection (c) on such amount of money,

may be deposited into an individual retirement plan (other than an endowment contract) to which a rollover from the plan levied upon is permitted.

''(2) TREATMENT AS ROLLOVER.—The distribution on account of the levy and any deposit under paragraph (1) with respect to such distribution shall be treated for purposes of this title as if such distribution and deposit were part of a rollover described in section 408(d)(3)(A)(i); except that—

''(A) interest paid under subsection (c) shall be treated as part of such distribution and as not includible in gross income,

''(B) the 60-day requirement in such section shall be treated as met if the deposit is made not later than the 60th day after the day on which the individual receives an amount under paragraph (1) from the Secretary, and

''(C) such deposit shall not be taken into account under section 408(d)(3)(B).

''(3) REFUND, ETC., OF INCOME TAX ON LEVY.—If any amount is includible in gross income for a taxable year by reason of a levy referred to in paragraph (1) and any portion of such amount is treated as a rollover under paragraph (2), any tax imposed by chapter 1 on such portion shall not be assessed, and if assessed shall be abated, and if collected shall be credited or refunded as an overpayment made on the due date for filing the return of tax for such taxable year.

''(4) INTEREST.—Notwithstanding subsection (d), interest shall be allowed under subsection (c) in a case in which the Secretary makes a determination described in subsection (d)(2)(A) with respect to a levy upon an individual retirement plan.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid under subsections (b), (c), and (d)(2)(A) of section 6343 of the Internal Revenue Code of 1986 after December 31, 2003.

SEC. 314. SEVEN-DAY THRESHOLD ON TOLLING OF STATUTE OF LIMITATIONS DURING TAX REVIEW.

(a) IN GENERAL.—Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by inserting after ''application,'' the following: ''but only if the date of such decision is at least 7 days after the date of the taxpayer's application''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applications filed after the date of the enactment of this Act.

SEC. 315. STUDY OF LIENS AND LEVIES.

The Secretary of the Treasury, or the Secretary's delegate, shall conduct a study of the practices of the Internal Revenue Service concerning liens and levies. The study shall examine—

(1) the declining use of liens and levies by the Internal Revenue Service, and

(2) the practicality of recording liens and levying against property in cases in which the cost of such actions exceeds the amount to be realized from such property.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

Subtitle C—Tax Administration Reforms

SEC. 331. REVISIONS RELATING TO TERMINATION OF EMPLOYMENT OF INTERNAL REVENUE SERVICE EMPLOYEES FOR MISCONDUCT.

(a) IN GENERAL.—Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by inserting after section 7804 the following new section:

''SEC. 7804A. DISCIPLINARY ACTIONS FOR MISCONDUCT.

''(a) DISCIPLINARY ACTIONS.—

''(1) IN GENERAL.—Subject to subsection (c), the Commissioner shall take an action in accordance with the guidelines established under paragraph (2) against any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties or where a nexus to the employee's position exists.

''(2) GUIDELINES.—The Commissioner shall issue guidelines for determining the appropriate level of discipline, up to and including termination of employment, for committing any act or omission described under subsection (b).

''(b) ACTS OR OMISSIONS.—The acts or omissions described under this subsection are—

''(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

''(2) willfully providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

''(3) with respect to a taxpayer or taxpayer representative, the willful violation of—

''(A) any right under the Constitution of the United States;

''(B) any civil right established under—

''(i) title VI or VII of the Civil Rights Act of 1964;

''(ii) title IX of the Education Amendments of 1972;

''(iii) the Age Discrimination in Employment Act of 1967;

''(iv) the Age Discrimination Act of 1975;

''(v) section 501 or 504 of the Rehabilitation Act of 1973; or

''(vi) title I of the Americans with Disabilities Act of 1990; or

''(C) the Internal Revenue Service policy on unauthorized inspection of returns or return information;

''(4) willfully falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

''(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final adverse judgment by a court in a civil case, with respect to the assault or battery;

''(6) willful violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or taxpayer representative;

''(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry;

''(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due and owing, unless such failure is due to reasonable cause and not due to willful neglect;

''(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not due to willful neglect; and

''(10) threatening to audit a taxpayer, or to take other action under this title, for the purpose of extracting personal gain or benefit.

''(c) DETERMINATIONS OF COMMISSIONER.—

''(1) IN GENERAL.—The Commissioner may take a personnel action other than a disciplinary action provided for in the guidelines under subsection (a)(2) for an act or omission described under subsection (b).

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in his sole discretion, may establish a procedure to determine if an individual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination of the Commissioner under this subsection may not be reviewed in any administrative or judicial proceeding. A finding that an act or omission described under subsection (b) occurred may be reviewed.

''(d) DEFINITION.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

''(e) ANNUAL REPORT.—The Commissioner shall submit to Congress annually a report on disciplinary actions under this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 80 is amended by inserting after the item relating to section 7804 the following new item:

''Sec. 7804A. Disciplinary actions for misconduct.''.

(c) REPEAL OF SUPERSEDED SECTION.—Section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206; 112 Stat. 720) is repealed.

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

SEC. 332. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Subsection (b) of section 6214 (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any action or proceeding in the Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 333. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) IN GENERAL.—Section 6330(d)(1) (relating to judicial review of determination) is amended to read as follows:

''(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to judicial appeals filed after the date of the enactment of this Act.

SEC. 334. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS IN COMPROMISE.

(a) IN GENERAL.—Section 7122(b) (relating to record) is amended by striking ''Whenever a compromise'' and all that follows through ''his delegate'' and inserting ''If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion''.

(b) CONFORMING AMENDMENTS.—Section 7122(b) is amended by striking the second and third sentences.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.

SEC. 335. ACCESS OF NATIONAL TAXPAYER ADVOCATE TO INDEPENDENT LEGAL COUNSEL.

Clause (i) of section 7803(c)(2)(D) (relating to personnel actions) is amended by striking ''and'' at the end of subclause (I), by striking the period at the end of subclause (II) and inserting '', and'', and by adding at the end the following new subclause:

''(III) appoint a counsel in the Office of the Taxpayer Advocate to report solely to the National Taxpayer Advocate.''.

SEC. 336. PAYMENT OF MOTOR FUEL EXCISE TAX REFUNDS BY DIRECT DEPOSIT.

(a) IN GENERAL.—Subchapter II of chapter 33 of title 31, United States Code, is amended by adding at the end the following new section:

''§ 3337. Payment of motor fuel excise tax refunds by direct deposit

''The Secretary of the Treasury shall make payments under sections 6420, 6421, and 6427 of the Internal Revenue Code of 1986 by electronic funds transfer (as defined in section 3332(j)(1)) if the person who is entitled to the payment—

''(1) elects to receive the payment by electronic funds transfer; and

''(2) satisfies the requirements of section 3332(g) with respect to such payment at such time and in such manner as the Secretary may require.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 33 of title 31, United States Code, is amended by adding at the end the following new item:

''3337. Payment of motor fuel excise tax refunds by direct deposit.''.

SEC. 337. FAMILY BUSINESS TAX SIMPLIFICATION.

(a) IN GENERAL.—Section 761 (defining terms for purposes of partnerships) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) QUALIFIED JOINT VENTURE.—

''(1) IN GENERAL.—In the case of a qualified joint venture conducted by a husband and wife who file a joint return for the taxable year, for purposes of this title—

''(A) such joint venture shall not be treated as a partnership,

''(B) all items of income, gain, loss, deduction, and credit shall be divided between the spouses in accordance with their respective interests in the venture, and

''(C) each spouse shall take into account such spouse's respective share of such items as if they were attributable to a trade or business conducted by such spouse as a sole proprietor.

''(2) QUALIFIED JOINT VENTURE.—For purposes of paragraph (1), the term 'qualified joint venture' means any joint venture involving the conduct of a trade or business if—

''(A) the only members of such joint venture are a husband and wife,

''(B) both spouses materially participate (within the meaning of section 469(h) without regard to paragraph (5) thereof) in such trade or business, and

''(C) both spouses elect the application of this subsection.''.

(b) NET EARNINGS FROM SELF-EMPLOYMENT.—

(1) Subsection (a) of section 1402 (defining net earnings from self-employment) is amended by striking ''and'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ''; and'', and by inserting after paragraph (15) the following new paragraph:

''(16) notwithstanding the preceding provisions of this subsection, each spouse's share of income or loss from a qualified joint venture shall be taken into account as provided in section 761(f) in determining net earnings from self-employment of such spouse.''.

(2) Subsection (a) of section 211 of the Social Security Act (defining net earnings from self-employment) is amended by striking ''and'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ''; and'', and by inserting after paragraph (15) the following new paragraph:

''(16) Notwithstanding the preceding provisions of this subsection, each spouse's share of income or loss from a qualified joint venture shall be taken into account as provided in section 761(f) of the Internal Revenue Code of 1986 in determining net earnings from self-employment of such spouse.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 338. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.—

''(1) IN GENERAL.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

''(2) TERRORIST ORGANIZATIONS.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

''(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

''(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

''(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

''(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

''(ii) such Executive order refers to this subsection.

''(3) PERIOD OF SUSPENSION.—With respect to any organization described in paragraph (2), the period of suspension—

''(A) begins on the later of—

''(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

''(ii) the date of the enactment of this subsection, and

''(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

''(4) DENIAL OF DEDUCTION.—No deduction shall be allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

''(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

''(6) ERRONEOUS DESIGNATION.—

''(A) IN GENERAL.—If—

''(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

''(ii) each designation and identification described in paragraph (2) which has been

made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

''(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

''(B) WAIVER OF LIMITATIONS.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

''(7) NOTICE OF SUSPENSIONS.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

SEC. 339. TAX REFUND ANTICIPATION LOANS.

The Secretary of the Treasury may not provide any direct deposit indicator with respect to a taxpayer to any tax return preparer, financial institution, or other person that charges taxpayers interest rates (including fees) on refund anticipation loans in excess of the consumer loan usury rate limit of the State in which the taxpayer is domiciled.

SEC. 340. FAIRNESS IN TAX AUDIT COVERAGE.

(a) MANDATORY AUDITS OF HIGH RISK TAXPAYERS.—The Secretary of the Treasury shall conduct audits of all taxpayers whom the Secretary determines are likely to have—

(1) an unpaid Federal income tax liability of more than $1,000,000, or

(2) to have unreported income or structured transactions which are considered by the Secretary to be high risk.

(b) RATE OF AUDITS.—The Secretary of the Treasury shall conduct audits of high income taxpayers likely to owe taxes at a rate which is not less than the rate at which the Secretary conducts audits of low income taxpayers likely to owe taxes.

Subtitle D—Confidentiality and Disclosure

SEC. 341. COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN DISCLOSABLE TO EITHER SPOUSE BASED ON ORAL REQUEST.

(a) IN GENERAL.—Paragraph (8) of section 6103(e) (relating to disclosure of collection activities with respect to joint return) is amended by striking ''in writing'' the first place it appears.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 342. TAXPAYER REPRESENTATIVES NOT SUBJECT TO EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.

(a) IN GENERAL.—Paragraph (1) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended—

(1) by striking ''Returns'' and inserting the following:

''(A) IN GENERAL.—Returns'', and

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

''(B) TAXPAYER REPRESENTATIVES.—Notwithstanding subparagraph (A), the return of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return of such representative on a basis other than by reason of such relationship.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date which is 180 days after the date of the enactment of this Act.

SEC. 343. DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE TAX PROCEEDINGS OF RETURN AND RETURN INFORMATION OF PERSONS WHO ARE NOT PARTY TO SUCH PROCEEDINGS.

(a) IN GENERAL.—Paragraph (4) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new subparagraph:

''(B) DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE TAX PROCEEDINGS OF RETURN AND RETURN INFORMATION OF PERSONS NOT PARTY TO SUCH PROCEEDINGS.—

''(i) NOTICE.—Return or return information of any person who is not a party to a judicial or administrative proceeding described in this paragraph shall not be disclosed under clause (ii) or (iii) of subparagraph (A) until after the Secretary makes a reasonable effort to give notice to such person and an opportunity for such person to request the deletion of matter from such return or return information, including any of the items referred to in paragraphs (1) through (7) of section 6110(c). Such notice shall include a statement of the issue or issues the resolution of which is the reason such return or return information is sought. In the case of S corporations, partnerships, estates, and trusts, such notice shall be made at the entity level.

''(ii) DISCLOSURE LIMITED TO PERTINENT PORTION.—The only portion of a return or return information described in clause (i) which may be disclosed under subparagraph (A) is that portion of such return or return information that directly relates to the resolution of an issue in such proceeding.

''(iii) EXCEPTIONS.—Clause (i) shall not apply—

''(I) to any civil action under section 7407, 7408, or 7409,

''(II) to any ex parte proceeding for obtaining a search warrant, order for entry on premises or safe deposit boxes, or similar ex parte proceeding,

''(III) to disclosure of third party return information by indictment or criminal information, or

''(IV) if the Attorney General or the Attorney General's delegate determines that the application of such clause would seriously impair a criminal tax investigation or proceeding.''.

(b) CONFORMING AMENDMENTS.—Paragraph (4) of section 6103(h) is amended by—

(1) by striking ''PROCEEDINGS.—A return'' and inserting ''PROCEEDINGS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a return'';

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively; and

(3) in the matter following clause (iv) (as so redesignated), by striking ''subparagraph (A), (B), or (C)'' and inserting ''clause (i), (ii), or (iii)'' and by moving such matter 2 ems to the right.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

SEC. 344. PROHIBITION OF DISCLOSURE OF TAXPAYER IDENTIFICATION INFORMATION WITH RESPECT TO DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.

(a) GENERAL.—Paragraph (1) of section 6103(k) (relating to disclosure of certain returns and return information for tax administrative purposes) is amended by inserting ''(other than the taxpayer's address and TIN)'' after ''Return information''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures made after the date of the enactment of this Act.

SEC. 345. COMPLIANCE BY CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.

(a) IN GENERAL.—Section 6103(p) (relating to State law requirements) is amended by adding at the end the following new paragraph:

''(9) DISCLOSURE TO CONTRACTORS AND OTHER AGENTS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a Federal, State, or local agency unless such agency, to the satisfaction of the Secretary—

''(A) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

''(B) agrees to conduct an annual, on-site review (mid-point review in the case of contracts of less than 1 year in duration) of each such contractor or other agent to determine compliance with such requirements,

''(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

''(D) certifies to the Secretary for the most recent annual period that each such contractor or other agent is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor and other agent, a description of the contract of the contractor or other agent with the agency, and the duration of such contract.''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 6103(p)(8) is amended by inserting ''or paragraph (9)'' after ''subparagraph (A)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to disclosures made after December 31, 2003.

(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a), shall be made with respect to calendar year 2004.

SEC. 346. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE.

(a) IN GENERAL.—Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended by adding at the end the following new paragraphs:

''(2) REQUIREMENTS FOR VALID REQUESTS AND CONSENTS.—A request for or consent to disclosure under paragraph (1) shall only be valid for purposes of this section, sections 7213, 7213A, and 7431 if—

''(A) at the time of execution, such request or consent designates a recipient of such disclosure and is dated, and

''(B) at the time such request or consent is submitted to the Secretary, the submitter of

such request or consent certifies, under penalty of perjury, that such request or consent complied with subparagraph (A).

''(3) RESTRICTIONS ON PERSONS OBTAINING INFORMATION.—Any person shall, as a condition for receiving return or return information under paragraph (1)—

''(A) ensure that such return and return information is kept confidential,

''(B) use such return and return information only for the purpose for which it was requested, and

''(C) not disclose such return and return information except to accomplish the purpose for which it was requested, unless a separate consent from the taxpayer is obtained.

''(4) REQUIREMENTS FOR FORM PRESCRIBED BY SECRETARY.—For purposes of this subsection, the Secretary shall prescribe a form for requests and consents which shall—

''(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,

''(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

''(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.''.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Treasury Inspector General for Tax Administration shall submit a report to the Congress on compliance with the designation and certification requirements applicable to requests for or consent to disclosure of returns and return information under section 6103(c) of the Internal Revenue Code of 1986, as amended by subsection (a). Such report shall—

(1) evaluate (on the basis of random sampling) whether—

(A) the amendment made by subsection (a) is achieving the purposes of this section;

(B) requesters and submitters for such disclosure are continuing to evade the purposes of this section and, if so, how; and

(C) the sanctions for violations of such requirements are adequate; and

(2) include such recommendations that the Treasury Inspector General for Tax Administration considers necessary or appropriate to better achieve the purposes of this section.

(c) CONFORMING AMENDMENTS.—

(1) Section 6103(c) is amended by striking ''TAXPAYER.—The Secretary'' and inserting ''TAXPAYER.—

''(1) IN GENERAL.—The Secretary''.

(2) Section 7213(a)(1) is amended by striking ''section 6103(n)'' and inserting ''subsections (c) and (n) of section 6103''.

(3) Section 7213A(a)(1)(B) is amended by striking ''subsection (l)(18) or (n) of section 6103'' and inserting ''subsection (c), (l)(18), or (n) of section 6103''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests and consents made after 3 months after the date of the enactment of this Act.

SEC. 347. NOTICE TO TAXPAYER CONCERNING ADMINISTRATIVE DETERMINATION OF BROWSING; ANNUAL REPORT.

(a) NOTICE TO TAXPAYER.—Subsection (e) of section 7431 (relating to notification of unlawful inspection and disclosure) is amended by adding at the end the following: ''The Secretary shall also notify such taxpayer if the Treasury Inspector General for Tax Administration substantiates that such taxpayer's return or return information was inspected or disclosed in violation of any of the provisions specified in paragraph (1), (2), or (3).''.

(b) REPORTS.—Subsection (p) of section 6103 (relating to procedure and recordkeeping), is amended by adding at the end the following new paragraph:

''(10) REPORT ON UNAUTHORIZED DISCLOSURE AND INSPECTION.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information regarding the unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—

''(A) administrative investigations,

''(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and

''(C) criminal prosecutions.''.

(c) EFFECTIVE DATE.—

(1) NOTICE.—The amendment made by subsection (a) shall apply to determinations made after the date of the enactment of this Act.

(2) REPORTS.—The amendment made by subsection (b) shall apply to calendar years ending after the date of the enactment of this Act.

SEC. 348. EXPANDED DISCLOSURE IN EMERGENCY CIRCUMSTANCES.

(a) IN GENERAL.—Section 6103(i)(3)(B) (relating to danger of death or physical injury) is amended by striking ''or State'' and inserting '', State, or local''.

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

SEC. 349. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX REFUND PURPOSES.

(a) IN GENERAL.—Paragraph (1) of section 6103(m) (relating to disclosure of taxpayer identity information) is amended by striking ''and other media'' and by inserting '', other media, and through any other means of mass communication,''.

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

SEC. 350. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c)(3) ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) DISCLOSURE OF PROPOSED ACTIONS.—

''(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

''(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

''(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

''(iii) the names, addresses, and taxpayer identification numbers of organizations that have applied for recognition as organizations described in section 501(c)(3).

''(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

''(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

''(i) upon written request by an appropriate State officer, and

''(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

''(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of State or Federal issues relating to the tax-exempt status of such organization.

''(3) USE IN ADMINISTRATIVE AND JUDICIAL CIVIL PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in administrative and judicial civil proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

''(4) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (3), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

''(5) DEFINITIONS.—For purposes of this subsection—

''(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

''(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

''(i) the State attorney general, or

''(ii) any other State official charged with overseeing organizations of the type described in section 501(c)(3).''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6103(p)(3) is amended by inserting ''and section 6104(c)'' after ''section'' in the first sentence.

(2) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by inserting '', or any appropriate State officer (as defined in section 6104(c)),'' before ''or any other person'',

(B) in subparagraph (F)(i), by inserting ''or any appropriate State officer (as defined in section 6104(c)),'' before ''or any other person'', and

(C) in the matter following subparagraph (F), by inserting '', an appropriate State officer (as defined in section 6104(c)),'' after ''including an agency'' each place it appears.

(3) Paragraph (2) of section 7213(a) is amended by inserting ''or under section 6104(c)'' after ''6103''.

(4) Paragraph (2) of section 7213A(a) is amended by inserting ''or 6104(c)'' after ''6103''.

(5) Paragraph (2) of section 7431(a) is amended by inserting ''(including any disclosure in violation of section 6104(c))'' after ''6103''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

SEC. 351. CONFIDENTIALITY OF TAXPAYER COMMUNICATIONS WITH THE OFFICE OF THE TAXPAYER ADVOCATE.

(a) IN GENERAL.—Subsection (c) of section 7803 is amended by adding at the end the following new paragraph:

''(5) CONFIDENTIALITY OF TAXPAYER INFORMATION.—

''(A) IN GENERAL.—To the extent authorized by the National Taxpayer Advocate or pursuant to guidance issued under subparagraph (B), any officer or employee of the Office of the Taxpayer Advocate may withhold from the Internal Revenue Service and the

Department of Justice any information provided by, or regarding contact with, any taxpayer.

''(B) ISSUANCE OF GUIDANCE.—In consultation with the Chief Counsel for the Internal Revenue Service and subject to the approval of the Commissioner of Internal Revenue, the National Taxpayer Advocate may issue guidance regarding the circumstances (including with respect to litigation) under which, and the persons to whom, employees of the Office of the Taxpayer Advocate shall not disclose information obtained from a taxpayer. To the extent to which any provision of the Internal Revenue Manual would require greater disclosure by employees of the Office of the Taxpayer Advocate than the disclosure required under such guidance, such provision shall not apply.

''(C) EMPLOYEE PROTECTION.—Section 7214(a)(8) shall not apply to any failure to report knowledge or information if—

''(i) such failure to report is authorized under subparagraph (A), and

''(ii) such knowledge or information is not of fraud committed by a person against the United States under any revenue law.''.

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 7803(c)(4) is amended by inserting ''and'' at the end of clause (ii), by striking ''; and'' at the end of clause (iii) and inserting a period, and by striking clause (iv).

Subtitle E—Miscellaneous

SEC. 361. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking ''or'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', or'', and by inserting after paragraph (5) the following:

''(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.''.

SEC. 362. EXPANSION OF DECLARATORY JUDGMENT REMEDY TO TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—

(1) in subparagraph (B) by inserting after ''509(a))'' the following: ''or as a private operating foundation (as defined in section 4942(j)(3))''; and

(2) by amending subparagraph (C) to read as follows:

''(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in subsection (c) (other than paragraph (3)) or (d) of section 501 which is exempt from tax under section 501(a), or''.

(b) COURT JURISDICTION.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking ''United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia'' and inserting the following: ''United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after the date of the enactment of this Act.

SEC. 363. EMPLOYEE MISCONDUCT REPORT TO INCLUDE SUMMARY OF COMPLAINTS BY CATEGORY.

(a) IN GENERAL.—Clause (ii) of section 7803(d)(2)(A) is amended by inserting before the semicolon at the end the following: '', including a summary (by category) of the 10 most common complaints made and the number of such common complaints''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to reporting periods ending after the date of the enactment of this Act.

SEC. 364. ANNUAL REPORT ON AWARDS OF COSTS AND CERTAIN FEES IN ADMINISTRATIVE AND COURT PROCEEDINGS.

Not later than 3 months after the close of each Federal fiscal year after fiscal year 2003, the Treasury Inspector General for Tax Administration shall submit a report to Congress which specifies for such year—

(1) the number of payments made by the United States pursuant to section 7430 of the Internal Revenue Code of 1986 (relating to awarding of costs and certain fees);

(2) the amount of each such payment;

(3) an analysis of any administrative issue giving rise to such payments; and

(4) changes (if any) which will be implemented as a result of such analysis and other changes (if any) recommended by the Treasury Inspector General for Tax Administration as a result of such analysis.

SEC. 365. ANNUAL REPORT ON ABATEMENT OF PENALTIES.

Not later than 6 months after the close of each Federal fiscal year after fiscal year 2003, the Treasury Inspector General for Tax Administration shall submit a report to Congress on abatements of penalties under the Internal Revenue Code of 1986 during such year, including information on the reasons and criteria for such abatements.

SEC. 366. BETTER MEANS OF COMMUNICATING WITH TAXPAYERS.

Not later than 18 months after the date of the enactment of this Act, the Treasury Inspector General for Tax Administration shall submit a report to Congress evaluating whether technological advances, such as e-mail and facsimile transmission, permit the use of alternative means for the Internal Revenue Service to communicate with taxpayers.

SEC. 367. EXPLANATION OF STATUTE OF LIMITATIONS AND CONSEQUENCES OF FAILURE TO FILE.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1), and any instructions booklet accompanying a general income tax return form for taxable years beginning after 2002 (including forms 1040, 1040A, 1040EZ, and any similar or successor forms relating thereto), to provide for an explanation of—

(1) the limitations imposed by section 6511 of the Internal Revenue Code of 1986 on credits and refunds; and

(2) the consequences under such section 6511 of the failure to file a return of tax.

SEC. 368. AMENDMENT TO TREASURY AUCTION REFORMS.

(a) IN GENERAL.—Clause (i) of section 202(c)(4)(B) of the Government Securities Act Amendments of 1993 (31 U.S.C. 3121 note) is amended by inserting before the semicolon ''(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to meetings held after the date of the enactment of this Act.

SEC. 369. ENROLLED AGENTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7528. ENROLLED AGENTS.

''(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

''(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under section (a) herein shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7528. Enrolled agents.''.

(c) PRIOR REGULATIONS.—Nothing in the amendments made by this section shall be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other Federal rule or regulation issued before the date of the enactment of this Act.

SEC. 370. FINANCIAL MANAGEMENT SERVICE FEES.

Notwithstanding any other provision of law, the Financial Management Service may charge the Internal Revenue Service, and the Internal Revenue Service may pay the Financial Management Service, a fee sufficient to cover the full cost of implementing a continuous levy program under subsection (h) of section 6331 of the Internal Revenue Code of 1986. Any such fee shall be based on actual levies made and shall be collected by the Financial Management Service by the retention of a portion of amounts collected by levy pursuant to that subsection. Amounts received by the Financial Management Service as fees under that subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of title 31, United States Code, and shall be collected and accounted for in accordance with the provisions of that section. The amount credited against the taxpayer's liability on account of the continuous levy shall be the amount levied, without reduction for the amount paid to the Financial Management Service as a fee.

SEC. 371. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7529. INTERNAL REVENUE SERVICE USER FEES.

''(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

''(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

''(2) other similar requests.

''(b) PROGRAM CRITERIA.—

''(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

''(A) shall vary according to categories (or subcategories) established by the Secretary,

''(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

''(C) shall be payable in advance.

''(2) EXEMPTIONS, ETC.—

''(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

''(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination

letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

''(i) made after the later of—

''(I) the fifth plan year the pension benefit plan is in existence, or

''(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

''(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

''(i) PENSION BENEFIT PLAN.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

''(ii) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

''(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

''(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

"Category	Average Fee
Employee plan ruling and opinion ..	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination.	$275
Chief counsel ruling	$200.

''(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2013.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7529. Internal Revenue Service user fees.''.

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7527 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

Subtitle F—Low-Income Taxpayer Clinics

SEC. 381. LOW-INCOME TAXPAYER CLINICS.

(a) LIMITATION ON AMOUNT OF GRANTS.—Paragraph (1) of section 7526(c) (relating to special rules and limitations) is amended by striking ''$6,000,000 per year'' and inserting ''$9,000,000 for 2004, $12,000,000 for 2005, and $15,000,000 for each year thereafter''.

(b) PROMOTION OF CLINICS.—Section 7526(c) is amended by adding at the end the following new paragraph:

''(6) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.''.

(c) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—Section 7526(c), as amended by subsection (b), is further amended by adding at the end the following new paragraph:

''(7) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—No grant made under this section may be used for the general overhead expenses of any institution sponsoring a qualified low-income taxpayer clinic.''.

(d) ELIGIBLE CLINICS.—

(1) IN GENERAL.—Paragraph (2) of section 7526(b) is amended to read as follows:

''(2) ELIGIBLE CLINIC.—The term 'eligible clinic' means—

''(A) any clinical program at an accredited law, business, or accounting school in which students represent low-income taxpayers in controversies arising under this title; and

''(B) any organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 7526(b)(1) is amended by striking ''means a clinic'' and inserting ''means an eligible clinic''.

SEC. 382. MATCHING GRANTS TO LOW INCOME RETURN PREPARATION CLINICS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting after section 7526 the following new section:

''SEC. 7526A. LOW INCOME RETURN PREPARATION CLINICS.

''(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified return preparation clinics.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED RETURN PREPARATION CLINIC.—

''(A) IN GENERAL.—The term 'qualified return preparation clinic' means an eligible clinic which—

''(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

''(ii) operates programs which assist low-income taxpayers in preparing and filing their Federal income tax returns, including schedules reporting sole proprietorship or farm income.

''(B) ASSISTANCE TO LOW-INCOME TAXPAYERS.—A clinic is treated as assisting low-income taxpayers under subparagraph (A)(ii) if at least 90 percent of the taxpayers assisted by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

''(2) ELIGIBLE CLINIC.—The term 'eligible clinic' includes—

''(A) a clinical program at an eligible educational institution (as defined in section 529(e)(5)) which satisfies the requirements of paragraph (1) through student assistance of taxpayers in return preparation and filing, and

''(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1).

''(c) SPECIAL RULES AND LIMITATIONS.—

''(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $10,000,000 per year (exclusive of costs of administering the program) to grants under this section.

''(2) OTHER APPLICABLE RULES.—Rules similar to the rules under paragraphs (2) through (7) of section 7526(c) shall apply with respect to the awarding of grants to qualified return preparation clinics.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7526 the following new item:

''Sec. 7526A. Low income return preparation clinics.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to grants made after the date of the enactment of this Act.

TITLE IV—CHILD TAX CREDIT

SEC. 401. ACCELERATION OF INCREASE IN REFUNDABILITY OF THE CHILD TAX CREDIT.

(a) ACCELERATION OF REFUNDABILITY.—

(1) IN GENERAL.—Section 24(d)(1)(B)(i) of the Internal Revenue Code of 1986 (relating to portion of credit refundable) is amended by striking ''(10 percent in the case of taxable years beginning before January 1, 2005)''.

(2) ADVANCE PAYMENT.—Subsection (b) of section 6429 of such Code (relating to advance payment of portion of increased child credit for 2003) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) section 24(d)(1)(B)(i) applied without regard to the first parenthetical therein.''.

(3) EARNED INCOME INCLUDES COMBAT PAY.—Section 24(d)(1) of such Code is amended by adding at the end the following new sentence: ''For purposes of subparagraph (B), any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.''.

(b) EFFECTIVE DATES.—

(1) SUBSECTIONS (a)(1) AND (a)(3).—The amendments made by subsections (a)(1) and (a)(3) shall apply to taxable years beginning after December 31, 2002.

(2) SUBSECTION (a)(2).—The amendments made by subsection (a)(2) shall take effect as if included in the amendments made by section 101(b) of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

SEC. 402. REDUCTION IN MARRIAGE PENALTY IN CHILD TAX CREDIT.

(a) IN GENERAL.—Section 24(b)(2) of the Internal Revenue Code of 1986 (defining threshold amount) is amended—

(1) by inserting ''($115,000 for taxable years beginning in 2008 or 2009, and $150,000 for taxable years beginning in 2010)'' after ''$110,000'', and

(2) by striking ''$55,000'' in subparagraph (C) and inserting ''½ of the amount in effect under subparagraph (A)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 403. APPLICATION OF EGTRRA SUNSET TO THIS SECTION.

Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

TITLE V—UNIFORM DEFINITION OF CHILD

SEC. 501. UNIFORM DEFINITION OF CHILD, ETC.

Section 152 of the Internal Revenue Code of 1986 is amended to read as follows:

"SEC. 152. DEPENDENT DEFINED.

''(a) IN GENERAL.—For purposes of this subtitle, the term 'dependent' means—

''(1) a qualifying child, or

''(2) a qualifying relative.

''(b) EXCEPTIONS.—For purposes of this section—

''(1) DEPENDENTS INELIGIBLE.—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.

''(2) MARRIED DEPENDENTS.—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

''(3) CITIZENS OR NATIONALS OF OTHER COUNTRIES.—

''(A) IN GENERAL.—The term 'dependent' does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.

''(B) EXCEPTION FOR ADOPTED CHILD.—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of 'dependent' if—

''(i) for the taxable year of the taxpayer, the child's principal place of abode is the home of the taxpayer, and

''(ii) the taxpayer is a citizen or national of the United States.

''(c) QUALIFYING CHILD.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

''(A) who bears a relationship to the taxpayer described in paragraph (2),

''(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

''(C) who meets the age requirements of paragraph (3), and

''(D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins.

''(2) RELATIONSHIP TEST.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if such individual is—

''(A) a child of the taxpayer or a descendant of such a child, or

''(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.

''(3) AGE REQUIREMENTS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—

''(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

''(ii) is a student who has not attained the age of 24 as of the close of such calendar year.

''(B) SPECIAL RULE FOR DISABLED.—In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.

''(4) SPECIAL RULE RELATING TO 2 OR MORE CLAIMING QUALIFYING CHILD.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (e), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

''(i) a parent of the individual, or

''(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.

''(B) MORE THAN 1 PARENT CLAIMING QUALIFYING CHILD.—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—

''(i) the parent with whom the child resided for the longest period of time during the taxable year, or

''(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

''(d) QUALIFYING RELATIVE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying relative' means, with respect to any taxpayer for any taxable year, an individual—

''(A) who bears a relationship to the taxpayer described in paragraph (2),

''(B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount (as defined in section 151(d)),

''(C) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and

''(D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

''(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

''(A) A child or a descendant of a child.

''(B) A brother, sister, stepbrother, or stepsister.

''(C) The father or mother, or an ancestor of either.

''(D) A stepfather or stepmother.

''(E) A son or daughter of a brother or sister of the taxpayer.

''(F) A brother or sister of the father or mother of the taxpayer.

''(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

''(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has as such individual's principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

''(3) SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

''(A) no one person contributed over one-half of such support,

''(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

''(C) the taxpayer contributed over 10 percent of such support, and

''(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

''(4) SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—

''(i) the availability of medical care at such workshop is the principal reason for the individual's presence there, and

''(ii) the income arises solely from activities at such workshop which are incident to such medical care.

''(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—

''(i) which provides special instruction or training designed to alleviate the disability of the individual, and

''(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

''(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of paragraph (1)(C), in the case of an individual who is—

''(A) a child of the taxpayer, and

''(B) a student,

amounts received as scholarships for study at an educational organization described in section 170(b)(1)(A)(ii) shall not be taken into account in determining whether such individual received more than one-half of such individual's support from the taxpayer.

''(6) SPECIAL RULES FOR SUPPORT.—For purposes of this subsection—

''(A) payments to a spouse which are includible in the gross income of such spouse under section 71 or 682 shall not be treated as a payment by the payor spouse for the support of any dependent,

''(B) amounts expended for the support of a child or children shall be treated as received from the noncustodial parent (as defined in subsection (e)(3)(B)) to the extent that such parent provided amounts for such support, and

''(C) in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

''(e) SPECIAL RULE FOR DIVORCED PARENTS.—

''(1) IN GENERAL.—Notwithstanding subsection (c)(4) or (d)(1)(C), if—

''(A) a child receives over one-half of the child's support during the calendar year from the child's parents—

''(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

''(ii) who are separated under a written separation agreement, or

''(iii) who live apart at all times during the last 6 months of the calendar year, and

''(B) such child is in the custody of 1 or both of the child's parents for more than ½ of the calendar year,

such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) are met.

''(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

''(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that—

''(i) the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, or

''(ii) the custodial parent will sign a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year, and

''(B) in the case of such an agreement executed before January 1, 1985, the noncustodial parent provides at least $600 for the support of such child during such calendar year.

''(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

''(A) CUSTODIAL PARENT.—The term 'custodial parent' means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.

''(B) NONCUSTODIAL PARENT.—The term 'noncustodial parent' means the parent who is not the custodial parent.

''(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

''(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

''(1) CHILD DEFINED.—

''(A) IN GENERAL.—The term 'child' means an individual who is—

''(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or

''(ii) an eligible foster child of the taxpayer.

''(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, shall be treated as a child of such individual by blood.

''(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term 'eligible foster child' means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

''(2) STUDENT DEFINED.—The term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

''(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii), or

''(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

''(3) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.

''(4) BROTHER AND SISTER.—The terms 'brother' and 'sister' include a brother or sister by the half blood.

''(5) TREATMENT OF MISSING CHILDREN.—

''(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

''(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

''(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping,

shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the individual is kidnapped.

''(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

''(i) the deduction under section 151(c),

''(ii) the credit under section 24 (relating to child tax credit),

''(iii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 2), and

''(iv) the earned income credit under section 32.

''(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—

''(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

''(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping,

shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

''(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).

''(6) CROSS REFERENCES.—

''For provision treating child as dependent of both parents for purposes of certain provisions, see sections 105(b), 132(h)(2)(B), and 213(d)(5).''.

SEC. 502. MODIFICATIONS OF DEFINITION OF HEAD OF HOUSEHOLD.

(a) HEAD OF HOUSEHOLD.—Clause (i) of section 2(b)(1)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

''(i) a qualifying child of the individual (as defined in section 152(c), determined without regard to section 152(e)), but not if such child—

''(I) is married at the close of the taxpayer's taxable year, and

''(II) is not a dependent of such individual by reason of section 152(b)(2) or 152(b)3), or both, or''.

(b) CONFORMING AMENDMENTS.—

(1) Section 2(b)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(2) Clauses (i) and (ii) of section 2(b)(3)(B) of such Code are amended to read as follows:

''(i) subparagraph (H) of section 152(d)(2), or

''(ii) paragraph (3) of section 152(d).''.

SEC. 503. MODIFICATIONS OF DEPENDENT CARE CREDIT.

(a) IN GENERAL.—Section 21(a)(1) of the Internal Revenue Code of 1986 is amended by striking ''In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1))'' and inserting ''In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual''.

(b) QUALIFYING INDIVIDUAL.—Paragraph (1) of section 21(b) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) QUALIFYING INDIVIDUAL.—The term 'qualifying individual' means—

''(A) a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,

''(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or

''(C) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.''.

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 21(e) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.''.

SEC. 504. MODIFICATIONS OF CHILD TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 24(c) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17.''.

(b) CONFORMING AMENDMENT.—Section 24(c)(2) of the Internal Revenue Code of 1986 is amended by striking ''the first sentence of section 152(b)(3)'' and inserting ''subparagraph (A) of section 152(b)(3)''.

SEC. 505. MODIFICATIONS OF EARNED INCOME CREDIT.

(a) QUALIFYING CHILD.—Paragraph (3) of section 32(c) of the Internal Revenue Code of 1986 is amended to read as follows:

''(3) QUALIFYING CHILD.—

''(A) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

''(B) MARRIED INDIVIDUAL.—The term 'qualifying child' shall not include an individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for section 152(e)).

''(C) PLACE OF ABODE.—For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

''(D) IDENTIFICATION REQUIREMENTS.—

''(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.

''(ii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 32(c)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(2) Section 32(c)(4) of such Code is amended by striking ''(3)(E)'' and inserting ''(3)(C)''.

(3) Section 32(m) of such Code is amended by striking ''subsections (c)(1)(F)'' and inserting ''subsections (c)(1)(E)''.

SEC. 506. MODIFICATIONS OF DEDUCTION FOR PERSONAL EXEMPTION FOR DEPENDENTS.

Subsection (c) of section 151 of the Internal Revenue Code of 1986 is amended to read as follows:

''(c) ADDITIONAL EXEMPTION FOR DEPENDENTS.—An exemption of the exemption amount for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.''.

SEC. 507. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 2(a)(1)(B)(i) of such Code is amended by inserting '', determined without

regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(2) Section 21(e)(5) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''paragraph (2) or (4) of'' in subparagraph (A), and

(B) by striking ''within the meaning of section 152(e)(1)'' and inserting ''as defined in section 152(e)(3)(A)''.

(3) Section 21(e)(6)(B) of such Code is amended by striking ''section 151(c)(3)'' and inserting ''section 152(f)(1)''.

(4) Section 25B(c)(2)(B) of such Code is amended by striking ''151(c)(4)'' and inserting ''152(f)(2)''.

(5)(A) Subparagraphs (A) and (B) of section 51(i)(1) of such Code are each amended by striking ''paragraphs (1) through (8) of section 152(a)'' both places it appears and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(B) Section 51(i)(1)(C) of such Code is amended by striking ''152(a)(9)'' and inserting ''152(d)(2)(H)''.

(6) Section 72(t)(2)(D)(i)(III) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(7) Section 72(t)(7)(A)(iii) of such Code is amended by striking ''151(c)(3)'' and inserting ''152(f)(1)''.

(8) Section 42(i)(3)(D)(ii)(I) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(9) Subsections (b) and (c)(1) of section 105 of such Code are amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(10) Section 120(d)(4) of such Code is amended by inserting ''(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)'' after ''section 152''.

(11) Section 125(e)(1)(D) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(12) Section 129(c)(2) of such Code is amended by striking ''151(c)(3)'' and inserting ''152(f)(1)''.

(13) The first sentence of section 132(h)(2)(B) of such Code is amended by striking ''151(c)(3)'' and inserting ''152(f)(1)''.

(14) Section 153 of such Code is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(15) Section 170(g)(1) of such Code is amended by inserting ''(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)'' after ''section 152''.

(16) Section 170(g)(3) of such Code is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(17) Section 213(a) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(18) The second sentence of section 213(d)(11) of such Code is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(19) Section 220(d)(2)(A) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(20) Section 221(d)(4) of such Code is amended by inserting ''(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)'' after ''section 152''.

(21) Section 529(e)(2)(B) of such Code is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(22) Section 2032A(c)(7)(D) of such Code is amended by striking ''section 151(c)(4)'' and inserting ''section 152(f)(2)''.

(23) Section 2057(d)(2)(B) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(24) Section 7701(a)(17) of such Code is amended by striking ''152(b)(4), 682,'' and inserting ''682''.

(25) Section 7702B(f)(2)(C)(iii) of such Code is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(26) Section 7703(b)(1) of such Code is amended—

(A) by striking ''151(c)(3)'' and inserting ''152(f)(1)'', and

(B) by striking ''paragraph (2) or (4) of''.

SEC. 508. EFFECTIVE DATE.

The amendments made by this title shall apply to taxable years beginning after December 31, 2003.

TITLE VI—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

SEC. 601. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY A MEMBER OF THE UNIFORMED SERVICES OR THE FOREIGN SERVICE.

(a) IN GENERAL.—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.—

''(A) IN GENERAL.—At the election of an individual with respect to a property, the running of the 5-year period described in subsections (a) and (c)(1)(B) and paragraph (7) of this subsection with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service of the United States.

''(B) MAXIMUM PERIOD OF SUSPENSION.—The 5-year period described in subsection (a) shall not be extended more than 10 years by reason of subparagraph (A).

''(C) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 50 miles from such property or while residing under Government orders in Government quarters.

''(ii) UNIFORMED SERVICES.—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

''(iii) FOREIGN SERVICE OF THE UNITED STATES.—The term 'member of the Foreign Service of the United States' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on the date of the enactment of this paragraph.

''(iv) EXTENDED DUTY.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

''(D) SPECIAL RULES RELATING TO ELECTION.—

''(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

''(ii) REVOCATION OF ELECTION.—An election under subparagraph (A) may be revoked at any time.''.

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 602. EXCLUSION FROM GROSS INCOME OF CERTAIN DEATH GRATUITY PAYMENTS.

(a) IN GENERAL.—Subsection (b)(3) of section 134 (relating to certain military benefits) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted after September 9, 1986.''.

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 134(b)(3) is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

SEC. 603. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 132(a) (relating to the exclusion from gross income of certain fringe benefits) is amended by striking ''or'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting '', or'', and by adding at the end the following new paragraph:

''(8) qualified military base realignment and closure fringe.''.

(b) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—Section 132 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified military base realignment and closure fringe' means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) (as in effect on the date of the enactment of this subsection) to offset the adverse effects on housing values as a result of a military base realignment or closure.

''(2) LIMITATION.—With respect to any property, such term shall not include any payment referred to in paragraph (1) to the extent that the sum of all of such payments related to such property exceeds the maximum amount described in clause (1) of subsection (c) of such section (as in effect on such date).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 604. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) IN GENERAL.—Section 7508(a) (relating to time for performing certain acts postponed by reason of service in combat zone) is amended—

(1) by inserting '', or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law'' after ''section 112'',

(2) by inserting in the first sentence ''or at any time during the period of such contingency operation'' after ''for purposes of such section'',

(3) by inserting ''or operation'' after ''such an area'', and

(4) by inserting ''or operation'' after ''such area''.

(b) CONFORMING AMENDMENTS.—

(1) Section 7508(d) is amended by inserting ''or contingency operation'' after ''area''.

(2) The heading for section 7508 is amended by inserting ''or contingency operation'' after ''combat zone''.

(3) The item relating to section 7508 in the table of sections for chapter 77 is amended by inserting ''or contingency operation'' after ''combat zone''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 605. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 501(c)(19) (relating to list of exempt organizations) is amended by striking ''or widowers'' and inserting '', widowers, ancestors, or lineal descendants''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 606. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Section 134(b) (defining qualified military benefit) is amended by adding at the end the following new paragraph:

''(4) CLARIFICATION OF CERTAIN BENEFITS.—For purposes of paragraph (1), such term includes any dependent care assistance program (as in effect on the date of the enactment of this paragraph) for any individual described in paragraph (1)(A).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 134(b)(3)(A), as amended by section 602, is amended by inserting ''and paragraph (4)'' after ''subparagraphs (B) and (C)''.

(2) Section 3121(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(3) Section 3306(b)(13) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(4) Section 3401(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

(d) NO INFERENCE.—No inference may be drawn from the amendments made by this section with respect to the tax treatment of any amounts under the program described in section 134(b)(4) of the Internal Revenue Code of 1986 (as added by this section) for any taxable year beginning before January 1, 2003.

SEC. 607. CLARIFICATION RELATING TO EXCEPTION FROM ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS, ETC. ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.

(a) IN GENERAL.—Subparagraph (B) of section 530(d)(4) (relating to exceptions from additional tax for distributions not used for educational purposes) is amended by striking ''or'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) made on account of the attendance of the designated beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 608. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.—

''(1) IN GENERAL.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

''(2) TERRORIST ORGANIZATIONS.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

''(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

''(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

''(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

''(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

''(ii) such Executive order refers to this subsection.

''(3) PERIOD OF SUSPENSION.—With respect to any organization described in paragraph (2), the period of suspension—

''(A) begins on the later of—

''(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

''(ii) the date of the enactment of this subsection, and

''(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

''(4) DENIAL OF DEDUCTION.—No deduction shall be allowed under any provision of this title, including sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), and 2522, with respect to any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

''(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

''(6) ERRONEOUS DESIGNATION.—

''(A) IN GENERAL.—If—

''(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

''(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

''(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

''(B) WAIVER OF LIMITATIONS.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

''(7) NOTICE OF SUSPENSIONS.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

SEC. 609. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) DEDUCTION ALLOWED.—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

''(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES.—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such service.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—The deductions allowed by section 162 which consist of expenses, determined at a rate not in excess of the rates

for travel expenses (including per diem in lieu of subsistence) authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 610. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF SPACE SHUTTLE COLUMBIA HEROES.

(a) INCOME TAX RELIEF.—

(1) IN GENERAL.—Subsection (d) of section 692 (relating to income taxes of members of Armed Forces and victims of certain terrorist attacks on death) is amended by adding at the end the following new paragraph:

''(5) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs in the line of duty, except that paragraph (3)(B) shall be applied by using the date of the death of the astronaut rather than September 11, 2001.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 5(b)(1) is amended by inserting '', astronauts,'' after ''forces''.

(B) Section 6013(f)(2)(B) is amended by inserting '', astronauts,'' after ''Forces''.

(3) CLERICAL AMENDMENTS.—

(A) The heading of section 692 is amended by inserting ''**, ASTRONAUTS,**'' after ''**FORCES**''.

(B) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended by inserting '', astronauts,'' after ''Forces''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to any astronaut whose death occurs after December 31, 2002.

(b) DEATH BENEFIT RELIEF.—

(1) IN GENERAL.—Subsection (i) of section 101 (relating to certain death benefits) is amended by adding at the end the following new paragraph:

''(4) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs in the line of duty.''.

(2) CLERICAL AMENDMENT.—The heading for subsection (i) of section 101 is amended by inserting ''OR ASTRONAUTS'' after ''VICTIMS''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid after December 31, 2002, with respect to deaths occurring after such date.

(c) ESTATE TAX RELIEF.—

(1) IN GENERAL.—Section 2201(b) (defining qualified decedent) is amended by striking ''and'' at the end of paragraph (1)(B), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) any astronaut whose death occurs in the line of duty.''.

(2) CLERICAL AMENDMENTS.—

(A) The heading of section 2201 is amended by inserting ''**, DEATHS OF ASTRONAUTS,**'' after ''**FORCES**''.

(B) The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended by inserting '', deaths of astronauts,'' after ''Forces''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 2002.

TITLE VII—OTHER PROVISIONS

SEC. 701. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2003, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

''(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

''(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

''(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

''(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

''(4) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(7) INTEREST.—For purposes of section 6601—

''(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

''(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a

citizen of, and is taxed as a resident of, such other country, and

''(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

''(1) EXEMPT PROPERTY.—This section shall not apply to the following:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

''(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

''(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

''(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

''(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

''(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

''(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

''(D) APPLICABLE PLANS.—This paragraph shall apply to—

''(i) any qualified retirement plan (as defined in section 4974(c)),

''(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

''(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes citizenship, and

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

''(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the

amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

''(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

''(1) IMPOSITION OF LIEN.—

''(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

''(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

''(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

''(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

''(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

''(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

''(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

''(A) the gift, bequest, devise, or inheritance is—

''(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

''(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

''(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (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:

''(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—

(i) TECHNICAL AMENDMENTS.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking ''or (17)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''or (18)''.

(ii) CONFORMING AMENDMENTS.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking ''or (18)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''(18), or (19)''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) TECHNICAL AMENDMENTS.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after February 5, 2003.''.

(2) Section 2107 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.''.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

''(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting ''or 877A'' after ''section 877''.

(B) The second sentence of section 6039G(e) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''877(a))''.

(C) Section 6039G(f) is amended by inserting ''or 877A(e)(2)(B)'' after ''877(e)(1)''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 5, 2003.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after February 5, 2003, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 702. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''September 30, 2003'' and inserting ''March 31, 2010''.

The SPEAKER pro tempore. Pursuant to House Resolution 282, the gentleman from Washington (Mr. MCDERMOTT) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. MCDERMOTT).

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

Mr. Speaker, the amendment that is at the desk on H.R. 1528 is a fairly comprehensive amendment to the bill which we discussed yesterday. The first thing is that my amendment would delete the controversial provisions contained in the underlying bill which would eliminate consumer protections that this Congress provided less than 1 year ago when it enacted the Trade Promotion Act. I think that there are many Members who voted for the fast track bill with the belief that this was in it and now less than a year later we are back taking it out.

□ 1145

I think that is an important part of this amendment.

The second thing is this amendment would provide the recently increased family credit for 12 million children and 6 million families. We passed it out of here and it has gone to an uncertain future in a conference committee. I read there is some debate among the Members of the conference committee about who is going to chair it. We could put this issue to rest with this amendment today.

The third part of the amendment is to stop the delay of tax benefits for our military and relief to families of the astronauts killed in the Columbia disaster. I think that this is one of those issues where we all agree, it has been sitting there and somehow it does not get done, and I think it is time for us to move on.

Fourth, the amendment will prohibit the Internal Revenue Service from implementing a pre-certification program for Earned Income Tax Credit recipients. I think this is a needed and important change in the IRS. It is the only place that we have such a thing where we make people send in their money reports before they even get the benefit, rather than letting them make application for it and then figuring out if there is some question.

Fifth, my amendment would also contain provisions addressing the abusive corporate tax shelters which we have talked about in the past.

Finally, this adds taxpayer protections designed to assist low and middle-class taxpayers in complying with the tax law.

It is a fairly comprehensive amendment, but I think it is a good one, and it does a number of things which we ought to do when we are passing this bill.

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

Mr. PORTMAN. Mr. Speaker, I rise in opposition to the substitute.

The SPEAKER pro tempore (Mr. QUINN). The gentleman from Ohio is recognized for 30 minutes.

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

Mr. Speaker, I rise today in part to remind us as to where we are in this process. Yesterday we talked about the underlying legislation, which is a very good combination of taxpayer protections and health care protections for workers. I think it would be helpful to start by reviewing that, only because I think by adding this substitute, we would jeopardize so many of those good provisions.

Yesterday, we talked a little about the importance of moving quickly on those provisions. After all, these are the result of over 2 years of work by the Taxpayer Advocate, by the Internal Revenue Service, by the Treasury Department itself, and by the Committee on Ways and Means, based on oversight hearings, to basically strengthen and protect the rights of average, honest taxpayers.

Let me give you an example of some the things in the underlying legislation. It prohibits IRS employees from unauthorized browsing of tax returns. We do have a series of prohibitions in the Code. This is not one of them. It would now make browsing of your tax return or mine part of those prohibitions. This is very important, and, again, it is based on good testimony we have had from the IRS and some obvious problems that have resulted from unauthorized browsing.

It also simplifies tax filing in a number of ways. One I really like is it helps the mom-and-pop businesses of America. It says that now-married spouses would be allowed to file a sole proprietor return who are in business, which is a Schedule C, instead of a partnership return.

This is far simpler. It allows for spouses to account separately for their respective self-employment income from the business. It allows family businesses to take full advantage, therefore, of Social Security and Medicare, and, at the same time, greatly simplify tax filing.

Again, this comes out of hard work by people at the Joint Tax Committee, at the Treasury Department and elsewhere, to try to figure out ways to simplify our current system.

It also, very importantly, extends the filing deadline for E-filers to April 30. This one is not only added to, therefore making it more difficult to enact, but it is actually substituted, it is replaced, it is eliminated in the substitute.

Let me just talk about that for a second. It says if you are willing to be an E-filer, you have until April 30. Why is this so important? It is important because we need to add another incentive to encourage people to electronically file.

Electronic filing is in the interests of taxpayers, and it is in the interests of the IRS. This is something over the last 6 years as we have reviewed the IRS through a commission, and then through the legislative process, we had a total consensus on, that it is absolutely critical that we encourage electronic filing.

We have gone from 15 percent to about 41 percent, but the Congressionally set goal of 80 percent electronic filing is not going to make it unless we provide some new incentives. This is one well worth undertaking.

Why? Right now there is about a 22 percent error rate, Mr. Speaker, if you can believe it, when you file your tax return by paper. Twenty-two percent of the time there is an error. That is unacceptable to any of us. Eleven percent of that error, half of it, is caused by the IRS, largely transposing numbers, where they take a paper return and transpose the numbers from paper on to a computer.

That does not happen with electronic filing, obviously, because you are electronically filing straight into the computer.

Second, the other 11 percent, about half, is caused by the taxpayer.

Electronic filing, the error rate is far less than 1 percent. This obviously saves the IRS a lot of money and is very good for the tax system, because you are going to have fewer people who will be filing by paper and, therefore, fewer IRS employees are necessary and

great efficiencies are put in place at less than half the cost to the IRS.

But, more important to me, is it helps the taxpayers dramatically. Think of the downstream costs when there is a error, when you get that letter from the IRS saying we have got an error in your return. You think you did it right, it turns out you did it right, but because of the error, you then get into sometimes a long, protracted back and forth with the IRS. Sometimes it becomes quite controversial and adds up with interest and penalties and so on.

So electronic filing has to be encouraged, and I am concerned that the substitute takes this out altogether. By the way, this program we just put in place for 3 years, so we try it as a pilot. Any other ideas we would welcome. At our bipartisan hearings, we had a lot of discussion about this, and we talked about a lot of ideas. This is one where we seemed to have reached a consensus.

The underlying bill also allows taxpayers who otherwise pay nothing to be able to settle their debts with the IRS over a period of time without being forced to pay the entire amount. Again, this comes from a careful vetting with the Joint Tax Committee and the IRS. It is a partial pay installment plan which will help us get through a lot of the existing controversies out there with the IRS. It is a common sense solution to some big collection problems that the IRS is now facing, so they can devote more of their resources toward enforcement and toward collection, and not so much resources in trying to resolve some of these very tough accounts.

It also allows the IRS to waive what are now unfair penalties for honest taxpayers who make innocent mistakes. For example, if a taxpayer mails his return in on April 15, as he or she should, with a check, and the check is for the right amount, the balance due, but he mistakenly puts on only $1.40 in postage rather than $1.50 in postage, instead of being assessed a failure to file penalty, which can add up to thousands of dollars, under this legislation the IRS could waive those penalties for taxpayers, those who have a good history of compliance. It is a common sense provision that will help taxpayers. Again, it is long overdue and is supported by the IRS.

We also importantly increase the funding for low income taxpayer clinics. This is something we started back in the reforms of 1998. They have worked.

These low income taxpayer clinics help with regard to individuals who have a controversy with the IRS. We increase the authorization in this legislation to $9 million for 2004, $12 million for 2005 and $15 million for 2006 and subsequent years.

We also provide for additional help here to help individuals for whom English is a second language to be able to deal better with the IRS. I like these taxpayer clinics, they are working well, and again, this is something that would be jeopardized in the underlying legislation by loading it up with much more controversial items that have not been vetted.

Finally, the gentleman from Washington mentioned the health care credit waiver. The problem with not having this in place is that 12,000 families are not going to be able to get health care, and that is based on the Joint Tax estimate.

All we are saying is we had provisions in place in the Trade Act to allow these people to access health care with a 65 percent refundable credit, but, unfortunately, probably up to 21 States, maybe not that many, but some States, up to 21 States, are not going to have provisions in place to allow them to access that, because we require there be State plans, we require there be certain provisions in these plans, and not all of these States have gone to those provisions yet.

We want simply an 18-month bridge to be sure these 12,000 families can get their health care. That seems to me to be a reasonable solution. In the Committee on Ways and Means, we had a lot of discussion about this. I think the Committee on Ways and Means majority and majority staff worked in a responsible way to try to address those concerns. We changed the legislation between the time it was reported out of committee and now in a few significant ways, including making it only 18 months, making it truly a bridge, including limiting the provisions to just two, guaranteed issue and preexisting conditions, and I think this is an improvement in the legislation.

We also said it would not apply to those States where they did have a compliant plan. So it really narrowed it and limited it in response to specific concerns raised by my colleagues on the other side of the aisle, and I think that should be taken into account as we look at this legislation today, because we did go to the extra mile to try to meet those concerns.

The bottom line for me, Mr. Speaker, is that this is great legislation, the underlying legislation. The substitute adds, as I count it, another 160 pages to this legislation, which is only 75 pages in the underlying bill, maybe more than that, because it cuts out some of the 75 pages. By adding all these new provisions, most of which have really not been vetted, we are really again jeopardizing the good legislation that is in here.

I am going to later talk about some of the provisions that are in the substitute that actually trouble me. It is not just new provisions that have not been vetted, but some are bad policy, in my view, particularly with regard to the earned income tax the gentleman talked about.

We now have a 30 percent error rate, we are told by GAO. It was 25 percent the last time I looked. Now they say it is 30 percent. Even 25 percent, that is wholly unacceptable. I think that is agreed to, I would hope, on both sides of the aisle. A 25, 30 percent error rate, we are talking about $10 billion a year is mispaid under the EITC. Now, if we had a 25 or 30 percent error rate, even a 10 percent error rate in a social welfare program, we would be up in arms, as would the States. It is outrageous. There is no program that has that kind of error rate. Yet we are putting up with a 25 percent or 30 percent, we are told 30 percent by GAO, error rate in the Earned Income Tax Credit, and at a minimum, I think the IRS should be given the flexibility to be able to work towards some kind of a system where you are certifying whether people actually qualify for the credit or not.

I would love to hear the ideas from the other side of the aisle as to what they would do about this. I think this is one where if continue to ignore it, continue to say no, we are going to tie the IRS's hands, even when they show flexibility as to how they are going to deal with it, what is going to happen? You are going to lose tremendous support for the EITC.

I can tell you my constituents back home, who are Federal income taxpayers who support the EITC through their Federal taxes they send to Washington, even if they think the EITC is generally a good idea, they are not going to think that if they believe that 30 percent of that money is being misspent.

Some of it is fraud, some of it is because it is too complicated. But at a minimum, we should give the IRS the tools to be able to go and reduce that error rate. Otherwise we have to figure out another way to support people who are working who want to be able offset their payroll taxes and other taxes, because some people who get the EITC have their entire income tax offset, their entire payroll tax offset, and they are still collecting EITC.

We need to be sure that program is working and working well if we are going to have it continue to be strongly supported by the folks who do pay income taxes, and others, who look at this and say this is unacceptable. So I would hope that that provision would not be included in a substitute.

Mr. Speaker, I will talk about more of the other provisions as we proceed with the debate.

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

Mr. MCDERMOTT. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. LEVIN).

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

Mr. LEVIN. Mr. Speaker, I want to talk about the health provision. It is unfortunate that the Republican majority insists on inserting this provision in this bill. The TAA provisions were carefully crafted. Many relied on them for their vote. And now the majority is taking a step away from them.

In the legislation there were protections for beneficiaries, four of them, if

they could not get COBRA, a requirement that States develop these plans with these four protections.

Now, essentially what they are saying is that provision can be changed and individuals can buy insurance individually without those protections. This is going to undermine the negotiations that are continuing now for the completion of State plans. The younger, more healthy people will buy this insurance without the protections. It will reduce the incentive of insurance companies to work this out with States.

But then it was said yesterday that State legislatures do not meet every year, that some only meet every 2 years, so that is an inhibition on working this out. It does not take State legislative action to work out these plans. As has been true in a number of States, it can be done without action by the State legislature.

This a voluntary plan, and what is going to happen if this amendment is allowed, and I do not think it could pass the Senate, is that there will be selection by the younger and more healthy, leaving the insurance availability to older workers that will be too expensive, or there will be no availability whatsoever.

□ 1200

So this is a change that matters. This is another example of an erosion of a safety net that was worked out carefully between the two parties.

Now, look, the gentleman from North Dakota (Mr. POMEROY) said to people on your side, we will sit down and talk about finding a resolution to this, and a few of us suggested we would join. The answer was, well, we will only talk to the gentleman from North Dakota (Mr. POMEROY). We will not let your staff in any meeting. I know that directly. And then there was no discussion with the gentleman from North Dakota (Mr. POMEROY).

So essentially, what you did was to go into some room and make a decision that you were going to change a TAA provision for people who were laid off. This is trade adjustment assistance for people who are unemployed because of the impact of trade.

So if you really cared enough, you would sit down and work this out. Instead, you inserted it in a bill that has IRS provisions, and the gentleman from Ohio (Mr. PORTMAN) talks about how laudable they are. Well, they are laudable provisions, so why put an anchor around them, and why pull back from something that you yourselves negotiated with people on this side to provide health protection for people laid off through no fault of their own?

So this is enough of a flaw, in my judgment, for people to vote against this bill. This is turning your back on what you agreed to, without even being willing to sit down and try to work it out with the minority. This is turning your backs on thousands of people who need health coverage, and I urge that we take the steps to take this out of the bill and not wait for the Senate to do it. Support the substitute that has been offered by the gentleman from New York (Mr. RANGEL) and now being managed by the gentleman from Washington (Mr. MCDERMOTT).

Mr. PORTMAN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut (Mrs. JOHNSON), the Chair of the Subcommittee on Health.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank my colleague for yielding me this time.

This bill is not turning our back; it is facing reality. To pass the substitute would be turning your back on 12,000 people who live in States that do not yet have compliant programs and, therefore, will not be able to get the 65 percent subsidy of premiums that we offer now to people who are uninsured by reasons of trade competition.

This is a temporary waiver just to give States more time to get compliant plans in place. It only runs through December of 2004. That is only basically a little over a year from the time they were supposed to have their plans up and running. It does not supersede State law relating to consumer insurance protections. So anything a State thought was important for consumer protection and health plans is there. It is there for whatever plans are developed for these 12,000 people; it is there for everyone else in the State. We do not override State protections.

We are providing a temporary waiver so that for the very first time in our country, a certain group of people who are unemployed will have tremendous help in buying health insurance during that period of unemployment. It is disgraceful that we were not able to do this for all of the unemployed, but that will be the next step, and then all of the uninsured. But this is an extremely important initiative, because it sets up the structure through which we can deliver a two-thirds subsidy of premium to the uninsured in America.

There has long been, historically, bipartisan support for that kind of initiative to enable people who are uninsured or who do not make enough to pay for insurance or who are unemployed, to be able to have the personal security of health insurance, going way back to the debate stimulated by President Clinton's proposal. The bipartisan alternative that actually had a majority of the support in this House, our former colleague Roy Rowland and our former colleague and minority leader Bob Michel introduced a bipartisan initiative, and key to that was the delivery of these direct subsidies for the purchase of premiums.

Now, later on, once we get the system set up, we can think about whether some people need a higher subsidy than other people relative to income, but setting this system up is imperative. And in the 21 States that have not yet been able to set up a compliant program, if you are unemployed as a result of trade dislocation, you have a right to this; but you can only exercise it if you have COBRA, which most of the unemployed people in small businesses do not have by definition, or if your spouse works for a company that has family coverage.

Now, to say to the other unemployed people that have a right under Federal law that you cannot exercise that right because your State has not been able to work through the issues of developing a compliant program is simply wrong. So this waiver only allows a simpler process for those compliant plans to develop; it makes it simpler for a little over a year while they develop the more complex, but fully compliant program.

So talk about turning your back. All we are trying to do here is face reality so we will not turn our back on the 12,000 people to whom we granted deep premium assistance so they can buy insurance during a period of unemployment, so that they can realize that benefit under the law. And if we do not pass this amendment, then they will not have access to the very benefits that we gave them. That would be outrageous.

Our job is to assure that the needs of the people are met; and when there is a glitch, to develop a way around that glitch and, in this case, it is a temporary waiver so that ultimately everybody will have the access we guaranteed them, the subsidies we guaranteed them to compliant plans. It is a small adjustment. It is facing reality. If we do not face reality, we turn our backs on these 12,000 Americans, unemployed as a result of trade dislocation.

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

The gentlewoman from Connecticut calls it a small adjustment. I would call it a gutting of the program. If you allow an insurance company to screen people out on the basis of preexisting conditions, which is what this amendment does, of course it will be simpler. They just look down your history. If you are over 50 years old, you will never get access to this. And the people who are losing their jobs here are not 20 years old. They are people who are in steel industries and other industries where the existence of a preexisting condition is very common.

So to say that the insurance company does not have to have that consumer protection, there is no guaranteed issue and they can use preexisting conditions is simply to give the insurance industry the ability to cherry pick the young and leave the others by the side of the road.

Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman for yielding me this time.

The American people are hearing the phrase ''mission accomplished'' a lot

these days. However, they are not hearing it much from this Republican Congress. Today we debate a bill which could have passed with more than 400 votes on taxpayer rights. And then we could have proclaimed, mission accomplished.

However, for some unknown reason, this bill now says the consumers need to waive basic protections in order to get health insurance. That means that these employees who have lost their health insurance and lost their jobs must now accept insurance, but only if they waive coverage for preexisting conditions. Worsening basic health protections, for this Congress, once again: mission accomplished.

There are many things in this underlying bill that I supported before this killer provision was added. One of my constituents has even been a victim of these nonsensical IRS problems. Her retirement account was wrongfully levied by the IRS, but now the IRS cannot return it. It defies logic, could and should be fixed today. However, now that this basic IRS bill has been hobbled by an anticonsumer provision, unfortunately, we cannot say ''mission accomplished.''

The substitute we are considering today would provide for all of these basic taxpayer rights without harming consumer health protections. Further, the substitute includes the Senate-passed child tax credit, which millions of lower-income families are counting on. The substitute also includes the Armed Forces Tax Fairness Act, yet another bill that this House leadership has been sitting on.

If we pass this substitute today, then we can leave and honestly tell the American people, ''mission accomplished.'' Relief for working families: mission accomplished. We could tell those fighting soldiers and their families: mission accomplished.

Support the substitute and vote down the short-sighted Republican bill.

Mr. MCDERMOTT. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. BECERRA).

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

The original purpose behind H.R. 1528 was good. When we take a look at the title, the Taxpayer Protection and IRS Accountability Act of 2003 and we take a look at the provisions that relate to protections for our taxpayers and accountability for the IRS, it is good. In fact, it was bipartisan. There was full agreement on both sides of the aisle that these were measures that would help American taxpayers file their returns, do it right, and get back the money they deserve.

But what has happened to the bill, now that it is on the floor, is that it is no longer just a bill about taxpayer protections and IRS accountability. Somehow, in a bill that is supposed to relate to taxpayer protection and IRS accountability, there is a provision that has been put in here that has nothing to do with any of those things, and that is what Members on this side of the aisle keep talking about; a provision that deals with health care. Not just any kind of health care; it is health care for working Americans who have lost their jobs as a result of trade adjustments that have occurred that have made them lose their jobs, in other words, companies that have left America to go elsewhere to do their production and American workers who are now out of work. Out of work means likely out of health care. Out of health care is something that no American wants to be without.

So what we did a year ago was pass legislation that said, okay, for those folks under the Trade Adjustment Assistance Act, we are going to make some provisions to provide some help to those Americans who lost their jobs. It is also an addition for some people who are now retired on pensions.

The provision in this bill takes that out. It denies protections, consumer protections that we are providing to unemployed workers and pensioners. Why? Apparently, to make it easier for certain States. Why are you making it easier for certain States to exclude American workers who lost their jobs because American companies went abroad?

This is a bill that could pass with 435 votes if it dealt with the taxpayer protections and IRS accountability, period. But instead, here we go, a provision has been added, not through a voting committee, not through a voting of the full House of Representatives, but rather in the dark of night. All of those folks who are watching on C–SPAN today are saying, why do they not want to vote for this bill? It is about protecting us as taxpayers. Because the folks watching C–SPAN will never see the provision that was added to this bill that has nothing to do with taxpayer protection and that most folks on that side of the aisle will not talk about, because they only want to talk about the Taxpayer Protection Act, not about the fact that we are denying thousands of American workers who lost their jobs, through no fault of their own, and now they are going to be out of the health care that we told them a year ago that we could get them.

And why? Because some States are saying they cannot come up with a program to deal with it. Most of the States have done it or are well on their way for providing a program that is necessary for those folks to qualify. A few States are lagging behind, and what we are doing is because there are a few States that say they cannot do it, we are going to deny it to everyone. That is why the substitute should get the vote and the full support of all Members of the House.

□ 1215

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

Ms. DELAURO. Mr. Speaker, I rise in strong support of the Rangel substitute. For nearly a month now, 6.5 million families, 12 million children have been shut out of a tax credit that they deserve. I am talking about how this majority secretly eliminated the child tax credits for families who earn between $10,500 and $26,625 from the tax bill that passed this House last month. People who work, people who pay taxes, sales tax, property tax, excise tax, payroll taxes, 8 percent of their income.

Instead of simply restoring that provision, the majority in the House of Representatives cynically passed a $82 billion bill for a $3.5 billion fix. Do you know why? It is because they know the legislation will never pass the other body.

To the Republican majority, these families are just another bargaining chip in their endless quest to cut taxes for the most privileged Americans. The majority's leader and the chairman of the Committee on Ways and Means have said that helping these families is not their priority, that they are not sure whether or not we will even begin the conversation between the House of Representatives and the other body to begin to work things out.

But there should be no greater priority of this House than helping the families of 6.5 million families, 12 million children. They are hard working. They are tax paying. They are waiting for the relief that was promised to them. They also include 200,000 military families, men and women who are fighting a war, losing their lives in Iraq. We are now losing almost a GI a day in the war in Iraq and yes, it is their families, their children will not see this tax credit that they were promised.

Quite simply, we must pass this substitute. It includes language from the other body's bill that would ensure that these 6.5 million families, 12 million children receive tax relief just like the 25 million other families who are going to benefit from the child tax credit. It also requires that the IRS halt work on an unfair action that they will deny the earned income tax credit that millions of families who have rightfully earned.

The Republican majority has no problem with wealthy individuals or companies who paid no taxes. Enron paid no taxes the last 4 out of 5 years. They have no problems with those companies that go overseas only for the purpose of not paying their financial obligations and their taxes to the U.S. government, and they have no problem with this. And yet those military families, those individuals who may lose their life, cannot get $400 in a tax credit, in fact, that they were promised.

What is wrong? This does not reflect the values of the United Nations of America. What underlies their thinking when they make these decisions? It is not what the great American tradition is all about.

I urge my colleagues to support the Rangel substitute. It protects tax-paying families who work hard. They play by the rules. They have earned this tax relief. Restoring it to them is the right thing to do. It is the fair thing to do.

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

Mr. Speaker, I find the gentlewoman's comments a little puzzling listening because on the one hand, my colleagues are arguing it was wrong to put the important health care credit into the IRS reforms which are so important and so widely viewed as popular and the appropriate thing to do, and then the gentlewoman is saying but let us add something else to this mix, another 160 pages of controversial, and for a large part of them, untested, proposals. None of these substitute proposals to my knowledge have been reported out of the Senate Finance Committee. They have not even dealt with inversions, for instance. We have legislation sitting over there in the energy bill for weeks and so the gentlewoman says, well, we need to add child credit to this to get it done.

If you want the child credit issue to be resolved, and our side on the aisle, agree it ought to be resolved. In fact, we came up with a good balanced proposal to provide relief who do not have any income tax liability, have no federal income tax liability, to increase an existing 10 percent refundable credit for the child care that is going to the same families now. We said it ought to be taken to 15 percent immediately rather than waiting until 2005, when it is going to happen anyway.

We said, if you are going to make that permanent, the 15 percent on the refundable side, again, for people who do not have Federal income tax liability, and many of whom do not have payroll tax liability, then at the least, we ought to be sure that those people who do have Federal income tax liability have their $1,000 credit which we have now provided them until 2005, to continue as well, at least until 2010.

The President wanted to continue it until 2013. We said, as a balance, let us go ahead with the child credit for the refundable part and let us go ahead with making sure that those who do pay income taxes also get some benefit after 2005 as we would be doing for those who do not have income tax liabilities.

We think that is a fair and balanced proposal. That has just been sent over to the Senate and it is being worked out between the House and the Senate. Conferees are being named. We are trying to work through this process to try to get to a solution to resolve the child credit issue. And yet the gentlewoman says, this will make more sense to get it resolved to add it to these extremely controversial, as we will talk about in a moment, and untested proposals that have not even been reported out of the Senate Finance Committee, much less subject to hearings, and none have been reported out of the Committee on Ways and Means. I do not know how that helps us get on to child credit.

Let me talk about some of the other provisions the gentlewoman talked about.

The next provision was the inversion provision. Well, as the gentleman from Massachusetts, who spoke about inversion knows, we also passed an inversion provision on this floor and we included it in legislation that is sitting in the Senate, which provides specifically for a 2-year moratorium on inversions. We think that is the right way to go. There is some bipartisan support for that. The gentleman, instead is saying, let us go ahead and load up this bill with something more controversial that provides for a retroactive provision under inversion. So it would actually undue transaction which were entered into lawfully 30 or 40 years ago and you are now going back and penalizing.

We have dealt with the inversion issue. We have done it in a bipartisan way. It had some bipartisan support. And here we come up with this new idea again which would actually be retroactive on perfectly legal transactions. We do not think that is the right way to go. Instead, we think we ought to be having a moratorium in place and looking at the underlying causes as to why companies leave the United States. We are doing that very aggressively. Maybe too aggressively for some on both sides of the aisle. But in the fixed ETI bill, which deals with particularly the Europeans, but more generally our competitive position as Americans, it takes very aggressive action and it is going through the process of hearings now and will be before this Congress, I believe, in the next month, which says let us deal with the underlying causes. Why do companies leave? We do not want foreign corporations to come buy our companies.

I personally believe that would be the result of the inversion provision that is in this substitute. Rather, let us deal with these underlying causes. Let us make it better for companies to stay here, employ American workers, stay headquartered in this country.

Finally, there has been a lot of discussion about the refundable tax credit that is in the underlying bill and why that is not a good idea. Again, it deals with the very simple issue of 12,000 families cannot get health care unless we do this. We want to provide health care. Do a bridge program. We dealt with three concerns that were raised in the Committee on Ways and Means by the other side of the aisle. Those issues have been addressed. It is still not acceptable to some of my colleagues. I understand that.

But in terms of the legislation, the gentleman from Michigan earlier said that it allows people to go to the individual market and that is wrong. It does not. That is the point. It continues to require they go to the State options. That is what the Democrats in the Senate insisted on back in 2002. That is what we are sticking to. If that were not the case, if we were allowing people to go to the individual market, we would not have a problem here, would we?

The problem is that up to 21 States have not changed their State plans adequately to allow people who have been displaced because of trade to be able to access health care. So we are saying during a bridge while those State gets up to speed and make their programs compliant, we ought to allow them to have access to health care. The State options, again, was not something that we particularly felt was the best policy, but it was something that was insisted upon. Now let us make it work. That is all we are saying.

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

Mr. MCDERMOTT. Mr. Speaker, how much time remains on both sides?

The SPEAKER pro tempore (Mr. QUINN). The gentleman from Washington (Mr. MCDERMOTT) has 14½ minutes remaining. The gentleman from Ohio (Mr. PORTMAN) has 9½ minutes remaining.

Mr. MCDERMOTT. Mr. Speaker, I yield 30 seconds to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I will make two quick points. One, I think my colleagues on the other side of the aisle and so described by Senate aides, Republican Senate aides and personnel who have said that, in fact, they passed this bill in the House because they knew it was never going to go anywhere in the Senate about addressing the child tax issue. That is 12 million children that were promised and 6.5 million families.

The second issue so that everyone understands, the fact of the matter is that we have not closed the loophole on those corporations that go overseas for the ostensible purpose for paying no taxes to the Federal government. They set up a shell corporation, and then they even have the audacity to come back and try to contract with the Federal Government on homeland security.

They do not pay their taxes. We do not let anyone else get away with that. Let us do something about the child tax credit.

Mr. MCDERMOTT. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. SOLIS).

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

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

Mr. Speaker, I rise also to express my strong support for the Rangel substitute and to thank the ranking member for his continual struggle for equitable and just tax laws.

Just tax laws are fiscally responsible and fairly allocated. Nowhere is this injustice of the Republican leadership better illustrated than in the shrewd treatment of the child tax credit. To

ensure at all costs that the rich campaign donors will get the maximum tax credits, Republicans cut out 200,000 military families that they just sent to war, these men and women that are serving abroad. They cut out working families. They cut out single working mothers. They cut out hard working people from all over the world who come to America to seek a better life and play by the rules and pay taxes.

I looked at my district in Los Angeles, San Gabriel Valley and East Los Angeles, and saw that one out of four families would get no tax relief. In fact, in my own district, I do not even have one single millionaire. So there you go. People pay in but they do not get anything out. And I saw that instead they would be saddled with the huge debts of tax. For years to come their children have to bear this. They would lose essential health care services.

And today in our Committee on Energy and Commerce, we are debating the demise, the demise of Medicare, services that are so vital and important to the health of our senior citizens. With less money for infrastructure and environmental protections and Social Security, that is what the Republicans want to talk about.

And I am happy that along with my Democratic colleagues, we cried out the last few weeks against this injustice and the country listened to us. In fact, the other body and the President responded by agreeing to restore the child tax credit. But these folks on the other side, they do not want to listen. They think that somehow nobody is paying attention. They use the child tax credit to try to make a $400 billion deficit even bigger. There you go. They take, they take, they take, but they do not give back.

I implore my colleagues to please, across the aisle, please support the Rangel substitute.

Mr. PORTMAN. Mr. Speaker, I yield 3½ minutes to the gentleman from Illinois (Mr. WELLER), my colleague on the Committee on Ways and Means.

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

Mr. WELLER. Mr. Speaker, let us take a few minutes here and actually focus on the legislation before us today because those who represent 21 States may want to pay very close attention to the legislative proposal that the Democratic side is offering as a substitute to that which is before us today. Because if you vote for the Democrat substitute, workers who have been dislocated, workers who have lost their jobs as a result of trade action or are eligible for trade adjustment assistance or are benefitting from the PBGC programs to help those who are dislocated, if you vote for the Democratic substitute, these dislocated workers in your State will be shortchanged because they will be denied help when it comes to obtaining health care coverage for themselves and their families.

Let me note these States, and I urge my colleagues to listen very carefully, because if you come from one of these 21 States and you vote for the Democrat substitute, it is workers in your own State who will be hurt by the Democrat substitute: The States of Alabama, Arizona, Delaware, Georgia, Hawaii, Idaho, Iowa, Kentucky, Mississippi, Missouri, Nevada, New Jersey, New Mexico, Oklahoma, Oregon, Rhode Island, South Dakota, Utah, Washington State, Wisconsin and Wyoming.

□ 1230

Again, my colleagues, if you represent one of these 21 States and you vote for the Democrat substitute, it is workers in your State who get hurt because the Democrat substitute takes away the help that we have in this legislation to help workers who are dislocated and desperately need health care coverage for themselves and their families.

Now, the Democrats have used a lot of rhetoric to distract all of us from the real intent of their legislation, which is to remove this help for these dislocated workers. Let me tell you why it is so important. In last year's trade act legislation, we provided a groundbreaking refundable 65 percent tax credit for health insurance purchased by those eligible Trade Adjustment Assistance and PBGC beneficiaries. The credit can be used to buy coverage through COBRA, one's spouse's coverage, or under very limited circumstances, the individual market. If these choices are not available, the insurance must be purchased through state-based options, including risk pools, State employee programs, and State contracts with private insurance that must guarantee issuance of insurance without preexisting condition limits.

What we have discovered is that States are not uniformly moving ahead to develop compliant programs. Twenty-nine States have made initiatives. I am proud to say my State of Illinois, in a bipartisan effort, has worked to protect their workers. That is why this legislation is so important today. Because, again, if you are from the 21 States where your legislature and your Governor have not put a program in place to help these workers, they are cut out; and their opportunity to get health care coverage is taken away if you support the Democrat substitute. That is what this is all about.

Vote ''no'' on the Democrat substitute to take away help for dislocated workers that need health care and vote ''yes'' on final passage to help these workers that need help.

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

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

Mr. LEVIN. Mr. Speaker, the gentleman from Illinois has repeated a claim that was made earlier by the gentlewoman from Connecticut, and it simply is wrong. Under the legislation that was passed here, the States are mandated to provide this coverage. Most of the States are providing it or are negotiating agreements with insurance carriers. There are only a small number of States with a much smaller number of employees who are constituents or residents who have not done this yet. They can provide this insurance, for example, by modifying their risk pools rules. It does not take legislation. It does not take an act by the Governor and by the State legislature. They can take this action.

Now, look, we offered to sit down with the majority and work this out. For example, there could have been an alternative that if any State did not live up to the mandate, there could be insurance through the Federal plan. That was just one idea. But the majority refused to sit down with us to work this out. And what this is is backtracking. What this is is a foot in the door away from State plans, in addition to other plans that could be bought through COBRA and to allow individuals to buy individual insurance without the protections that are guaranteed in the legislation.

So what is going to happen is there will be cherrypicking and a lot of employees are going to be left with only more expensive insurance to buy. That is the basic principle here. The basic principle. There is a State mandate. The States are fully capable of carrying them out, and the majority is using the fact that a few States or some States have not yet acted to essentially create this vacuum. That is what the majority is utilizing to change the kind of insurance that is going to be purchased by a number of the more healthy people covered by TAA, leaving everybody else in a worse situation.

So, look, there is a State mandate here. The States can carry this out. And if you think not, and we offered to get a quick study of this, sit down with us and try to figure out an answer to a problem that I think does not really exist. You do not like these approaches that are based on State plans, on governmental plans. You prefer individual insurance where people can be cherrypicked by insurance companies. That is not the policy embedded in the TAA that was passed here. We should not turn our backs on what was passed here just a few months ago.

Mr. PORTMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. FOLEY), my colleague on the Committee on Ways and Means.

Mr. FOLEY. Mr. Speaker, I thank the gentleman from Ohio for yielding me this time and for his leadership on this issue. I want to respond briefly relative to the mandate which is constantly mentioned throughout the debate. We do not mandate that the States adopt. In fact, the Treasury has been working with the States to try and find ways for compliance.

Obviously, in some States it requires legislative consent, and many of the legislators have returned home to their districts. Some are working with private providers, Blue Cross/Blue Shield and others, getting a waiver for them to make the changes to comply. So I think we have to make certain as we discuss this issue it does not sound like a forced issue on the States. We are working cooperatively with those States.

Mr. Speaker, the amendment of the gentleman from Washington would in fact delete the health care provisions contained in the bill before the House. These provisions are extremely important and reflect a good- faith effort to make sure the previously adopted 65 percent tax credit for health insurance purchased by eligible TAA and PBGC beneficiaries is able to be used by all qualified individuals.

What will the effect of the Democratic amendment be? It will virtually deny tens of thousands of laid-off workers any chance of getting the 65 percent tax credit for payments they made for health care. It will mean in about 21 States, which was mentioned by my colleague, the gentleman from Illinois (Mr. WELLER), in 21 States there would be no qualified plan and, consequently, no tax credit for laid-off workers. So their amendment is, in our view, antiworker and antihealth care.

Let me restate the effect of removing from the bill the health care provision. The waiver provision will mean substantial numbers of additional policies will be in place for workers and their families while States continue, again let me underscore, States continue to work on developing compliant program options. Not mandates, develop compliant program options.

According to the Joint Committee on Taxation, an additional 12,000 individuals will exercise the waiver option in 2004 and utilize the tax credit to obtain health insurance for themselves and their families that would not be available under present law. A lot of families would be covered under this option.

The choice here is clear: if we do not provide TAA and PBGC beneficiaries with an option they control in States which do not offer compliant policy, these people will simply be unable to take advantage of health insurance tax credits. We intend in our bill to provide a benefit to these eligible individuals when we pass the trade act.

Let me inform my colleagues that we changed and improved the provisions that are now in the committee bill. First, the waiver will apply only to preexisting conditions and guaranteed-issue protections. It is narrowly tailored to remove obstacles to an individual's access to a qualified option. Second, the waiver will only apply in States that do not have a qualified option. Thus, the provision would benefit those who have no other opportunity to obtain health care coverage. And third, the waiver period is shorter. The waiver is a temporary provision designed to provide immediate access to health care tax credits. It is only available until December 31, 2004, which will allow States time to establish a qualified insurance plan.

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

Listening to the other side, Mr. Speaker, I do not quite know where to start. It is not very often that the public gets a clear view of the naked desire of the Republican Party to not do something while appearing to do it. These taxpayer provisions to protect taxpayers could have passed 12 months ago; but at that time, a year ago, they stuck in a poison pill amendment, and it died in the Senate.

Now, if they had only done it once, no one would have seen what was going on there. They passed the taxpayer bill, they put this amendment in, and they knew it would never come back; and that was the end of it. But they did not learn from that. They had the people fooled that they cared about taxpayers. But now they have come back a second time, and they do the same thing over again. They could have put a bill out here that everybody would have passed, that would have had 435 votes for it; but they had to put another poison pill in.

They know this is not going to get through the Senate because, first of all, it was part of the fast track bill and votes were obtained from people on both sides of the aisle around the belief that they were going to look after workers' rights in trade negotiations. One of the things that happens is people lose their health care benefits when they lose their job because of trade. So we took care of that. And now my Republican colleagues come in here, and what is really amazing is they believe in devolution; that everything should be put down to the States; and what they are basically saying is that we are rewarding the States that have not done anything.

Most States have acted under the bill and provided programs. They have followed all the rules. But we do have some laggards. Maybe my colleagues want to read that list again. Those laggards, those slothful ones, whatever they are, that do not care about their people, or whatever it is, they have not acted; and yet my colleagues are saying, okay, okay, we understand you really do care, so we are going to get rid of all the rules. What kind of incentive, what kind of message is that to send to the States? Hang back, do not do it, and we will change it to fit you; right?

Now, that is no message to send. And the real message here is, and I do not know anybody who wants to see this, this bill occurred because the Republicans would not allow them to use COBRA or Medicaid. When these negotiations were going on, we wanted to put these people into Medicaid, give them coverage there, or allow them to extend their COBRA. But my Republican colleagues said oh, no, no, no, no, we have a new plan. We believe that tax credits are the answer. So we will give them 65 percent of the premium tax credit, and they will be able to go out and buy. And lo and behold it did not work.

This is kind of the reverse of that movie called ''Field of Dreams'': If you build it, they will come. Well, the Republicans said if we build this tax credit around health insurance, they will come; and they have not come. So now they are saying, well, we are going to tweak it a little bit here and take away the consumer protections. And I think that is not fair. It makes it pretty hard to deal with the other side when one year they are saying they are going to do one thing, and in less than a year they are back here taking it out. What can we believe from them? Did my colleagues not think it was a good idea last time, so they just let it go through in order to get fast track, because they knew they could come back and repeal it? What was going on?

I think my Republican colleagues ought to ask themselves what kind of a message it sends from their side to us when they want us to work on a bipartisan basis. We do not work very often on a bipartisan basis; but when we do, on the fast track bill, the Republicans undercut it the next time they stand up. In my view, that is not the way this body should operate.

Now, what are some of the other things that are in here that we took out? We took out some things that the Republicans had in their taxpayer bill. We took out the ability to have tax-free interest on overpayments. If we look at the scoring of this bill, if we look at what the CBO said, they said they think a billion dollars is going to be paid in overpayments. Now, why would anybody overpay their taxes? Well, if this bill passes, they would get tax-free interest because the government has to pay interest on overpayments that are given back. It has always been taxable, but now it would not be. The CBO's estimate is that a billion dollars is going to be put into tax-free bonds, basically, in the IRS.

Now, my view is that is not necessary. And the other thing is, my colleagues talk about wanting to revise the Tax Code, yet they come out here with a bill that is going to complicate it some more. They are going to give some people 2 more weeks. For what?

□ 1245

For 2 years they are going to give people who file electronically two more weeks. I asked the staff, where did this come from? Who asked for this?

Mr. Speaker, no accountants that I know want two different dates. It turns out this is a provision that the last Treasury Secretary kind of thought was a great idea. Guys, he is gone. Let this idea go away. It is a bad idea. We do not need any more confusion in tax filing than we already have today.

Finally, this issue of children. I do not know why they continue to tar

themselves with their own brush. They say they care about kids, and then they pass a bill through here that does not give the benefit to the poorest of the kids, not the poorest, the ones just above the poorest. Their folks make between $15,000 and $28,000, and they say to them, you do not get this money, this child tax credit. But they are willing to give it to people making $80,000, $90,000 all of the way up to $150,000. I do not know why Republicans would want to have that image.

I stand over here and think, why would they be doing this? All I can think of is they thought it was an engine that would be able to drag some things through Congress which they could not get any other way. It makes no sense at all. If they really cared about these kids, they would pass this bill and with this amendment on it, and it would go into law immediately.

I know the other side does not like the provision about companies that run away, but we are over there rebuilding Iraq, and some of the very companies that left the country and have established another office someplace else, the Cayman Islands or Bermuda or wherever, have the gall to come back here and bid on contracts to rebuild Iraq. They are willing to pay no taxes in this country, and then take American taxpayer money and make profit off it in Iraq. It is unbelievable that the other side of the aisle would set up a system like that unless they had friends in the oil industry or concrete-laying or dam-building or airport-rebuilding. All those issues are in this bill, and I say we should adopt this amendment if we want to protect the taxpayers. This amendment in the nature of a substitute would get through the Senate.

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

Mr. Speaker, I think we have seen why this effort today is more politics than it is practical. We are now talking about Iraq. We have loaded this bill up with Iraq, and somehow that is going to get through the Senate. The reality is we have about 160 pages of new provisions here that have not been through the Committee on Ways and Means process, have not been reported out of the Senate Finance Committee; and they are, therefore, going to drag down all of the other good legislation in the underlying bill. We are talking about the substitute for good legislation.

The gentleman from Washington has talked about the child credit. Here is the reality. If we really want the child credit to get resolved, to be sure we were giving fair and balanced relief to families with kids, Members would not tack it onto this, raising every issue from inversions to Iraq. Members would instead want to make that a streamlined process, as we did here in the House recently where we said we ought to be able to provide people who do not have Federal income tax liability with a little help, more help than we are already giving them because all those families already get help, thanks to Republicans, because in 2001 we passed tax legislation that for the first time ever, unlike what the Democrats did for the previous 40-plus years when they controlled this place, we provided tax credits that were refundable to people who do not pay Federal income taxes.

The Democrats are saying now we ought to increase that refundability, which is scheduled to happen anyway in 2005, and instead what we ought to do, we ought not provide relief to people who do pay income taxes. That is absurd. We ought to do both. We are willing to increase it to 15 percent, but for the Democrats to say but if you pay income taxes, you do not get the $1,000 credit, that makes no sense at all. That is what they want to do.

Anyhow, that issue should not be on this bill because this bill has now become so complicated with this Democrat substitute that it would, if the Democrat substitute passed, not be able to make it through the Senate. The underlying legislation here is the result of years of work by people who are concerned about ordinary taxpayers and how to make our tax system work better. That is what it is. It is great legislation.

The provision the gentleman criticized earlier is from the bipartisan, bicameral joint tax committee. There are anti-abuse provisions in it. He misreads the provision or he thinks it is not good law because he thinks taxpayers ought to be saddled with more liability than they should be.

Let me talk about some of the great provisions that are in here that would not happen if this substitute goes through because we are not going to get this bill through if the substitute is part of it. We would not have an end to this first time penalty. Right now, even the most conscientious taxpayers who put a $1.40 stamp on their tax return envelope rather than $1.50, those people now end up having a penalty against them for minor errors, and we would not be able to fix that if the substitute goes through.

Second, there would be no relief on the estimated tax penalty. We would still have people who are charged interest and have to pay tax, additional interest and penalties just for how they quarterly file their taxes. There would be no simplified filing for family businesses. There would be no prohibition and increased penalties for unauthorized browsing. How could Members be against that? Do Members think the IRS employees ought to be able to browse?

And with regard to the so-called 10 deadly sins, we help the IRS and its employees to improve morale by reforming that and doing what the IRS commissioners strongly believe we ought to do, give them some flexibility.

Mr. Speaker, the bottom line is we ought not to take these good provisions down because of a health care credit. All it does is provide 12,000 families with the ability to access health care, that and the good IRS provisions ought to go. The substitute ought to be voted down. I urge my colleagues to vote no on the substitute and yes on the underlying bill.

The SPEAKER pro tempore (Mr. QUINN). All time for debate has expired.

Pursuant to House Resolution 282, the previous question is ordered on the bill and on the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MCDERMOTT).

The question is on the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MCDERMOTT).

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

Mr. MCDERMOTT. 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 196, nays 226, not voting 12, as follows:

[Roll No. 291]

YEAS—196

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Clay
Clyburn
Cooper
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman

Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—226

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Cannon
Carson (IN)
Conyers
Costello
Delahunt
Gephardt
Hastings (FL)
Kleczka
Miller (MI)
Smith (NJ)
Smith (WA)
Thompson (MS)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1312

Messrs. BLUNT, EVERETT, OTTER and Mrs. CUBIN changed their vote from ''yea'' to ''nay.''

Ms. KAPTUR, Mr. HONDA and Ms. JACKSON-LEE of Texas changed their vote from ''nay'' to ''yea.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

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 MR. VISCLOSKY

Mr. VISCLOSKY. Madam Speaker, I offer a motion to recommit.

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

Mr. VISCLOSKY. Madam Speaker, I am in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. VISCLOSKY moves to recommit the bill H.R. 1528 to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendments:

Strike section 309 of the bill and insert the following new section (and amend the table of contents accordingly):

SEC. 309. HEALTH CARE TAX CREDIT ENHANCEMENT.

(a) DECREASE IN AGE ELIGIBILITY REQUIREMENT.—Subparagraph (A) of section 35(c)(4) (defining eligible PBGC pension recipient) is amended by striking ''age 55'' and inserting ''age 50''.

(b) REPEAL OF 3-MONTH REQUIREMENT OF EXISTING COVERAGE.—Clause (i) of section 35(e)(2)(B) (defining qualifying individual) is amended by striking ''9801(c)'' and inserting ''9801(c) (prior to the employment separation necessary to attain the status of an eligible individual)''.

(c) ELIGIBILITY OF SPOUSE OF CERTAIN INDIVIDUALS ENTITLED TO MEDICARE.—Subsection (b) of section 35 (defining eligible coverage month) is amended by adding at the end the following:

''(3) SPECIAL RULE FOR SPOUSE OF INDIVIDUAL ENTITLED TO MEDICARE.—Any month which would be an eligible coverage month with respect to a taxpayer (determined without regard to subsection (f)(2)(A)) shall be an eligible coverage month for any spouse of such taxpayer.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after September 30, 2003.

Mr. VISCLOSKY (during the reading). Madam Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana is recognized for 5 minutes in support of his motion.

□ 1315

Mr. VISCLOSKY. Madam Speaker, I thank my colleagues for their attention. H.R. 1528, from my perspective, and in its current form, does not adequately address the needs of tens of thousands of workers who have lost their health benefits. I believe that section 309 would, in fact, hurt retirees by rolling back consumer protections currently in place. I do think it is unacceptable to now constrict the number of individuals eligible for health care tax credits.

The motion to recommit is based on title I of H.R. 1999, which has 111 bipartisan co-sponsors; and I believe title I represents a positive proactive solution to the health care problems retirees and other workers who have lost their jobs face. The motion to recommit builds upon the progress we made in the Trade Promotion Authority in this area. It does not create a new health area tax credit. It does not create a new Federal program; but rather, it removes obstacles in the current program to include more individuals, individual U.S. citizens who need assistance. The motion lowers the eligibility age from the current age of 55 to 50. The motion to recommit also allows spouses to receive the tax credit if they would otherwise be eligible and the recipient is over 64 years of age and receiving Medicare. Currently spouses of eligible individuals can receive the health care tax credit only while the eligible individual is between the ages of 55 and 64.

And, finally, it allows the last 3 months of health care before TAA qualification or the PBGC takeover to count as a 3-month preexisting coverage requirement. Currently an eligible individual must pay full price for health care for 3 months before receiving the health care tax credit.

This measure will help retirees from a wide range of industry, including textiles, airline mechanics, and other manufacturing firms whose pensions, including 2,800 firms, have been taken over by the PBGC.

While many industry employees who have lost their jobs will be benefited, the industry I am most familiar with is the United States steel industry. Since 1998, 208,000 steelworkers have lost their health insurance; 51,000 of them are ineligible for Medicare. Many of these individuals are simply unable to afford health insurance at full cost, leaving them without modest health care coverage.

This is not free coverage. I just want to ensure that retirees that were hurt by unfair trade or other circumstances beyond their control economically get back just a little bit of what they used to have that was taken away from them.

I testified before the Committee on Rules 2 days ago on this measure wanting to offer an amendment, and one

question asked of me is, is there a cost? And I would respond to that question by saying there is a cost. There is a cost in doing nothing. In yesterday's Post Tribune from Gary Indiana, there was a headline that said more than 10,000 Bethlehem and LTD retirees find themselves without health insurance.

Let me talk about one lucky individual, a gentleman who retired from Bethlehem Steel within the last year who had to make a decision about whether or not he would keep his health care from Bethlehem Steel or secure it through a public job that he had in Porter County, Indiana. Larry Sheets made the decision to take the insurance with a public entity in Porter County, Indiana. At the time, I thought he was wrong because of the health care provided by the company. After Mr. Sheets made his decision and after Bethlehem Steel had their health care canceled, he developed leukemia and within the last several weeks was released from Northwestern Hospital. He is alive today because he had health insurance. If he had decided the other way, to keep his health care from Bethlehem Steel, he would not have had any health care when he developed leukemia, and he would not be back from the hospital today. He would be dead.

There is a cost in doing nothing. We have a government to help people who through no fault of their own have developed a problem, and I would hope that we still retain in this Chamber and in this country a heart that is generous and willing to help our citizens when they need it.

Mr. MCCRERY. Madam Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Louisiana (Mr. MCCRERY) is recognized for 5 minutes.

Mr. MCCRERY. Madam Speaker, the motion before us would basically make a bad situation worse, much worse. For those unemployed workers who do not have access to COBRA benefits, they depend upon the States to confect with insurance companies or through a State employee plan or through a high-risk pool a plan of insurance that comports with the provisions of the trade bill we adopted in the last Congress. The problem for some unemployed workers now is that their States have not yet perfected those plans; so if they do not have COBRA availability, they have nothing on which they could use their 65 percent health insurance tax credit. Nothing. It is not available to them.

Right now we think by August about 30 States will have implemented a plan of insurance which will be available to unemployed workers that do not have COBRA. If this motion to recommit were to be adopted, made law, we would have zero States, not 30, zero States that would have insurance plans in place for those unemployed workers. Actually, we might have two. We might have two States. We are not sure. Maybe two out of 50 would have in place a plan that would be available for the tax credit for these unemployed workers.

So I would urge this House to not make a bad situation worse. I would urge the House to adopt the underlying bill with the provision in it that will give some hope to those unemployed workers who do not have COBRA, who did not work for a big company, to get some health insurance for them and their families.

Besides making a bad situation worse, the policy contained in the motion to recommit is simply bad policy. If we want to encourage employers to provide health insurance, there has got to be health insurance available. If we want the States to provide a plan of health insurance so that unemployed workers can take advantage of the tax credit, then we do not want to destroy the fundamentals of the insurance system which this motion to recommit would do. HIPAA, passed by Congress several years ago, addressed this issue of portability of health insurance and said in order to maintain a vibrant health insurance industry, we have got to provide for some prior coverage before a person can get insurance without being subject to guaranteed issue and preexisting conditions clauses in those contracts.

So the Congress said they have got to have 18 months' prior coverage, and they must not have lost that coverage more than 63 days ago. This motion to recommit would say never mind the 63 days, they could have had prior coverage 20 years ago. What that would mean is people would just wait to get insurance until they get sick. Obviously, that destroys the whole concept of insurance, and for that reason this would be terrible policy if we are interested in keeping a private health insurance system in this country.

So, Madam Speaker, I would urge a ''no'' vote on this motion to recommit, a ''yes'' vote on the underlying bill.

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

There was no objection.

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

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

RECORDED VOTE

Mr. VISCLOSKY. Madam 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 final passage.

The vote was taken by electronic device, and there were—ayes 199, noes 226, not voting 9, as follows:

[Roll No. 292]

AYES—199

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Clay
Clyburn
Cooper
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—226

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes

Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—9

Carson (IN)
Conyers
Costello
Gephardt
Hastings (FL)
Kleczka
Miller (MI)
Smith (NJ)
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. EMERSON) (during the vote). There are 2 minutes remaining to vote.

□ 1346

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

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

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

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

RECORDED VOTE

Mr. PRICE of North Carolina. Madam 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 252, noes 170, not voting 12, as follows:

[Roll No. 293]

AYES—252

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOES—170

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Blumenauer
Boucher
Brady (PA)
Brown, Corrine
Capps
Capuano
Cardin
Clay
Clyburn
Cooper
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Goode
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—12

Brown (OH)
Burns
Carson (IN)
Conyers
Costello
Cox
Gephardt
Hastings (FL)
Kleczka
Miller (MI)
Smith (NJ)
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. EMERSON) (during the vote). There are 2 minutes left on this vote.

□ 1352

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

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PORTMAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of H.R. 1528, the bill just passed.

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

There was no objection.

SMALL BUSINESS HEALTH FAIRNESS ACT OF 2003

Mr. BOEHNER. Madam Speaker, pursuant to House Resolution 283, I call up the bill (H.R. 660) to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 283, the bill is considered read for amendment.

The text of H.R. 660 is as follows:

H.R. 660

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Health Fairness Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Rules governing association health plans.
''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS
''Sec. 801. Association health plans.
''Sec. 802. Certification of association health plans.
''Sec. 803. Requirements relating to sponsors and boards of trustees.
''Sec. 804. Participation and coverage requirements.
''Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
''Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
''Sec. 807. Requirements for application and related requirements.
''Sec. 808. Notice requirements for voluntary termination.
''Sec. 809. Corrective actions and mandatory termination.
''Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
''Sec. 811. State assessment authority.
''Sec. 812. Definitions and rules of construction.
Sec. 3. Clarification of treatment of single employer arrangements.
Sec. 4. Clarification of treatment of certain collectively bargained arrangements.
Sec. 5. Enforcement provisions relating to association health plans.
Sec. 6. Cooperation between Federal and State authorities.
Sec. 7. Effective date and transitional and other rules.

SEC. 2. RULES GOVERNING ASSOCIATION HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

''SEC. 801. ASSOCIATION HEALTH PLANS.

''(a) IN GENERAL.—For purposes of this part, the term 'association health plan' means a group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

''(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

''(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care;

''(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership in the sponsor; and

''(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), and (3) shall be deemed to be a sponsor described in this subsection.

''SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

''(a) IN GENERAL.—The applicable authority shall prescribe by regulation, through negotiated rulemaking, a procedure under which, subject to subsection (b), the applicable authority shall certify association health plans which apply for certification as meeting the requirements of this part.

''(b) STANDARDS.—Under the procedure prescribed pursuant to subsection (a), in the case of an association health plan that provides at least one benefit option which does not consist of health insurance coverage, the applicable authority shall certify such plan as meeting the requirements of this part only if the applicable authority is satisfied that the applicable requirements of this part are met (or, upon the date on which the plan is to commence operations, will be met) with respect to the plan.

''(c) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—An association health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

''(d) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation, through negotiated rulemaking, for continued certification of association health plans under this part.

''(e) CLASS CERTIFICATION FOR FULLY INSURED PLANS.—The applicable authority shall establish a class certification procedure for association health plans under which all benefits consist of health insurance coverage. Under such procedure, the applicable authority shall provide for the granting of certification under this part to the plans in each class of such association health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 807(a).

''(f) CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—An association health plan which offers one or more benefit options which do not consist of health insurance coverage may be certified under this part only if such plan consists of any of the following:

''(1) a plan which offered such coverage on the date of the enactment of the Small Business Health Fairness Act of 2003,

''(2) a plan under which the sponsor does not restrict membership to one or more trades and businesses or industries and whose eligible participating employers represent a broad cross-section of trades and businesses or industries, or

''(3) a plan whose eligible participating employers represent one or more trades or businesses, or one or more industries, consisting of any of the following: agriculture; equipment and automobile dealerships; barbering and cosmetology; certified public accounting practices; child care; construction; dance, theatrical and orchestra productions; disinfecting and pest control; financial services; fishing; foodservice establishments; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; professional consulting services; sanitary services; transportation (local and freight); warehousing; wholesaling/distributing; or any other trade or business or industry which has been indicated as having average or above-average risk or health claims experience by reason of State rate filings, denials of coverage, proposed premium rate levels, or other means demonstrated by such plan in accordance with regulations which the Secretary shall prescribe through negotiated rulemaking.

''SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

''(a) SPONSOR.—The requirements of this subsection are met with respect to an association health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

''(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

''(1) FISCAL CONTROL.—The plan is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the plan and which is responsible for all operations of the plan.

''(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

''(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

''(B) LIMITATION.—

''(i) GENERAL RULE.—Except as provided in clauses (ii) and (iii), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

''(ii) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

''(iii) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, clause (i) shall not apply in the case of any service provider described in subparagraph (A) who is a provider of medical care under the plan.

''(C) CERTAIN PLANS EXCLUDED.—Subparagraph (A) shall not apply to an association health plan which is in existence on the date of the enactment of the Small Business Health Fairness Act of 2003.

''(D) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with a service provider to administer the day-to-day affairs of the plan.

''(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

''(1) the requirements of subsection (a) and section 801(a)(1) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

''(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation, through negotiated rulemaking, define for purposes of this subsection the terms 'franchiser', 'franchise network', and 'franchisee'.

''(d) CERTAIN COLLECTIVELY BARGAINED PLANS.—

''(1) IN GENERAL.—In the case of a group health plan described in paragraph (2)—

''(A) the requirements of subsection (a) and section 801(a)(1) shall be deemed met;

''(B) the joint board of trustees shall be deemed a board of trustees with respect to which the requirements of subsection (b) are met; and

''(C) the requirements of section 804 shall be deemed met.

''(2) REQUIREMENTS.—A group health plan is described in this paragraph if—

''(A) the plan is a multiemployer plan; or

''(B) the plan is in existence on April 1, 2003, and would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii).

''(3) CONSTRUCTION.—A group health plan described in paragraph (2) shall only be treated as an association health plan under this part if the sponsor of the plan applies for, and obtains, certification of the plan as an association health plan under this part.

''SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

''(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan—

''(1) each participating employer must be—

''(A) a member of the sponsor,

''(B) the sponsor, or

''(C) an affiliated member of the sponsor with respect to which the requirements of subsection (b) are met,

except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

''(2) all individuals commencing coverage under the plan after certification under this part must be—

''(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

''(B) the beneficiaries of individuals described in subparagraph (A).

''(b) COVERAGE OF PREVIOUSLY UNINSURED EMPLOYEES.—In the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2003, an affiliated member of the sponsor of the plan may be offered coverage under the plan as a participating employer only if—

''(1) the affiliated member was an affiliated member on the date of certification under this part; or

''(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

''(c) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

''(d) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to an association health plan if—

''(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

''(2) upon request, any employer eligible to participate is furnished information regarding all coverage options available under the plan; and

''(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

''SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

''(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if the following requirements are met:

''(1) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

''(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A));

''(B) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)); and

''(C) incorporates the requirements of section 806.

''(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

''(A) The contribution rates for any participating small employer do not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and do not vary on the basis of the type of business or industry in which such employer is engaged.

''(B) Nothing in this title or any other provision of law shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from—

''(i) setting contribution rates based on the claims experience of the plan; or

''(ii) varying contribution rates for small employers in a State to the extent that such rates could vary using the same methodology employed in such State for regulating premium rates in the small group market with respect to health insurance coverage offered in connection with bona fide associations (within the meaning of section 2791(d)(3) of the Public Health Service Act),

subject to the requirements of section 702(b) relating to contribution rates.

''(3) FLOOR FOR NUMBER OF COVERED INDIVIDUALS WITH RESPECT TO CERTAIN PLANS.—If any benefit option under the plan does not consist of health insurance coverage, the plan has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

''(4) MARKETING REQUIREMENTS.—

''(A) IN GENERAL.—If a benefit option which consists of health insurance coverage is offered under the plan, State-licensed insurance agents shall be used to distribute to small employers coverage which does not consist of health insurance coverage in a manner comparable to the manner in which such agents are used to distribute health insurance coverage.

''(B) STATE-LICENSED INSURANCE AGENTS.—For purposes of subparagraph (A), the term 'State-licensed insurance agents' means one or more agents who are licensed in a State and are subject to the laws of such State relating to licensure, qualification, testing, examination, and continuing education of persons authorized to offer, sell, or solicit health insurance coverage in such State.

''(5) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation through negotiated rulemaking.

''(b) ABILITY OF ASSOCIATION HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Subject to section 514(d), nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except (subject to section 514) in the case of any law to the extent that it (1) prohibits an exclusion of a specific disease from such coverage, or (2) is not preempted under section 731(a)(1) with respect to matters governed by section 711 or 712.

''SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

''(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if—

''(1) the benefits under the plan consist solely of health insurance coverage; or

''(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

''(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

''(i) a reserve sufficient for unearned contributions;

''(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities;

''(iii) a reserve sufficient for any other obligations of the plan; and

''(iv) a reserve sufficient for a margin of error and other fluctuations, taking into account the specific circumstances of the plan; and

''(B) establishes and maintains aggregate and specific excess/stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

''(i) The plan shall secure aggregate excess/stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The applicable authority may by regulation, through negotiated rulemaking, provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

''(ii) The plan shall secure specific excess/stop loss insurance for the plan with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary. The applicable authority may by regulation, through negotiated rulemaking, provide for adjustments in the amount of such insurance in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

''(iii) The plan shall secure indemnification insurance for any claims which the plan is unable to satisfy by reason of a plan termination.

Any regulations prescribed by the applicable authority pursuant to clause (i) or (ii) of subparagraph (B) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

''(b) MINIMUM SURPLUS IN ADDITION TO CLAIMS RESERVES.—In the case of any association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to—

''(1) $500,000, or

''(2) such greater amount (but not greater than $2,000,000) as may be set forth in regulations prescribed by the applicable authority through negotiated rulemaking, based on the level of aggregate and specific excess/stop loss insurance provided with respect to such plan.

''(c) ADDITIONAL REQUIREMENTS.—In the case of any association health plan described in subsection (a)(2), the applicable authority may provide such additional requirements relating to reserves and excess/stop loss insurance as the applicable authority considers appropriate. Such requirements may be provided by regulation, through negotiated rulemaking, with respect to any such plan or any class of such plans.

''(d) ADJUSTMENTS FOR EXCESS/STOP LOSS INSURANCE.—The applicable authority may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any plan or class of plans to take into account excess/stop loss insurance provided with respect to such plan or plans.

''(e) ALTERNATIVE MEANS OF COMPLIANCE.—The applicable authority may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section (except subsection (a)(2)(B)(iii)), such security, guarantee, hold-harmless arrangement, or other financial arrangement as the applicable authority determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The applicable authority may take into account, for purposes of this subsection, evidence provided by the plan or sponsor which demonstrates an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the plan in the form of assessments of participating employers, security, or other financial arrangement.

''(f) MEASURES TO ENSURE CONTINUED PAYMENT OF BENEFITS BY CERTAIN PLANS IN DISTRESS.—

''(1) PAYMENTS BY CERTAIN PLANS TO ASSOCIATION HEALTH PLAN FUND.—

''(A) IN GENERAL.—In the case of an association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan makes payments into the Association Health Plan Fund under this subparagraph when they are due. Such payments shall consist of annual payments in the amount of $5,000, and, in addition to such annual payments, such supplemental payments as the Secretary may determine to be necessary under paragraph (2). Payments under this paragraph are payable to the Fund at the time determined by the Secretary. Initial payments are due in advance of certification under this part. Payments shall continue to accrue until a plan's assets are distributed pursuant to a termination procedure.

''(B) PENALTIES FOR FAILURE TO MAKE PAYMENTS.—If any payment is not made by a plan when it is due, a late payment charge of not more than 100 percent of the payment which was not timely paid shall be payable by the plan to the Fund.

''(C) CONTINUED DUTY OF THE SECRETARY.—The Secretary shall not cease to carry out the provisions of paragraph (2) on account of the failure of a plan to pay any payment when due.

''(2) PAYMENTS BY SECRETARY TO CONTINUE EXCESS/STOP LOSS INSURANCE COVERAGE AND INDEMNIFICATION INSURANCE COVERAGE FOR CERTAIN PLANS.—In any case in which the applicable authority determines that there is, or that there is reason to believe that there will be: (A) a failure to take necessary corrective actions under section 809(a) with respect to an association health plan described in subsection (a)(2); or (B) a termination of such a plan under section 809(b) or 810(b)(8) (and, if the applicable authority is not the Secretary, certifies such determination to the Secretary), the Secretary shall determine the amounts necessary to make payments to an insurer (designated by the Secretary) to maintain in force excess/stop loss insurance coverage or indemnification insurance coverage for such plan, if the Secretary determines that there is a reasonable expectation that, without such payments, claims would not be satisfied by reason of termination of such coverage. The Secretary shall, to the extent provided in advance in appropriation Acts, pay such amounts so determined to the insurer designated by the Secretary.

''(3) ASSOCIATION HEALTH PLAN FUND.—

''(A) IN GENERAL.—There is established on the books of the Treasury a fund to be known as the 'Association Health Plan Fund'. The Fund shall be available for making payments pursuant to paragraph (2). The Fund shall be credited with payments received pursuant to paragraph (1)(A), penalties received pursuant to paragraph (1)(B); and earnings on investments of amounts of the Fund under subparagraph (B).

''(B) INVESTMENT.—Whenever the Secretary determines that the moneys of the fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

''(g) EXCESS/STOP LOSS INSURANCE.—For purposes of this section—

''(1) AGGREGATE EXCESS/STOP LOSS INSURANCE.—The term 'aggregate excess/stop loss insurance' means, in connection with an association health plan, a contract—

''(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation through negotiated rulemaking) provides for payment to the plan with respect to aggregate claims under the plan in excess of an amount or amounts specified in such contract;

''(B) which is guaranteed renewable; and

''(C) which allows for payment of premiums by any third party on behalf of the insured plan.

''(2) SPECIFIC EXCESS/STOP LOSS INSURANCE.—The term 'specific excess/stop loss insurance' means, in connection with an association health plan, a contract—

''(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation through negotiated rulemaking) provides for payment to the plan with respect to claims under the plan in connection with a covered individual in excess of an amount or amounts specified in such contract in connection with such covered individual;

''(B) which is guaranteed renewable; and

''(C) which allows for payment of premiums by any third party on behalf of the insured plan.

''(h) INDEMNIFICATION INSURANCE.—For purposes of this section, the term 'indemnification insurance' means, in connection with an association health plan, a contract—

''(1) under which an insurer (meeting such minimum standards as the applicable authority may prescribe through negotiated rulemaking) provides for payment to the plan with respect to claims under the plan which the plan is unable to satisfy by reason of a termination pursuant to section 809(b) (relating to mandatory termination);

''(2) which is guaranteed renewable and noncancellable for any reason (except as the applicable authority may prescribe by regulation through negotiated rulemaking); and

''(3) which allows for payment of premiums by any third party on behalf of the insured plan.

''(i) RESERVES.—For purposes of this section, the term 'reserves' means, in connection with an association health plan, plan assets which meet the fiduciary standards under part 4 and such additional requirements regarding liquidity as the applicable authority may prescribe through negotiated rulemaking.

''(j) SOLVENCY STANDARDS WORKING GROUP.—

''(1) IN GENERAL.—Within 90 days after the date of the enactment of the Small Business Health Fairness Act of 2003, the applicable authority shall establish a Solvency Standards Working Group. In prescribing the initial regulations under this section, the applicable authority shall take into account the recommendations of such Working Group.

''(2) MEMBERSHIP.—The Working Group shall consist of not more than 15 members appointed by the applicable authority. The applicable authority shall include among persons invited to membership on the Working Group at least one of each of the following:

''(A) a representative of the National Association of Insurance Commissioners;

''(B) a representative of the American Academy of Actuaries;

''(C) a representative of the State governments, or their interests;

''(D) a representative of existing self-insured arrangements, or their interests;

''(E) a representative of associations of the type referred to in section 801(b)(1), or their interests; and

''(F) a representative of multiemployer plans that are group health plans, or their interests.

''SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

''(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), an association health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to association health plans.

''(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority through negotiated rulemaking, at least the following information:

''(1) IDENTIFYING INFORMATION.—The names and addresses of—

''(A) the sponsor; and

''(B) the members of the board of trustees of the plan.

''(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

''(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

''(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

''(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan and contract administrators and other service providers.

''(6) FUNDING REPORT.—In the case of association health plans providing benefits options in addition to health insurance coverage, a report setting forth information with respect to such additional benefit options determined as of a date within the 120-day period ending with the date of the application, including the following:

''(A) RESERVES.—A statement, certified by the board of trustees of the plan, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 806 are or will be met in accordance with regulations which the applicable authority shall prescribe through negotiated rulemaking.

''(B) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the plan for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the plan. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

''(C) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the plan and a projection of the assets, liabilities, income, and expenses of the plan for the 12-month period referred to in subparagraph (B). The income statement shall identify separately the plan's administrative expenses and claims.

''(D) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the plan.

''(E) OTHER INFORMATION.—Any other information as may be determined by the applicable authority, by regulation through negotiated rulemaking, as necessary to carry out the purposes of this part.

''(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to an association health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

''(d) NOTICE OF MATERIAL CHANGES.—In the case of any association health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation through negotiated rulemaking. The applicable authority may require by regulation, through negotiated rulemaking, prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

''(e) REPORTING REQUIREMENTS FOR CERTAIN ASSOCIATION HEALTH PLANS.—An association health plan certified under this part which provides benefit options in addition to health insurance coverage for such plan year shall meet the requirements of section 503B by filing an annual report under such section which shall include information described in subsection (b)(6) with respect to the plan year and, notwithstanding section 503C(a)(1)(A), shall be filed with the applicable authority not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the applicable authority). The applicable authority may require by regulation through negotiated rulemaking such interim reports as it considers appropriate.

''(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

''(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations; and

''(2) represent such actuary's best estimate of anticipated experience under the plan.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

''SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

''Except as provided in section 809(b), an association health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees—

''(1) not less than 60 days before the proposed termination date, provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

''(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

''(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation through negotiated rulemaking.

''SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

''(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—An association health plan which is certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the applicable authority makes such a determination and so notifies the board, the board shall immediately notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the applicable authority (in such form and manner as the applicable authority may prescribe by regulation through negotiated rulemaking) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such recommendations. The board shall thereafter report to the applicable authority, in such form and frequency as the applicable authority may specify to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

''(b) MANDATORY TERMINATION.—In any case in which—

''(1) the applicable authority has been notified under subsection (a) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action has restored compliance with such requirements; and

''(2) the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements of section 806,

the board of trustees of the plan shall, at the direction of the applicable authority, terminate the plan and, in the course of the termination, take such actions as the applicable authority may require, including satisfying any claims referred to in section 806(a)(2)(B)(iii) and recovering for the plan

any liability under subsection (a)(2)(B)(iii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

"SEC. 810. TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

''(a) APPOINTMENT OF SECRETARY AS TRUSTEE FOR INSOLVENT PLANS.—Whenever the Secretary determines that an association health plan which is or has been certified under this part and which is described in section 806(a)(2) will be unable to provide benefits when due or is otherwise in a financially hazardous condition, as shall be defined by the Secretary by regulation through negotiated rulemaking, the Secretary shall, upon notice to the plan, apply to the appropriate United States district court for appointment of the Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint such Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the participants and beneficiaries or providers of medical care or to avoid any unreasonable deterioration of the financial condition of the plan. The trusteeship of such Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

''(b) POWERS AS TRUSTEE.—The Secretary, upon appointment as trustee under subsection (a), shall have the power—

''(1) to do any act authorized by the plan, this title, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan;

''(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee;

''(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations prescribed by the Secretary through negotiated rulemaking, and applicable provisions of law;

''(4) to require the sponsor, the plan administrator, any participating employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the Secretary as trustee may reasonably need in order to administer the plan;

''(5) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trusteeship;

''(6) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan;

''(7) to issue, publish, or file such notices, statements, and reports as may be required by the Secretary by regulation through negotiated rulemaking or required by any order of the court;

''(8) to terminate the plan (or provide for its termination in accordance with section 809(b)) and liquidate the plan assets, to restore the plan to the responsibility of the sponsor, or to continue the trusteeship;

''(9) to provide for the enrollment of plan participants and beneficiaries under appropriate coverage options; and

''(10) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries and providers of medical care.

''(c) NOTICE OF APPOINTMENT.—As soon as practicable after the Secretary's appointment as trustee, the Secretary shall give notice of such appointment to—

''(1) the sponsor and plan administrator;

''(2) each participant;

''(3) each participating employer; and

''(4) if applicable, each employee organization which, for purposes of collective bargaining, represents plan participants.

''(d) ADDITIONAL DUTIES.—Except to the extent inconsistent with the provisions of this title, or as may be otherwise ordered by the court, the Secretary, upon appointment as trustee under this section, shall be subject to the same duties as those of a trustee under section 704 of title 11, United States Code, and shall have the duties of a fiduciary for purposes of this title.

''(e) OTHER PROCEEDINGS.—An application by the Secretary under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

''(f) JURISDICTION OF COURT.—

''(1) IN GENERAL.—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this section, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of the United States having jurisdiction over cases under chapter 11 of title 11, United States Code. Pending an adjudication under this section such court shall stay, and upon appointment by it of the Secretary as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsor, or property of such plan or sponsor, and any other suit against any receiver, conservator, or trustee of the plan, the sponsor, or property of the plan or sponsor. Pending such adjudication and upon the appointment by it of the Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsor or any other suit against the plan or the sponsor.

''(2) VENUE.—An action under this section may be brought in the judicial district where the sponsor or the plan administrator resides or does business or where any asset of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

''(g) PERSONNEL.—In accordance with regulations which shall be prescribed by the Secretary through negotiated rulemaking, the Secretary shall appoint, retain, and compensate accountants, actuaries, and other professional service personnel as may be necessary in connection with the Secretary's service as trustee under this section.

"SEC. 811. STATE ASSESSMENT AUTHORITY.

''(a) IN GENERAL.—Notwithstanding section 514, a State may impose by law a contribution tax on an association health plan described in section 806(a)(2), if the plan commenced operations in such State after the date of the enactment of the Small Business Health Fairness Act of 2003.

''(b) CONTRIBUTION TAX.—For purposes of this section, the term 'contribution tax' imposed by a State on an association health plan means any tax imposed by such State if—

''(1) such tax is computed by applying a rate to the amount of premiums or contributions, with respect to individuals covered under the plan who are residents of such State, which are received by the plan from participating employers located in such State or from such individuals;

''(2) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan;

''(3) such tax is otherwise nondiscriminatory; and

''(4) the amount of any such tax assessed on the plan is reduced by the amount of any tax or assessment otherwise imposed by the State on premiums, contributions, or both received by insurers or health maintenance organizations for health insurance coverage, aggregate excess/stop loss insurance (as defined in section 806(g)(1)), specific excess/stop loss insurance (as defined in section 806(g)(2)), other insurance related to the provision of medical care under the plan, or any combination thereof provided by such insurers or health maintenance organizations in such State in connection with such plan.

"SEC. 812. DEFINITIONS AND RULES OF CONSTRUCTION.

''(a) DEFINITIONS.—For purposes of this part—

''(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

''(2) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

''(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1).

''(4) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

''(5) APPLICABLE AUTHORITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'applicable authority' means, in connection with an association health plan—

''(i) the State recognized pursuant to subsection (c) of section 506 as the State to which authority has been delegated in connection with such plan; or

''(ii) if there if no State referred to in clause (i), the Secretary.

''(B) EXCEPTIONS.—

''(i) JOINT AUTHORITIES.—Where such term appears in section 808(3), section 807(e) (in the first instance), section 809(a) (in the second instance), section 809(a) (in the fourth instance), and section 809(b)(1), such term means, in connection with an association health plan, the Secretary and the State referred to in subparagraph (A)(i) (if any) in connection with such plan.

''(ii) REGULATORY AUTHORITIES.—Where such term appears in section 802(a) (in the first instance), section 802(d), section 802(e), section 803(d), section 805(a)(5), section 806(a)(2), section 806(b), section 806(c), section 806(d), paragraphs (1)(A) and (2)(A) of section 806(g), section 806(h), section 806(i), section 806(j), section 807(a) (in the second instance), section 807(b), section 807(d), section 807(e) (in the second instance), section 808 (in the matter after paragraph (3)), and section 809(a) (in the third instance), such term means, in connection with an association health plan, the Secretary.

''(6) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' has the meaning provided in section 733(d)(2).

''(7) INDIVIDUAL MARKET.—

''(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

''(B) TREATMENT OF VERY SMALL GROUPS.—

''(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has

fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

''(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

''(8) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

''(9) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

''(10) QUALIFIED ACTUARY.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries or meets such reasonable standards and qualifications as the Secretary may provide by regulation through negotiated rulemaking.

''(11) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor—

''(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor,

''(B) in the case of a sponsor with members which consist of associations, a person who is a member of any such association and elects an affiliated status with the sponsor, or

''(C) in the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2003, a person eligible to be a member of the sponsor or one of its member associations.

''(12) LARGE EMPLOYER.—The term 'large employer' means, in connection with a group health plan with respect to a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(13) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, an employer who is not a large employer.

''(b) RULES OF CONSTRUCTION.—

''(1) EMPLOYERS AND EMPLOYEES.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is an association health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

''(A) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

''(B) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

''(2) PLANS, FUNDS, AND PROGRAMS TREATED AS EMPLOYEE WELFARE BENEFIT PLANS.—In the case of any plan, fund, or program which was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder and which demonstrates to the Secretary that all requirements for certification under this part would be met with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated for purposes of this title as an employee welfare benefit plan on and after the date of such demonstration.''.

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

''(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of an association health plan which is certified under part 8.''.

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking ''Subsection (a)'' and inserting ''Subsections (a) and (e)'';

(B) in subsection (b)(5), by striking ''subsection (a)'' in subparagraph (A) and inserting ''subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805'', and by striking ''subsection (a)'' in subparagraph (B) and inserting ''subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805'';

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

''(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude, or have the effect of precluding, a health insurance issuer from offering health insurance coverage in connection with an association health plan which is certified under part 8.

''(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

''(A) In any case in which health insurance coverage of any policy type is offered under an association health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan.

''(B) In any case in which health insurance coverage of any policy type is offered under an association health plan in a State and the filing, with the applicable State authority, of the policy form in connection with such policy type is approved by such State authority, the provisions of this title shall supersede any and all laws of any other State in which health insurance coverage of such type is offered, insofar as they may preclude, upon the filing in the same form and manner of such policy form with the applicable State authority in such other State, the approval of the filing in such other State.

''(3) For additional provisions relating to association health plans, see subsections (a)(2)(B) and (b) of section 805.

''(4) For purposes of this subsection, the term 'association health plan' has the meaning provided in section 801(a), and the terms 'health insurance coverage', 'participating employer', and 'health insurance issuer' have the meanings provided such terms in section 811, respectively.''.

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

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

(B) in clause (ii), by inserting ''and which does not provide medical care (within the meaning of section 733(a)(2)),'' after ''arrangement,'', and by striking ''title.'' and inserting ''title, and''; and

(C) by adding at the end the following new clause:

''(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.''.

(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended—

(A) by striking ''Nothing'' and inserting ''(1) Except as provided in paragraph (2), nothing''; and

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

''(2) Nothing in any other provision of law enacted on or after the date of the enactment of the Small Business Health Fairness Act of 2003 shall be construed to alter, amend, modify, invalidate, impair, or supersede any provision of this title, except by specific cross-reference to the affected section.''.

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: ''Such term also includes a person serving as the sponsor of an association health plan under part 8.''.

(d) DISCLOSURE OF SOLVENCY PROTECTIONS RELATED TO SELF-INSURED AND FULLY INSURED OPTIONS UNDER ASSOCIATION HEALTH PLANS.—Section 102(b) of such Act (29 U.S.C. 102(b)) is amended by adding at the end the following: ''An association health plan shall include in its summary plan description, in connection with each benefit option, a description of the form of solvency or guarantee fund protection secured pursuant to this Act or applicable State law, if any.''.

(e) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting ''or part 8'' after ''this part''.

(f) REPORT TO THE CONGRESS REGARDING CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—Not later than January 1, 2008, the Secretary of Labor shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate the effect association health plans have had, if any, on reducing the number of uninsured individuals.

(g) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

''Sec. 801. Association health plans.
''Sec. 802. Certification of association health plans.
''Sec. 803. Requirements relating to sponsors and boards of trustees.
''Sec. 804. Participation and coverage requirements.
''Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
''Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.

''Sec. 807. Requirements for application and related requirements.
''Sec. 808. Notice requirements for voluntary termination.
''Sec. 809. Corrective actions and mandatory termination.
''Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
''Sec. 811. State assessment authority.
''Sec. 812. Definitions and rules of construction.''.

SEC. 3. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting ''for any plan year of any such plan, or any fiscal year of any such other arrangement;'' after ''single employer'', and by inserting ''during such year or at any time during the preceding 1-year period'' after ''control group'';

(2) in clause (iii)—

(A) by striking ''common control shall not be based on an interest of less than 25 percent'' and inserting ''an interest of greater than 25 percent may not be required as the minimum interest necessary for common control''; and

(B) by striking ''similar to'' and inserting ''consistent and coextensive with'';

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

''(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only one participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement;''.

SEC. 4. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) IN GENERAL.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

''(i)(I) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, and (II) in accordance with subparagraphs (C), (D), and (E);''.

(b) LIMITATIONS.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following new subparagraphs:

''(C) For purposes of subparagraph (A)(i)(II), a plan or other arrangement shall be treated as established or maintained in accordance with this subparagraph only if the following requirements are met:

''(i) The plan or other arrangement, and the employee organization or any other entity sponsoring the plan or other arrangement, do not—

''(I) utilize the services of any licensed insurance agent or broker for soliciting or enrolling employers or individuals as participating employers or covered individuals under the plan or other arrangement; or

''(II) pay any type of compensation to a person, other than a full time employee of the employee organization (or a member of the organization to the extent provided in regulations prescribed by the Secretary through negotiated rulemaking), that is related either to the volume or number of employers or individuals solicited or enrolled as participating employers or covered individuals under the plan or other arrangement, or to the dollar amount or size of the contributions made by participating employers or covered individuals to the plan or other arrangement;

except to the extent that the services used by the plan, arrangement, organization, or other entity consist solely of preparation of documents necessary for compliance with the reporting and disclosure requirements of part 1 or administrative, investment, or consulting services unrelated to solicitation or enrollment of covered individuals.

''(ii) As of the end of the preceding plan year, the number of covered individuals under the plan or other arrangement who are neither—

''(I) employed within a bargaining unit covered by any of the collective bargaining agreements with a participating employer (nor covered on the basis of an individual's employment in such a bargaining unit); nor

''(II) present employees (or former employees who were covered while employed) of the sponsoring employee organization, of an employer who is or was a party to any of the collective bargaining agreements, or of the plan or other arrangement or a related plan or arrangement (nor covered on the basis of such present or former employment),

does not exceed 15 percent of the total number of individuals who are covered under the plan or arrangement and who are present or former employees who are or were covered under the plan or arrangement pursuant to a collective bargaining agreement with a participating employer. The requirements of the preceding provisions of this clause shall be treated as satisfied if, as of the end of the preceding plan year, such covered individuals are comprised solely of individuals who were covered individuals under the plan or other arrangement as of the date of the enactment of the Small Business Health Fairness Act of 2003 and, as of the end of the preceding plan year, the number of such covered individuals does not exceed 25 percent of the total number of present and former employees enrolled under the plan or other arrangement.

''(iii) The employee organization or other entity sponsoring the plan or other arrangement certifies to the Secretary each year, in a form and manner which shall be prescribed by the Secretary through negotiated rulemaking that the plan or other arrangement meets the requirements of clauses (i) and (ii).

''(D) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

''(i) all of the benefits provided under the plan or arrangement consist of health insurance coverage; or

''(ii)(I) the plan or arrangement is a multiemployer plan; and

''(II) the requirements of clause (B) of the proviso to clause (5) of section 302(c) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)) are met with respect to such plan or other arrangement.

''(E) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

''(i) the plan or arrangement is in effect as of the date of the enactment of the Small Business Health Fairness Act of 2003; or

''(ii) the employee organization or other entity sponsoring the plan or arrangement—

''(I) has been in existence for at least 3 years; or

''(II) demonstrates to the satisfaction of the Secretary that the requirements of subparagraphs (C) and (D) are met with respect to the plan or other arrangement.''.

(c) CONFORMING AMENDMENTS TO DEFINITIONS OF PARTICIPANT AND BENEFICIARY.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended by adding at the end the following new sentence: ''Such term includes an individual who is a covered individual described in paragraph (40)(C)(ii).''.

SEC. 5. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

(a) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting ''(a)'' after ''SEC. 501.''; and

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

''(b) Any person who willfully falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

''(1) being an association health plan which has been certified under part 8;

''(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

''(3) being a plan or arrangement with respect to which the requirements of subparagraph (C), (D), or (E) of section 3(40) are met,

shall, upon conviction, be imprisoned not more than 5 years, be fined under title 18, United States Code, or both.''.

(b) CEASE ACTIVITIES ORDERS.—Section 502 of such Act (29 U.S.C. 1132), as amended by sections 141 and 143, is further amended by adding at the end the following new subsection:

''(p) ASSOCIATION HEALTH PLAN CEASE AND DESIST ORDERS.—

''(1) IN GENERAL.—Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of an association health plan (or similar arrangement providing benefits consisting of medical care (as defined in section 733(a)(2))) that—

''(A) is not certified under part 8, is subject under section 514(b)(6) to the insurance laws of any State in which the plan or arrangement offers or provides benefits, and is not licensed, registered, or otherwise approved under the insurance laws of such State; or

''(B) is an association health plan certified under part 8 and is not operating in accordance with the requirements under part 8 for such certification,

a district court of the United States shall enter an order requiring that the plan or arrangement cease activities.

''(2) EXCEPTION.—Paragraph (1) shall not apply in the case of an association health plan or other arrangement if the plan or arrangement shows that—

''(A) all benefits under it referred to in paragraph (1) consist of health insurance coverage; and

''(B) with respect to each State in which the plan or arrangement offers or provides

benefits, the plan or arrangement is operating in accordance with applicable State laws that are not superseded under section 514.

''(3) ADDITIONAL EQUITABLE RELIEF.—The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the plan.''.

(c) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133), as amended by section 301(b), is amended by adding at the end the following new subsection:

''(c) ASSOCIATION HEALTH PLANS.—The terms of each association health plan which is or has been certified under part 8 shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.''.

SEC. 6. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

''(c) CONSULTATION WITH STATES WITH RESPECT TO ASSOCIATION HEALTH PLANS.—

''(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to an association health plan regarding the exercise of—

''(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

''(B) the Secretary's authority to certify association health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

''(2) RECOGNITION OF PRIMARY DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular association health plan, as the State to with which consultation is required. In carrying out this paragraph, the Secretary shall take into account the places of residence of the participants and beneficiaries under the plan and the State in which the trust is maintained.''.

SEC. 7. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by sections 2, 5, and 6 shall take effect one year from the date of the enactment. The amendments made by sections 3 and 4 shall take effect on the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this subtitle within one year from the date of the enactment. Such regulations shall be issued through negotiated rulemaking.

(b) EXCEPTION.—Section 801(a)(2) of the Employee Retirement Income Security Act of 1974 (added by section 2) does not apply in connection with an association health plan (certified under part 8 of subtitle B of title I of such Act) existing on the date of the enactment of this Act, if no benefits provided thereunder as of the date of the enactment of this Act consist of health insurance coverage (as defined in section 733(b)(1) of such Act).

(c) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 812(a)(5) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a)(1) and 803(a)(1) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of directors which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement.

(2) DEFINITIONS.—For purposes of this subsection, the terms ''group health plan'', ''medical care'', and ''participating employer'' shall have the meanings provided in section 812 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an ''association health plan'' shall be deemed a reference to an arrangement referred to in this subsection.

The SPEAKER pro tempore. The committee amendment in the nature of a substitute printed in the bill is adopted.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 660

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Health Fairness Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Rules governing association health plans.
''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS
''Sec. 801. Association health plans.
''Sec. 802. Certification of association health plans.
''Sec. 803. Requirements relating to sponsors and boards of trustees.
''Sec. 804. Participation and coverage requirements.
''Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
''Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
''Sec. 807. Requirements for application and related requirements.
''Sec. 808. Notice requirements for voluntary termination.
''Sec. 809. Corrective actions and mandatory termination.
''Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
''Sec. 811. State assessment authority.
''Sec. 812. Definitions and rules of construction.
Sec. 3. Clarification of treatment of single employer arrangements.
Sec. 4. Enforcement provisions relating to association health plans.
Sec. 5. Cooperation between Federal and State authorities.
Sec. 6. Effective date and transitional and other rules.

SEC. 2. RULES GOVERNING ASSOCIATION HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

''SEC. 801. ASSOCIATION HEALTH PLANS.

''(a) IN GENERAL.—For purposes of this part, the term 'association health plan' means a group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

''(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

''(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care;

''(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership in the sponsor; and

''(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), and (3) shall be deemed to be a sponsor described in this subsection.

''SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

''(a) IN GENERAL.—The applicable authority shall prescribe by regulation a procedure under which, subject to subsection (b), the applicable authority shall certify association health plans which apply for certification as meeting the requirements of this part.

''(b) STANDARDS.—Under the procedure prescribed pursuant to subsection (a), in the case of an association health plan that provides at least one benefit option which does not consist of health insurance coverage, the applicable authority shall certify such plan as meeting the requirements of this part only if the applicable authority is satisfied that the applicable requirements of this part are met (or, upon the

date on which the plan is to commence operations, will be met) with respect to the plan.

''(c) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—An association health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

''(d) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation for continued certification of association health plans under this part.

''(e) CLASS CERTIFICATION FOR FULLY INSURED PLANS.—The applicable authority shall establish a class certification procedure for association health plans under which all benefits consist of health insurance coverage. Under such procedure, the applicable authority shall provide for the granting of certification under this part to the plans in each class of such association health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 807(a).

''(f) CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—An association health plan which offers one or more benefit options which do not consist of health insurance coverage may be certified under this part only if such plan consists of any of the following:

''(1) a plan which offered such coverage on the date of the enactment of the Small Business Health Fairness Act of 2003,

''(2) a plan under which the sponsor does not restrict membership to one or more trades and businesses or industries and whose eligible participating employers represent a broad cross-section of trades and businesses or industries, or

''(3) a plan whose eligible participating employers represent one or more trades or businesses, or one or more industries, consisting of any of the following: agriculture; equipment and automobile dealerships; barbering and cosmetology; certified public accounting practices; child care; construction; dance, theatrical and orchestra productions; disinfecting and pest control; financial services; fishing; foodservice establishments; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; professional consulting services; sanitary services; transportation (local and freight); warehousing; wholesaling/distributing; or any other trade or business or industry which has been indicated as having average or above-average risk or health claims experience by reason of State rate filings, denials of coverage, proposed premium rate levels, or other means demonstrated by such plan in accordance with regulations.

"SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

''(a) SPONSOR.—The requirements of this subsection are met with respect to an association health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

''(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

''(1) FISCAL CONTROL.—The plan is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the plan and which is responsible for all operations of the plan.

''(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

''(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

''(A) BOARD MEMBERSHIP.—

''(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

''(ii) LIMITATION.—

''(I) GENERAL RULE.—Except as provided in subclauses (II) and (III), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

''(II) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

''(III) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, subclause (I) shall not apply in the case of any service provider described in subclause (I) who is a provider of medical care under the plan.

''(iii) CERTAIN PLANS EXCLUDED.—Clause (i) shall not apply to an association health plan which is in existence on the date of the enactment of the Small Business Health Fairness Act of 2003.

''(B) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with a service provider to administer the day-to-day affairs of the plan.

''(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

''(1) the requirements of subsection (a) and section 801(a) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

''(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation define for purposes of this subsection the terms 'franchiser', 'franchise network', and 'franchisee'.

"SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

''(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan—

''(1) each participating employer must be—

''(A) a member of the sponsor,

''(B) the sponsor, or

''(C) an affiliated member of the sponsor with respect to which the requirements of subsection (b) are met,

except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

''(2) all individuals commencing coverage under the plan after certification under this part must be—

''(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

''(B) the beneficiaries of individuals described in subparagraph (A).

''(b) COVERAGE OF PREVIOUSLY UNINSURED EMPLOYEES.—In the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2003, an affiliated member of the sponsor of the plan may be offered coverage under the plan as a participating employer only if—

''(1) the affiliated member was an affiliated member on the date of certification under this part; or

''(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

''(c) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

''(d) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to an association health plan if—

''(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

''(2) upon request, any employer eligible to participate is furnished information regarding all coverage options available under the plan; and

''(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

"SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

''(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if the following requirements are met:

''(1) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

''(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A));

''(B) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)); and

''(C) incorporates the requirements of section 806.

''(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

''(A) The contribution rates for any participating small employer do not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and do not vary on the basis of the type of business or industry in which such employer is engaged.

''(B) Nothing in this title or any other provision of law shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from—

''(i) setting contribution rates based on the claims experience of the plan; or

''(ii) varying contribution rates for small employers in a State to the extent that such rates

could vary using the same methodology employed in such State for regulating premium rates in the small group market with respect to health insurance coverage offered in connection with bona fide associations (within the meaning of section 2791(d)(3) of the Public Health Service Act),

subject to the requirements of section 702(b) relating to contribution rates.

''(3) FLOOR FOR NUMBER OF COVERED INDIVIDUALS WITH RESPECT TO CERTAIN PLANS.—If any benefit option under the plan does not consist of health insurance coverage, the plan has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

''(4) MARKETING REQUIREMENTS.—

''(A) IN GENERAL.—If a benefit option which consists of health insurance coverage is offered under the plan, State-licensed insurance agents shall be used to distribute to small employers coverage which does not consist of health insurance coverage in a manner comparable to the manner in which such agents are used to distribute health insurance coverage.

''(B) STATE-LICENSED INSURANCE AGENTS.—For purposes of subparagraph (A), the term 'State-licensed insurance agents' means one or more agents who are licensed in a State and are subject to the laws of such State relating to licensure, qualification, testing, examination, and continuing education of persons authorized to offer, sell, or solicit health insurance coverage in such State.

''(5) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation.

''(b) ABILITY OF ASSOCIATION HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Subject to section 514(d), nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except (subject to section 514) in the case of (1) any law to the extent that it is not preempted under section 731(a)(1) with respect to matters governed by section 711, 712, or 713, or (2) any law of the State with which filing and approval of a policy type offered by the plan was initially obtained to the extent that such law prohibits an exclusion of a specific disease from such coverage.

"SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

''(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if—

''(1) the benefits under the plan consist solely of health insurance coverage; or

''(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

''(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

''(i) a reserve sufficient for unearned contributions;

''(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities;

''(iii) a reserve sufficient for any other obligations of the plan; and

''(iv) a reserve sufficient for a margin of error and other fluctuations, taking into account the specific circumstances of the plan; and

''(B) establishes and maintains aggregate and specific excess/stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

''(i) The plan shall secure aggregate excess/stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The applicable authority may by regulation provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

''(ii) The plan shall secure specific excess/stop loss insurance for the plan with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary. The applicable authority may by regulation provide for adjustments in the amount of such insurance in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

''(iii) The plan shall secure indemnification insurance for any claims which the plan is unable to satisfy by reason of a plan termination.

Any person issuing to a plan insurance described in clause (i), (ii), or (iii) shall notify the Secretary of any failure of premium payment meriting cancellation of the policy prior to undertaking such a cancellation. Any regulations prescribed by the applicable authority pursuant to clause (i) or (ii) of subparagraph (B) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

''(b) MINIMUM SURPLUS IN ADDITION TO CLAIMS RESERVES.—In the case of any association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to—

''(1) $500,000, or

''(2) such greater amount (but not greater than $2,000,000) as may be set forth in regulations prescribed by the applicable authority, considering the level of aggregate and specific excess/stop loss insurance provided with respect to such plan and other factors related to solvency risk, such as the plan's projected levels of participation or claims, the nature of the plan's liabilities, and the types of assets available to assure that such liabilities are met.

''(c) ADDITIONAL REQUIREMENTS.—In the case of any association health plan described in subsection (a)(2), the applicable authority may provide such additional requirements relating to reserves, excess/stop loss insurance, and indemnification insurance as the applicable authority considers appropriate. Such requirements may be provided by regulation with respect to any such plan or any class of such plans.

''(d) ADJUSTMENTS FOR EXCESS/STOP LOSS INSURANCE.—The applicable authority may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any plan or class of plans to take into account excess/stop loss insurance provided with respect to such plan or plans.

''(e) ALTERNATIVE MEANS OF COMPLIANCE.—The applicable authority may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section (except subsection (a)(2)(B)(iii)), such security, guarantee, hold-harmless arrangement, or other financial arrangement as the applicable authority determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The applicable authority may take into account, for purposes of this subsection, evidence provided by the plan or sponsor which demonstrates an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the plan in the form of assessments of participating employers, security, or other financial arrangement.

''(f) MEASURES TO ENSURE CONTINUED PAYMENT OF BENEFITS BY CERTAIN PLANS IN DISTRESS.—

''(1) PAYMENTS BY CERTAIN PLANS TO ASSOCIATION HEALTH PLAN FUND.—

''(A) IN GENERAL.—In the case of an association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan makes payments into the Association Health Plan Fund under this subparagraph when they are due. Such payments shall consist of annual payments in the amount of $5,000, and, in addition to such annual payments, such supplemental payments as the Secretary may determine to be necessary under paragraph (2). Payments under this paragraph are payable to the Fund at the time determined by the Secretary. Initial payments are due in advance of certification under this part. Payments shall continue to accrue until a plan's assets are distributed pursuant to a termination procedure.

''(B) PENALTIES FOR FAILURE TO MAKE PAYMENTS.—If any payment is not made by a plan when it is due, a late payment charge of not more than 100 percent of the payment which was not timely paid shall be payable by the plan to the Fund.

''(C) CONTINUED DUTY OF THE SECRETARY.—The Secretary shall not cease to carry out the provisions of paragraph (2) on account of the failure of a plan to pay any payment when due.

''(2) PAYMENTS BY SECRETARY TO CONTINUE EXCESS/STOP LOSS INSURANCE COVERAGE AND INDEMNIFICATION INSURANCE COVERAGE FOR CERTAIN PLANS.—In any case in which the applicable authority determines that there is, or that there is reason to believe that there will be: (A) a failure to take necessary corrective actions under section 809(a) with respect to an association health plan described in subsection (a)(2); or (B) a termination of such a plan under section 809(b) or 810(b)(8) (and, if the applicable authority is not the Secretary, certifies such determination to the Secretary), the Secretary shall determine the amounts necessary to make payments to an insurer (designated by the Secretary) to maintain in force excess/stop loss insurance coverage or indemnification insurance coverage for such plan, if the Secretary determines that there is a reasonable expectation that, without such payments, claims would not be satisfied by reason of termination of such coverage. The Secretary shall, to the extent provided in advance in appropriation Acts, pay such amounts so determined to the insurer designated by the Secretary.

''(3) ASSOCIATION HEALTH PLAN FUND.—

''(A) IN GENERAL.—There is established on the books of the Treasury a fund to be known as the 'Association Health Plan Fund'. The Fund shall be available for making payments pursuant to paragraph (2). The Fund shall be credited with payments received pursuant to paragraph (1)(A), penalties received pursuant to paragraph (1)(B); and earnings on investments of amounts of the Fund under subparagraph (B).

''(B) INVESTMENT.—Whenever the Secretary determines that the moneys of the fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

''(g) EXCESS/STOP LOSS INSURANCE.—For purposes of this section—

''(1) AGGREGATE EXCESS/STOP LOSS INSURANCE.—The term 'aggregate excess/stop loss insurance' means, in connection with an association health plan, a contract—

''(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation) provides for payment to the plan with respect to aggregate

claims under the plan in excess of an amount or amounts specified in such contract;

''(B) which is guaranteed renewable; and

''(C) which allows for payment of premiums by any third party on behalf of the insured plan.

''(2) SPECIFIC EXCESS/STOP LOSS INSURANCE.—The term 'specific excess/stop loss insurance' means, in connection with an association health plan, a contract—

''(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation) provides for payment to the plan with respect to claims under the plan in connection with a covered individual in excess of an amount or amounts specified in such contract in connection with such covered individual;

''(B) which is guaranteed renewable; and

''(C) which allows for payment of premiums by any third party on behalf of the insured plan.

''(h) INDEMNIFICATION INSURANCE.—For purposes of this section, the term 'indemnification insurance' means, in connection with an association health plan, a contract—

''(1) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation) provides for payment to the plan with respect to claims under the plan which the plan is unable to satisfy by reason of a termination pursuant to section 809(b) (relating to mandatory termination);

''(2) which is guaranteed renewable and noncancellable for any reason (except as the applicable authority may prescribe by regulation); and

''(3) which allows for payment of premiums by any third party on behalf of the insured plan.

''(i) RESERVES.—For purposes of this section, the term 'reserves' means, in connection with an association health plan, plan assets which meet the fiduciary standards under part 4 and such additional requirements regarding liquidity as the applicable authority may prescribe by regulation.

''(j) SOLVENCY STANDARDS WORKING GROUP.—

''(1) IN GENERAL.—Within 90 days after the date of the enactment of the Small Business Health Fairness Act of 2003, the applicable authority shall establish a Solvency Standards Working Group. In prescribing the initial regulations under this section, the applicable authority shall take into account the recommendations of such Working Group.

''(2) MEMBERSHIP.—The Working Group shall consist of not more than 15 members appointed by the applicable authority. The applicable authority shall include among persons invited to membership on the Working Group at least one of each of the following:

''(A) a representative of the National Association of Insurance Commissioners;

''(B) a representative of the American Academy of Actuaries;

''(C) a representative of the State governments, or their interests;

''(D) a representative of existing self-insured arrangements, or their interests;

''(E) a representative of associations of the type referred to in section 801(b)(1), or their interests; and

''(F) a representative of multiemployer plans that are group health plans, or their interests.

''SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

''(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), an association health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to association health plans.

''(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority by regulation, at least the following information:

''(1) IDENTIFYING INFORMATION.—The names and addresses of—

''(A) the sponsor; and

''(B) the members of the board of trustees of the plan.

''(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

''(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

''(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

''(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan and contract administrators and other service providers.

''(6) FUNDING REPORT.—In the case of association health plans providing benefits options in addition to health insurance coverage, a report setting forth information with respect to such additional benefit options determined as of a date within the 120-day period ending with the date of the application, including the following:

''(A) RESERVES.—A statement, certified by the board of trustees of the plan, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 806 are or will be met in accordance with regulations which the applicable authority shall prescribe.

''(B) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the plan for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the plan. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

''(C) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the plan and a projection of the assets, liabilities, income, and expenses of the plan for the 12-month period referred to in subparagraph (B). The income statement shall identify separately the plan's administrative expenses and claims.

''(D) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the plan.

''(E) OTHER INFORMATION.—Any other information as may be determined by the applicable authority, by regulation, as necessary to carry out the purposes of this part.

''(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to an association health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

''(d) NOTICE OF MATERIAL CHANGES.—In the case of any association health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation. The applicable authority may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

''(e) REPORTING REQUIREMENTS FOR CERTAIN ASSOCIATION HEALTH PLANS.—An association health plan certified under this part which provides benefit options in addition to health insurance coverage for such plan year shall meet the requirements of section 103 by filing an annual report under such section which shall include information described in subsection (b)(6) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed with the applicable authority not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the applicable authority). The applicable authority may require by regulation such interim reports as it considers appropriate.

''(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

''(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations; and

''(2) represent such actuary's best estimate of anticipated experience under the plan.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

''SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

''Except as provided in section 809(b), an association health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees, not less than 60 days before the proposed termination date—

''(1) provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

''(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

''(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation.

''SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

''(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—An association health plan which is certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether

the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the applicable authority makes such a determination and so notifies the board, the board shall immediately notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the applicable authority (in such form and manner as the applicable authority may prescribe by regulation) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such recommendations. The board shall thereafter report to the applicable authority, in such form and frequency as the applicable authority may specify to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

''(b) MANDATORY TERMINATION.—In any case in which—

''(1) the applicable authority has been notified under subsection (a) (or by an issuer of excess/stop loss insurance or indemnity insurance pursuant to section 806(a)) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action has restored compliance with such requirements; and

''(2) the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements of section 806,

the board of trustees of the plan shall, at the direction of the applicable authority, terminate the plan and, in the course of the termination, take such actions as the applicable authority may require, including satisfying any claims referred to in section 806(a)(2)(B)(iii) and recovering for the plan any liability under subsection (a)(2)(B)(iii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

''SEC. 810. TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

''(a) APPOINTMENT OF SECRETARY AS TRUSTEE FOR INSOLVENT PLANS.—Whenever the Secretary determines that an association health plan which is or has been certified under this part and which is described in section 806(a)(2) will be unable to provide benefits when due or is otherwise in a financially hazardous condition, as shall be defined by the Secretary by regulation, the Secretary shall, upon notice to the plan, apply to the appropriate United States district court for appointment of the Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint such Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the participants and beneficiaries or providers of medical care or to avoid any unreasonable deterioration of the financial condition of the plan. The trusteeship of such Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

''(b) POWERS AS TRUSTEE.—The Secretary, upon appointment as trustee under subsection (a), shall have the power—

''(1) to do any act authorized by the plan, this title, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan;

''(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee;

''(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations prescribed by the Secretary, and applicable provisions of law;

''(4) to require the sponsor, the plan administrator, any participating employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the Secretary as trustee may reasonably need in order to administer the plan;

''(5) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trusteeship;

''(6) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan;

''(7) to issue, publish, or file such notices, statements, and reports as may be required by the Secretary by regulation or required by any order of the court;

''(8) to terminate the plan (or provide for its termination in accordance with section 809(b)) and liquidate the plan assets, to restore the plan to the responsibility of the sponsor, or to continue the trusteeship;

''(9) to provide for the enrollment of plan participants and beneficiaries under appropriate coverage options; and

''(10) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries and providers of medical care.

''(c) NOTICE OF APPOINTMENT.—As soon as practicable after the Secretary's appointment as trustee, the Secretary shall give notice of such appointment to—

''(1) the sponsor and plan administrator;

''(2) each participant;

''(3) each participating employer; and

''(4) if applicable, each employee organization which, for purposes of collective bargaining, represents plan participants.

''(d) ADDITIONAL DUTIES.—Except to the extent inconsistent with the provisions of this title, or as may be otherwise ordered by the court, the Secretary, upon appointment as trustee under this section, shall be subject to the same duties as those of a trustee under section 704 of title 11, United States Code, and shall have the duties of a fiduciary for purposes of this title.

''(e) OTHER PROCEEDINGS.—An application by the Secretary under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

''(f) JURISDICTION OF COURT.—

''(1) IN GENERAL.—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this section, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of the United States having jurisdiction over cases under chapter 11 of title 11, United States Code. Pending an adjudication under this section such court shall stay, and upon appointment by it of the Secretary as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsor, or property of such plan or sponsor, and any other suit against any receiver, conservator, or trustee of the plan, the sponsor, or property of the plan or sponsor. Pending such adjudication and upon the appointment by it of the Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsor or any other suit against the plan or the sponsor.

''(2) VENUE.—An action under this section may be brought in the judicial district where the sponsor or the plan administrator resides or does business or where any asset of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

''(g) PERSONNEL.—In accordance with regulations which shall be prescribed by the Secretary, the Secretary shall appoint, retain, and compensate accountants, actuaries, and other professional service personnel as may be necessary in connection with the Secretary's service as trustee under this section.

''SEC. 811. STATE ASSESSMENT AUTHORITY.

''(a) IN GENERAL.—Notwithstanding section 514, a State may impose by law a contribution tax on an association health plan described in section 806(a)(2), if the plan commenced operations in such State after the date of the enactment of the Small Business Health Fairness Act of 2003.

''(b) CONTRIBUTION TAX.—For purposes of this section, the term 'contribution tax' imposed by a State on an association health plan means any tax imposed by such State if—

''(1) such tax is computed by applying a rate to the amount of premiums or contributions, with respect to individuals covered under the plan who are residents of such State, which are received by the plan from participating employers located in such State or from such individuals;

''(2) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan;

''(3) such tax is otherwise nondiscriminatory; and

''(4) the amount of any such tax assessed on the plan is reduced by the amount of any tax or assessment otherwise imposed by the State on premiums, contributions, or both received by insurers or health maintenance organizations for health insurance coverage, aggregate excess/stop loss insurance (as defined in section 806(g)(1)), specific excess/stop loss insurance (as defined in section 806(g)(2)), other insurance related to the provision of medical care under the plan, or any combination thereof provided by such insurers or health maintenance organizations in such State in connection with such plan.

''SEC. 812. DEFINITIONS AND RULES OF CONSTRUCTION.

''(a) DEFINITIONS.—For purposes of this part—

''(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

''(2) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

''(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1).

''(4) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

''(5) APPLICABLE AUTHORITY.—The term 'applicable authority' means the Secretary, except that, in connection with any exercise of the Secretary's authority regarding which the Secretary is required under section 506(d) to consult with a State, such term means the Secretary, in consultation with such State.

''(6) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' has the meaning provided in section 733(d)(2).

''(7) INDIVIDUAL MARKET.—

''(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

''(B) TREATMENT OF VERY SMALL GROUPS.—

''(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

''(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

''(8) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

''(9) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

''(10) QUALIFIED ACTUARY.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries.

''(11) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor—

''(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor,

''(B) in the case of a sponsor with members which consist of associations, a person who is a member of any such association and elects an affiliated status with the sponsor, or

''(C) in the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2003, a person eligible to be a member of the sponsor or one of its member associations.

''(12) LARGE EMPLOYER.—The term 'large employer' means, in connection with a group health plan with respect to a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(13) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, an employer who is not a large employer.

''(b) RULES OF CONSTRUCTION.—

''(1) EMPLOYERS AND EMPLOYEES.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is an association health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

''(A) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

''(B) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

''(2) PLANS, FUNDS, AND PROGRAMS TREATED AS EMPLOYEE WELFARE BENEFIT PLANS.—In the case of any plan, fund, or program which was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder and which demonstrates to the Secretary that all requirements for certification under this part would be met with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated for purposes of this title as an employee welfare benefit plan on and after the date of such demonstration.''.

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

''(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of an association health plan which is certified under part 8.''.

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking ''Subsection (a)'' and inserting ''Subsections (a) and (d)'';

(B) in subsection (b)(5), by striking ''subsection (a)'' in subparagraph (A) and inserting ''subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805'', and by striking ''subsection (a)'' in subparagraph (B) and inserting ''subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805'';

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

''(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude, or have the effect of precluding, a health insurance issuer from offering health insurance coverage in connection with an association health plan which is certified under part 8.

''(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

''(A) In any case in which health insurance coverage of any policy type is offered under an association health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan.

''(B) In any case in which health insurance coverage of any policy type is offered in a State under an association health plan certified under part 8 and the filing, with the applicable State authority (as defined in section 812(a)(9)), of the policy form in connection with such policy type is approved by such State authority, the provisions of this title shall supersede any and all laws of any other State in which health insurance coverage of such type is offered, insofar as they may preclude, upon the filing in the same form and manner of such policy form with the applicable State authority in such other State, the approval of the filing in such other State.

''(3) Nothing in subsection (b)(6)(E) or the preceding provisions of this subsection shall be construed, with respect to health insurance issuers or health insurance coverage, to supersede or impair the law of any State—

''(A) providing solvency standards or similar standards regarding the adequacy of insurer capital, surplus, reserves, or contributions, or

''(B) relating to prompt payment of claims.

''(4) For additional provisions relating to association health plans, see subsections (a)(2)(B) and (b) of section 805.

''(5) For purposes of this subsection, the term 'association health plan' has the meaning provided in section 801(a), and the terms 'health insurance coverage', 'participating employer', and 'health insurance issuer' have the meanings provided such terms in section 812, respectively.''.

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

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

(B) in clause (ii), by inserting ''and which does not provide medical care (within the meaning of section 733(a)(2)),'' after ''arrangement,'', and by striking ''title.'' and inserting ''title, and''; and

(C) by adding at the end the following new clause:

''(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.''.

(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended—

(A) by striking ''Nothing'' and inserting ''(1) Except as provided in paragraph (2), nothing''; and

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

''(2) Nothing in any other provision of law enacted on or after the date of the enactment of the Small Business Health Fairness Act of 2003 shall be construed to alter, amend, modify, invalidate, impair, or supersede any provision of this title, except by specific cross-reference to the affected section.''.

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: ''Such term also includes a person serving as the sponsor of an association health plan under part 8.''.

(d) DISCLOSURE OF SOLVENCY PROTECTIONS RELATED TO SELF-INSURED AND FULLY INSURED OPTIONS UNDER ASSOCIATION HEALTH PLANS.—Section 102(b) of such Act (29 U.S.C. 102(b)) is amended by adding at the end the following: ''An association health plan shall include in its summary plan description, in connection with each benefit option, a description of the form of solvency or guarantee fund protection secured pursuant to this Act or applicable State law, if any.''.

(e) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting ''or part 8'' after ''this part''.

(f) REPORT TO THE CONGRESS REGARDING CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—Not later than January 1, 2008, the Secretary of Labor shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate the effect association health plans have had, if any, on reducing the number of uninsured individuals.

(g) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

''Sec. 801. Association health plans.
''Sec. 802. Certification of association health plans.
''Sec. 803. Requirements relating to sponsors and boards of trustees.
''Sec. 804. Participation and coverage requirements.
''Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
''Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
''Sec. 807. Requirements for application and related requirements.
''Sec. 808. Notice requirements for voluntary termination.
''Sec. 809. Corrective actions and mandatory termination.
''Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
''Sec. 811. State assessment authority.
''Sec. 812. Definitions and rules of construction.''.

SEC. 3. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting after ''control group,'' the following: ''except that, in any case in which the benefit referred to in subparagraph (A) consists of medical care (as defined in section 812(a)(2)), two or more trades or businesses, whether or not incorporated, shall be deemed a single employer for any plan year of such plan, or any fiscal year of such other arrangement, if such trades or businesses are within the same control group during such year or at any time during the preceding 1-year period,'';

(2) in clause (iii), by striking ''(iii) the determination'' and inserting the following:

''(iii)(I) in any case in which the benefit referred to in subparagraph (A) consists of medical care (as defined in section 812(a)(2)), the determination of whether a trade or business is under 'common control' with another trade or business shall be determined under regulations of the Secretary applying principles consistent and coextensive with the principles applied in determining whether employees of two or more trades or businesses are treated as employed by a single employer under section 4001(b), except that, for purposes of this paragraph, an interest of greater than 25 percent may not be required as the minimum interest necessary for common control, or

''(II) in any other case, the determination'';

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

''(iv) in any case in which the benefit referred to in subparagraph (A) consists of medical care (as defined in section 812(a)(2)), in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only one participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement,''.

SEC. 4. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

(a) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting ''(a)'' after ''SEC. 501.''; and

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

''(b) Any person who willfully falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

''(1) being an association health plan which has been certified under part 8;

''(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

''(3) being a plan or arrangement described in section 3(40)(A)(i),

shall, upon conviction, be imprisoned not more than 5 years, be fined under title 18, United States Code, or both.''.

(b) CEASE ACTIVITIES ORDERS.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

''(n) ASSOCIATION HEALTH PLAN CEASE AND DESIST ORDERS.—

''(1) IN GENERAL.—Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of an association health plan (or similar arrangement providing benefits consisting of medical care (as defined in section 733(a)(2))) that—

''(A) is not certified under part 8, is subject under section 514(b)(6) to the insurance laws of any State in which the plan or arrangement offers or provides benefits, and is not licensed, registered, or otherwise approved under the insurance laws of such State; or

''(B) is an association health plan certified under part 8 and is not operating in accordance with the requirements under part 8 for such certification,

a district court of the United States shall enter an order requiring that the plan or arrangement cease activities.

''(2) EXCEPTION.—Paragraph (1) shall not apply in the case of an association health plan or other arrangement if the plan or arrangement shows that—

''(A) all benefits under it referred to in paragraph (1) consist of health insurance coverage; and

''(B) with respect to each State in which the plan or arrangement offers or provides benefits, the plan or arrangement is operating in accordance with applicable State laws that are not superseded under section 514.

''(3) ADDITIONAL EQUITABLE RELIEF.—The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the plan.''.

(c) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting ''(a) IN GENERAL.—'' before ''In accordance'', and by adding at the end the following new subsection:

''(b) ASSOCIATION HEALTH PLANS.—The terms of each association health plan which is or has been certified under part 8 shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.''.

SEC. 5. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

''(d) CONSULTATION WITH STATES WITH RESPECT TO ASSOCIATION HEALTH PLANS.—

''(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to an association health plan regarding the exercise of—

''(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

''(B) the Secretary's authority to certify association health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

''(2) RECOGNITION OF PRIMARY DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular association health plan, as the State to with which consultation is required. In carrying out this paragraph—

''(A) in the case of a plan which provides health insurance coverage (as defined in section 812(a)(3)), such State shall be the State with which filing and approval of a policy type offered by the plan was initially obtained, and

''(B) in any other case, the Secretary shall take into account the places of residence of the participants and beneficiaries under the plan and the State in which the trust is maintained.''.

SEC. 6. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by this Act shall take effect one year from the date of the enactment. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this Act within one year after the date of the enactment of this Act.

(b) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 812(a)(5) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a) and 803(a) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of directors which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement.

(2) DEFINITIONS.—For purposes of this subsection, the terms ''group health plan'', ''medical care'', and ''participating employer'' shall

have the meanings provided in section 812 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an ''association health plan'' shall be deemed a reference to an arrangement referred to in this subsection.

The SPEAKER pro tempore. After 1 hour of debate on the bill, it shall be in order to consider the further amendment printed in House Report 108–160, if offered, by the gentleman from Wisconsin (Mr. KIND) or his designee, which shall be considered read and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Ohio (Mr. BOEHNER) and the gentleman from New Jersey (Mr. ANDREWS) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

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

Madam Speaker, the most pressing crisis that we face in health care today is the number of Americans who lack basic health insurance benefits. It is a problem that can be illustrated by just a few numbers, so let us just look at the facts.

Today, 41 million Americans are uninsured. This problem is not going to go away, and we have a responsibility to confront it. With health care costs continuing to rise sharply across the country, more and more employers and workers are sharing the burden of increased premiums. Employer-based health insurance premiums leaped an average of 15 percent in 2003, the largest increase in at least a decade, according to a study just released June 11 by the Center for Studying Health System Change. We know that for every 1 percent increase in coverage, additional price increase, 300,000 more people lose their health insurance, according to a 1999 study by the Lewin Group, a national health care and human services consulting firm.

The second number is 60. Sixty is the percentage of the 41 million uninsured Americans who either work for a small business or who are dependent upon someone who does. So let us remember, there are 60 percent of the uninsured where they or one of their dependents works every day for a company that likely does not offer health insurance. Many of these Americans work for small employers who cannot afford to purchase quality health insurance benefits for their workers. Notably, the 2002 Census Bureau statistics show that employer-sponsored health care coverage has declined because small businesses with less than 25 workers have been forced to drop coverage because of rising health care costs. These small employers are denied the ability to purchase quality health benefits that compare with the coverage that large, multi-State corporations and unions have been offering to their workers for decades.

The last number is $130 billion. Yes, $130 billion is the cost to the American economy every year of poor health and premature deaths amongst those 41 million Americans who lack basic health insurance coverage, according to a study released just this week by the Institute of Medicine. Madam Speaker, $130 billion a year of additional costs to our society and disproportionately aimed at the 41 million Americans that do not have any health insurance.

The implications of these numbers are tragic, not just for employers who cannot afford the high cost of health insurance, but the millions of uninsured families who are being denied access to quality care. Clearly, we need to focus on providing affordable health care to the uninsured as well as ensure that employers who provide health benefits to their employees are not forced to drop coverage because of rising premiums and high administrative costs.

The Small Business Health Fairness Act, which we have on the floor today, responds to this problem and can help reduce the high cost of health insurance for small businesses and uninsured working families. By creating association health plans, which would be strictly regulated by the Department of Labor, small businesses could pool their resources and increase their bargaining power with benefit providers, which will allow them to negotiate better rates and purchase quality health care at a lower cost.

President Bush addressed this point directly last year during his speech at the Women's Entrepreneurship Summit when he said, ''Small businesses will be able to pool together and spread their risk across a large employee base.

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It makes no sense in America to isolate small businesses as little health care islands unto themselves. We must have association health plans.

Well, the President is right, and we should help level this playing field so that small businesses can afford to offer the kind of quality coverage that large companies and unions do across America today.

Importantly, the bill gives AHPs the freedom from costly State mandates because small businesses deserve to be treated in the same fashions as corporations like GM and UPS, and unions who receive the same exemption so that they can offer high quality plans and benefits to their workers. Clearly, State health care mandates are useless to families who do not have the health care coverage in the first place. And if you do not have health care coverage, State mandates requiring health plans to offer specific benefits to those they cover do you and your family no good at all.

Let us be clear on the protections this bill provides workers, however, because it includes strong safeguards to protect workers. In fact, the solvency standards in the bill go far beyond what is required any single employer plan or labor union plan under law. And despite the bipartisan nature of this bill, some misinformation has been spread about the bill that I would like to take a moment to correct.

The measure protects against cherry-picking because we make clear that the AHPs must comply with the 1996 Health Insurance Portability and Accountability Act, HIPAA, which prohibits group health plans from excluding or charging a higher rate to high-risk individuals with a high-claims experience.

Under our bill, sick or high-risk groups or individuals cannot be denied coverage. In addition, AHPs cannot charge higher rates for employers with sicker individuals within the plan, except to the extent already allowed by State law based on where the employer is located.

The bill also contains strict requirements under which only bona fide professional and trade associations can sponsor an association health plan, and therefore does not allow sham association plans set up by health insurance companies to go out and do what some did over the next decade or so. These organizations must be established for purposes other than providing health insurance and they have to be in existence for at least 3 years prior to the passage of this bill.

This campaign of disinformation belies not just the need for the bill, but the bipartisan support behind it. Not only is it strongly supported by the President of the United States, President Bush and Secretary Chao at the Department of Labor, but it has more than 160 bipartisan co-sponsors, including my colleague, the gentleman from Texas (Mr. SAM JOHNSON), the subcommittee chairman; the gentleman from Kentucky (Mr. FLETCHER), the former member of our committee, now on the Committee on Energy and Commerce; or the Democrat member, the gentleman from California (Mr. DOOLEY); and the Democrat member, the gentlewoman from New York (Ms. VELÁZQUEZ).

It is noteworthy and significant that Republicans and Democrats alike are joining together to deal with the crisis affecting more than 41 million uninsured Americans. Uninsured workers deserve the security of knowing that health care is not just a dream but a reality for them and for their families. This bill can help make that happen.

Madam Speaker, I reserve the balance of my time.

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

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

Mr. ANDREWS. Madam Speaker, I rise in strong opposition to this bill.

The chairman of the committee is precisely right, that the problem of massive amounts of people not having health insurance is the central problem in health care. Most of the 41 million

Americans who have no health care who are adults work for a living. And most of those adults who work for a living work for a small business, so there is an intuitive appeal to an argument that says let us help make it easier for small businesses to acquire health insurance.

In fact, the substitute that the gentleman from Wisconsin (Mr. KIND) and I will be offering later in this debate does that, and we would urge our colleagues to support that.

The reality, though, is that small businesses who do not provide health care for their employees do not do so because the gap between what they can afford to pay and what they have must pay is huge. It is immense. Even the most optimistic proponents of this bill admit that the premium savings that could be generated by this bill will slender indeed, usually in the single digits of percentage points, if that.

The reality is small businesses are not going to be able to afford to expand health care without significant public subsidies. That is a fact. The majority has drained well in excess of $2 trillion from the public Treasury with its insatiable appetite for tax cuts, and as a result, there is no money in the till. There is no money to provide those necessary subsidies. So this is the fig leaf. This is the shallow argument that says we can do something to help those small businesses.

Frankly, this bill belongs in the Orwellian hall of fame for misnomers of a piece of legislation. It is called the Small Business Health Care Fairness Act. With respect to small businesses, it provides nothing in subsidies for employers who cannot afford health insurance, not a dime. It provides for market reforms that offer an illusory and ultimately empty promise of lower premiums.

It is not a health care bill because what it does is supplant benefits that have been provided by State legislatures across this country by Republicans and Democrats, benefits that guarantee women breast cancer care, benefits that guarantee people with diabetes care for their illness, benefits that guarantee pregnant women and small children important care, benefits that protect consumers when they have been wronged by their HMO. Because this bill invalidates and wipes out those protections, the National Governors Association, Republicans and Democrats, oppose this bill. Because this bill invalidates those protections, the Attorneys General of a huge majority of the States oppose this bill. Because the bill eliminates protections for mammograms, for diabetes care, for well baby care, wipes them out, the insurance commissioners across this country oppose the bill.

It is not a health care bill. It is a political bill designed to paper over the fact that the majority already spent the money it needs to provide real relief.

Finally, it is called fairness. Where is the fairness in creating two sets of rules for those who attempt to buy health insurance for their employees? Because that is what this bill does. It sets up one set of rules where all the protections and regulations and safeguards that most people enjoy are wiped off the books for AHPs, and then another set of rules where the remaining insurance companies must compete on an unlevel playing field. Many of us who support the substitute believe in market competition, but we believe in market competition on a level playing field. That is not what this bill does.

One of the of the most respected health care analysis firms in this country, Madam Speaker, Certified Public Accountants and Associates, looked at this bill and that firm concluded that the chairman would have to change one of his charts because he started with a chart that says there are 41 million uninsured. If this bill is enacted, the chairman will have to change his chart and X out the 41 and put 42 uninsured, because that firm has concluded that the net effect of this bill will be to drive up the premiums for insurance companies who are not AHPs, drive them up so high that it will result in the loss of coverage for one million more Americans.

This bill is an illusion. It should be defeated. Later in this debate, the gentleman from Wisconsin (Mr. KIND) and I will be presenting a substitute which we believe truly addresses the real needs of small businesses in America's uninsured.

Madam Speaker, I reserve the balance of my time.

Mr. SAM JOHNSON of Texas. Madam Speaker, I yield myself such time as I may consume.

(Mr. SAM JOHNSON of Texas asked and was given permission to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Madam Speaker, to my friend, the gentleman from New Jersey (Mr. ANDREWS), that is total misinformation. And I would agree that the gentleman is politicizing this bill. But he is doing it, not us.

This bill makes it illegal to cherrypick. This bill does not eliminate any form of insurance and the gentleman stated it did. It does not stop insurance companies from insuring on whatever they want to insure. And as a matter of fact, they probably will.

Furthermore, one million more people became uninsured in the past year and it was primarily because of small businesses getting out of the insurance business because it is too expensive. And I think that there is the one way in which we can ensure that people will be insured, more of them through small businesses. As a matter of fact, a private study has said about 8.5 million more will be insured.

Under our bill, sick or high risk groups or individuals cannot be denied coverage. Moreover, AHPs are severely limited in their ability to charge higher rates which my cohort said would happen. They can not charge higher rates for sicker people or groups within the plan. AHPs can only charge different rates to the extent allowed under the law of the State where the employer is based.

The bill contains strict requirements under which only bona fide professional and trade associations can sponsor an AHP, and these organizations must be established for purposes other than providing health insurance for at least 3 years.

Now, there is considerable comment about AHPs being exempts from State coverage. As we all know, labor unions and large corporations that self-insure are already exempt from State health care mandates, and they provide quality benefits because it is in the best interest of their employees. And I will charge you that small business would apply the same reasoning. It is really a moral fairness issue. If it is good enough for labor unions, good enough for Fortune 500 companies, it ought to be good enough for small business.

We must remember that our ultimate goal here is to bring quality coverage to the 41 million Americans who have no insurance. Further, AHPs will significantly expand access to health coverage to uninsured Americans by increasing small businesses bargaining power with health care providers by giving employers freedom from costly State-mandated benefit packages.

According to a private study, as I said, AHPs should increase the number of insured Americans by up to 8.5 million people. Sadly, last year one in seven Americans went without health insurance. The increase in the number of uninsured comes solely from the declining market in the small business community. With health insurance costs continuing to rise, businesses face increases more than double the national average. Health insurance costs are still rising and many small employers are forced to drop health coverage. Some cannot even offer it in the first place.

The cost saving benefits of AHPs would help small employers of main street access coverage at a more affordable price. According to the Congressional Budget Office, AHPs would save small business owners and their employees as much as 25 percent of their health insurance costs. Just like buying a case of soda at a supermarket costs less per can than buying 24 individual cans at a vending machine, AHPs would allow groups like the National Restaurant Association to buy thousands of health insurance policies at a lower person policy cost and pass the savings along.

Let us face facts. Costs are rising. Businesses are dropping coverage, and more people are going uninsured. Congress must address the uninsured problem and move forward with increasing the insured through association health plans. It is the least this Congress can do to make certain that the American people will receive better health care at a more reasonable price.

Madam Speaker, I reserve the balance of my time.

Mr. ANDREWS. Madam Speaker, I yield myself 15 seconds.

Madam Speaker, I think it is important to point out for the record that the gentleman did admit that the benefit protections like mammogram screenings are, in fact, wiped out by the bill before us.

□ 1415

The bill before us will take away health coverage for more than 1 million people and add to the uninsured.

Madam Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. KIND), who has offered a plan that will actually decrease the number of uninsured, which we will talk about later.

Mr. KIND. Madam Speaker, I thank the gentleman from New Jersey for yielding me this time and also commend him for his leadership and the energy he has shown on this subject, as well as the ranking member, the gentleman from California (Mr. GEORGE MILLER).

Madam Speaker, there is a serious problem throughout America in regards to the rising cost of health insurance, double-digit premium increases. As I travel around my congressional district in western Wisconsin visiting businesses large and small alike, it is the number one topic on their lips, the difficulty of being able to provide health insurance coverage for their employees with the double-digit increases that they are facing today.

Part of the problem in western Wisconsin deals with the inadequacy of Medicare reimbursement rates, which then is cost-shifted on to the private plans; but also part of the problem is the number of uninsured and the cost shifting that occurs when they receive treatment. We saw the statistics a little earlier, 41 million uninsured. Those numbers are going up. Between 50 and 60 percent of the uninsured are employees working in small businesses. It is a crisis situation out there, and I have not met a small business owner yet that is happy with the fact when they cannot provide some basic health coverage for their employees. Unless we deal with it in an honest and, I think, straightforward plan, the numbers will only get worse.

There are some here today that think H.R. 660 is the answer to the crisis we are all experiencing in our own districts. I happen to disagree. I think there are some serious flaws with H.R. 660. I believe that, at best, the underlying legislation would do very little to address the plight of the uninsured. There is a recent CBO analysis that said that, at best, we might be able to extend additional coverage for half a million Americans, a far cry from the 41 million who are currently uninsured or the 25 million who are working right now in small businesses. At worst, there is a Mercer report that shows that because of the premium increases in other health plans, we could see another million Americans losing their health insurance coverage because of H.R. 660.

What also is a major problem is that it exempts State laws. These are community value judgments made in each of our States in regards to what health care practices should be covered for the citizens. Yet the legislation today is calling for a preemption of that State law, an eradication of the federalism that has existed in this country for a very long period of time. It is one of the reasons why we have so many people opposing the legislation, from the National Governors' Association, from the Democratic Governors' Association and Republican Governors' Association, the State Attorneys General Association, not to mention the Association of Insurance Plans, as well as the National Conference of State Legislatures.

Why would you, if you believe in the free market, as I think most of us do, and believe in price competition, try to set up an uneven system where you have two different sets of plans playing by two different sets of rules? It does not make sense. If you are going to force price competition in the free market system, you need to have everyone playing on a level playing field playing by the same set of rules, such as the State laws that exist right now, rather than exempting a whole category of people.

I think our substitute offers a better alternative, and I would encourage our colleagues to support that.

Mr. BOEHNER. Madam Speaker, I yield myself 15 seconds. What we want to do in this bill is to give small employers the same advantages in the marketplace that large companies and unions have today. And that is the real secret behind this. Why can they not go out as a group and design a plan that would meet their needs just like a big company can for their employees?

Madam Speaker, I yield 4 minutes to the gentleman from Kentucky (Mr. FLETCHER), the author of this bill and someone who has worked on it for many, many years.

Mr. FLETCHER. Madam Speaker, I thank the gentleman for yielding me this time and for his leadership and work on this very important piece of legislation.

Health care coverage is becoming more unaffordable for workers and small businesses all across America. In fact, the cost of providing health care now exceeds the cost of taxes. For that reason, I have introduced the Small Business Health Fairness Act to ensure that more workers can afford their health care, regardless of whether they work for a large international company or for just a small hardware store on Main Street. A farmer in Kentucky should have the same access to health benefits as someone who works for a large company like Ford Motor Company. That is where the fairness is.

Why should small business employees not be able to obtain the same economies of scale, bargaining power, benefit design and choices now available to those in large corporations and to those in labor unions? You will not hear our opponents attack those plans, I do not believe. Ninety-eight percent of large businesses offer health insurance to their employees. Less than half of small businesses offer this important benefit.

When we look at the fact that the morbidity rate of an uninsured hospitalized patient is more than twice that of an insured one, I think we can see that that is a resounding call to decrease the number of uninsured, which this bill will do. Experts estimate that up to 8½ million uninsured small business workers will be covered by AHP legislation. This plan will decrease the number of uninsured Americans, will reduce health care costs by up to 30 percent for small businesses, and provide new coverage options for self-employed, like farmers and small business workers across this Nation. It will not only give more health care coverage but allow small businesses to create more jobs.

Many have made false claims against this bill, and I would like to take a moment to set the record straight. In redrafting this bill, we have taken great lengths to ensure that these plans remain solvent. We have set up strict solvency provisions that include reserves, cash reserves, surplus reserves, stop-loss insurance, both specific and aggregate, indemnification for plan termination, insolvency funds, and a certification fee required for application.

Opponents of this legislation have also asserted AHP plans will engage in cherrypicking, taking only the young and healthy and leaving the sick to fend for themselves. These false accusers overlook or are unaware that all members of an association must be offered the plan coverage. Furthermore, plans must demonstrate that they have average or above-average risk to even be able to form an association health plan to begin with. That means an association could not be formed of young marathon runners just to provide a low-risk group.

Opponents of this legislation falsely charge that the Department of Labor is unable to handle such a program. Such statements, I believe, are baseless and contradict the facts. The DOL currently administers 2.5 million private job-based health plans. These programs serve 131 million workers. Sixty-seven million individuals now are in self-insured plans and are monitored exclusively under DOL oversight. DOL has the experience, the personnel, and the vision to monitor and enforce these plans. Besides, I know Secretary Elaine Chao. She is a friend of mine; she is a good Kentuckian. Believe me, she can effectively oversee these plans.

In conclusion, the President favors association health plans and strongly supports them. The Department of Labor is ready for AHPs; and small businesses, farmers, and the self-employed are ready for association health

plans. Uninsured Americans have waited far too long, so I ask my colleagues to do the right thing for the uninsured Americans of small businesses, not only in Kentucky but across America. Support this bill.

Mr. ANDREWS. Madam Speaker, I yield such time as he may consume to the gentleman from California (Mr. GEORGE MILLER), the leader of our committee and one of the leading opponents of this plan that would take health care coverage away from 1 million people.

Mr. GEORGE MILLER of California. Madam Speaker, I thank the gentleman for yielding me this time and for his leadership on this issue in our committee.

Once again, as with pension legislation, unemployment assistance, tax policy, and many other examples, the Republican majority of this House is bringing forward a bill that they claim is in the interest of working families. But once again this is head-fakes and sleight of hand. This bill hurts working people, places their already-meager health insurance coverage at risk, and serves only the interest of the business lobbyists.

I want to add that once again, as with those earlier bills, the Republican majority continues to deprive 206 Members of the House on the Democratic side and the tens of millions of people we represent from being able to conduct a serious debate on this issue. Once again, a contentious bill comes to the floor with no amendments allowed, just a substitute. So there is little time to debate the bill that will cost millions of Americans, including millions of children and women workers, their health coverage, with no ability to offer amendments to improve this bill. These tyrannical and corrupt rules under which we are operating under the Republican leadership in this House prevent us from having that debate and prevent the Republicans from taking votes on amendments we would like to offer.

Let us be clear: this is not a question of whether or not we have time to devote to debate. Week in and week out the Congress comes in on Tuesday or late Monday night and leaves on Thursday or early Friday morning. The Congress has time to adjourn for fundraisers, the Congress has time to adjourn for golf tournaments, the Congress has time to adjourn for the White House picnic; but apparently we do not have time to be able to offer amendments to legislation so that we can have an honest debate about the legislation before us or have opportunities to improve it or to offer an alternative view on how that should be carried out.

So what do we find out now? We do not have that opportunity here when we are risking 8 million people's health care coverage, according to the Congressional Budget Office. So we will pass today, with almost entirely Republican votes, a bill that deprives 47 percent of the people in this country a role in debating and improving this legislation.

The heart of this ill-conceived bill is a provision that overrides State laws requiring access to basic health care services. These State laws say to people that when they have a health insurance plan, that plan will mean something. It means that they will have access to mammograms, that means that they will have access to emergency services, that means that they will have maternity benefits and well-baby care and diabetes treatment, and it means there will be some mental health coverage and cancer screening. Because those are the things that the American families need in a health care plan.

Now, why are those the rules today in States across this country? Why did the States make this determination? Not to burden small businesses, not to burden health care plans, but because what people were being offered prior to that were essentially phantom plans. They were phantom plans that had little or no benefits to individuals, that did not meet the needs that families had. They had little or no benefits in terms of what women needed in their health care policies. That is the reason for these regulations, or these requirements, that health care insurance plans provide in their health care. That is the purpose of the plans. But that was not what was happening.

So now what we see is that this comes along, and it says we are going to override the judgment of these States, we are going to overrides the judgment of the legislators, the collective wisdom of the Governors and legislatures, the attorneys general, the insurance commissioners and others to make sure that people have adequate health insurance. And the consequences are that we are stripping much of this treatment away from the individuals in terms of preventive services for men, women and children.

We know that these services and treatments save money, we know they preserve health in the long run, and we know that these services were rarely provided voluntarily by employers in the past. That is precisely why so many States have moved to guarantee this coverage. The proponents of this legislation constantly want to say, well, this was good for labor unions and this was good for big industry. Yes, and in those instances the employees are organized and they negotiate on an equal level. That is not the situation with these plans. These people are given a health care plan which they can take or leave. And the purpose here is to reduce the cost of those plans.

The fact of the matter is CBO has reported that approximately 8.5 million workers would end up in AHPs, and over 95 percent would simply be dumped into those from existing health care plans. That means that 8 million workers would be stripped of their current legal right to critical treatments and preventive health care services. Eight million people would end up with less health care the next morning than they currently have under this provision.

I recognize that that means that new people will be given health insurance that do not have it, but we have to weigh the question of the people who will get this stripped-down policy as their health insurance to those people who have relatively decent policies who will lose their access to those policies. Because that is really what this is about. It is about cutting the cost to businesses, not about providing health insurance that families truly need.

That is why, again, these plans were protected in the States and were regulated in the States, and that is why so many of the Governors, both Republican and Democrat, oppose this legislation. That also means that these people are not going to have the kind of peace of mind that so many of them now have with respect to their insurance policies.

We also know that one of the reasons this bill is offered is that health insurance costs are increasing. They are increasing about 20, 25 percent for small employers. What that suggests is that, as people move into these plans, the individuals with higher risk will be left out. Those people who stayed in those kinds of insured pools, those costs will continue to go up; and it means that we will have uneven health insurance for people in this country.

□ 1430

Madam Speaker, this is a very bad bill. It is a bad bill. It really is about false advertising. It is suggesting that somehow this is going to extend to millions of people health insurance that will cover their families. That is not what it is going to do. It would if we were not overriding State law, but here the majority has decided that the collective wisdom of the States and the protection of residents and consumers in those States, that is going to be overridden and individuals be under no requirements to offer those components as part of this health insurance plan. I would hope that the House would reject this plan when it comes time to vote on the legislation.

GENERAL LEAVE

Mr. BOEHNER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 660.

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

There was no objection.

Mr. BOEHNER. Madam Speaker, I yield 2 minutes to the gentlewoman from New York (Ms. VELÁZQUEZ).

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

Ms. VELÁZQUEZ. Madam Speaker, our country is in a health care crisis. Today, in the world's largest remaining superpower, 41 million Americans live

without health insurance. No place in this epidemic is more apparent than with our Nation's small businesses. They represent 60 percent of this country's uninsured.

Small business owners and their employees do not have health insurance, not because they do not want it or are trying to cut corners, but because they cannot afford it. Small companies see their insurance costs rising upwards of 25 percent each year. They are unfairly suffering this burden, and their employees are unfairly suffering without insurance.

Small businesses provide more than half of the Nation's gross domestic product, create 75 percent of all new jobs, and give two-thirds of Americans their first paychecks. Yet many small businesses are unable to provide the benefits they know the workers deserve.

Today, with the passage of this bipartisan Small Business Health Fairness Act of 2003, we take an important first step in helping millions of Americans afford what so many in this Chamber take for granted, health care.

During the debate on this legislation, Members are going to hear terms like cherrypicking, solvency, and MEWAs. If Members take one thing away from today's debate, it should be that H.R. 660 is simply about fairness, fairness for small business owners to offer health insurance to their employees just as large corporations and unions already do. If we trust large corporations and unions, we should trust small businesses in America.

If it is good enough for IBM, Lockheed-Martin and GM, it should be good enough for mainstream American businesses. H.R. 660 will give small business owners the ability to provide quality health care for themselves, their families, and, most importantly, their workers. I urge my colleagues to vote yes on H.R. 660.

Mr. ANDREWS. Madam Speaker, I yield 4 minutes to the gentleman from North Dakota (Mr. POMEROY) who, as a former insurance commissioner from North Dakota, has direct experience with AHPs running out of money and not paying their claims.

Mr. POMEROY. Madam Speaker, I appreciate the comments of my colleague about the crisis in small employer health care; but as we address this issue, I think we have to ascribe ourselves fully to the Hippocratic oath, First, do no harm.

The AHP proposal before us would do a great deal of harm. I would recommend to my colleagues, study this issue before you vote, it is very serious. If there is not enough time to get into the technical details, just look at who is against this bill. This bill could be called a wonderful, unifying force because it has brought together people who do not agree on anything, but they do agree this is bad policy for this country. The Republican Governors Association, the Democrat Governors Association, 41 State attorneys general of both political parties, the National Association of Insurance Commissioners, again representing regulators of both political parties have reached their conclusion based on several fundamental facts.

We have spent a lot of time in this Chamber debating the Patients' Bill of Rights worrying about protections. I guess we could call this the ''Patient Bill of No Rights'' because it literally exposes those who would be insured under these mechanisms to whatever might be written with no consumer protections and no State insurance department to go to for those protections.

There is a nice populist argument which has been used this afternoon that if big companies can do it, little companies ought to be able to do it, too. I represent North Dakota. That is the place of small employers. The difference in a fundamental one. IBM can self-insure. They do it themselves. They basically pay themselves. A small hardware store in an AHP would be joining an association, sending their premiums not to themselves but off to others, and that is why we need the check. We have tried this before. What happens is promoters come up with these schemes, the employer goes for the lowest premium, they ship their hard-earned dollars off to provide the coverage for their employees, and someone makes off with the money. It has time and time again.

The protections protect coverage, but they also protect to make sure the plan is solvent so they can pay the health claim when the insured needs it. We have seen this tried before under the guise of multiple employer trusts. They went bankrupt; there was a slew of scandals. We have seen it now under multiple employer welfare arrangements. There were scandals, busts, uncertain insurance framework for our consumers.

Madam Speaker, now they want to call them AHPs, but the result will be precisely the same.

If it were simply a benign issue of let the buyer beware, it would be one thing; but it is much worse than that because this makes the premiums go up for all who remain in existing insurance pools. Small employers insuring through insurance companies are not viewed just on their own little group, they are part of a pool. Well, as AHPs would take off smaller healthy groups, those left would be older, sicker groups. Premiums would go up, coverage would be diminished, or dropped altogether. It has been estimated that as many as a million people would lose their coverage.

Again, do not take my word for it, look at what the Congressional Budget Office has written on this, or consider the quotes by the Mercer Consulting Group in analyzing this proposal, Health insurance premiums would increase 23 percent for small employers that continue to purchase State-regulated coverage. This would result from AHPs' ability to attract healthier-than-average firms out of the small, regulated market. This makes the problem worse.

First, let us do no harm. We need to address small employers. The substitute to be presented has a better approach in that regard, but the underlying bill is a stinker, and let us beat it.

Mr. BOEHNER. Madam Speaker, I yield myself 30 seconds.

The foundation of our health insurance market in the United States is employer-provided coverage set up through ERISA, the Employee Retirement Income Security Act of 1974. It covers 150 million American lives. We are trying to allow small employers who belong to statewide associations, national associations, the opportunity to band together to create an insurance policy that will benefit not only the small business but, more importantly, their employees.

Madam Speaker, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Madam Speaker, I rise today in strong support of H.R. 660, the Small Business Health Fairness Act. Small business owners know that it is far too important to their employees to let this issue slide off the table. Employees want to have health coverage and the increasing cost is making it ever more difficult. It is important to note also in my State of Tennessee, small business is the largest employer.

This bill works to alleviate the problems by establishing the association health plans that would allow small businesses to band together under an umbrella of a bona fide trade association to act as a large purchaser of health insurance, having that ability to buy health care coverage as a large group for their employees. All employees benefit by having better coverage, increased options and lower deductibles.

Madam Speaker, last weekend I had the opportunity to address a national convention of women. It was a national convention of women who own their own businesses. Their number one concern, their top priority is passing this legislation, seeing it passed. That is, millions of women who own and work for women-owned businesses and they are very concerned about this. It is at the top of their list.

Madam Speaker, it is unfortunately that there are so many myths surrounding the debate of this bill. I join my colleagues in helping to dispel these myths, that it would allow cherrypicking. In reality, this legislation has explicit language prohibiting such. This legislation also contains solvency provisions to protect employees against the risk of health plans that default or go bankrupt. These health plans must certify through a qualified actuary that an AHP is financially sound on a quarterly basis.

Madam Speaker, I agree with thousands of female business owners that it is time to pass this legislation now.

Mr. ANDREWS. Madam Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Madam Speaker, I stand in strong opposition of H.R. 660. We are hearing all the time about do no harm, and I think Members need to remember, why do 48 States have good basic health care insurance? It is mainly because our advocates, breast cancer or diabetes, all of the diseases that we are trying to prevent, have made the States realize that the monies that we spend to make sure that people stay healthy certainly is cheaper in the long run. That is 48 States including New York, and what we are doing here, we are wiping that out. We are wiping that out.

As patients and advocates across this Nation quickly discovered that their basic health care needs were not being served by their insurance companies, that is why the States have forced the insurance companies to make sure that the treatments that we are asking for, like a mammogram, and how many lives have we saved over the years because we have made the insurance companies make sure they have it in their policies. The States made them do that.

What we are doing here is taking that away. They demanded that their States step in and protect them. Madam Speaker, as I said in 48 States, we have our attorneys general, we have our governors, Republicans and Democrats. What we are doing here is harm. All of us, there is not one Member in this Chamber that does not want to make sure that our small businesses are able to offer health care insurance. That is why the gentleman from New Jersey (Mr. ANDREWS) and the gentleman from Wisconsin (Mr. KIND) are going to offer an amendment that will offer help to our small businesses.

There is not one penny in this bill that is going to help small businesses get health care. The Kind-Andrews amendment will. As a nurse and certainly with the constituents I have coming into my office yesterday, today, last week, every single week, all they are asking for is to make sure that their basic health care needs are met. What we are doing here is taking it away. I will say again, there is not one Member, Republican or Democrat, that does not want to help our small businesses. We would like to see health care be out there for everybody. I certainly would, but again, we keep hearing about budget constraints. Well, if we had not passed those large tax cuts, maybe we could do some good health care policy around here.

Madam Speaker, this bill will do harm to millions of people. It is always the devil is in the details, and on the top of this legislation it might look good, but in the end it is not. All 48 States, as I have said over and over again, have fought to make sure that our insurance companies give the services that our constituents need. That is why it was passed. That is why this bill should be defeated.

□ 1445

Mr. BOEHNER. Madam Speaker, as I said earlier, this bill does have broad bipartisan support. I am happy to yield 2 minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Madam Speaker, I rise in strong support of this piece of legislation. It is interesting, in the 10 years I have been down here, we have been able to talk about regulations, talk about cherrypicking, corporations have had insurance, big unions have had insurance, Members of Congress have had insurance; but small businesses have been crying out as they have not had insurance, and those that had it lost it because the price continues to go up.

Bottom line: we have not done anything to help small businesses and their employees have health insurance. It is time we do something.

Second, I hear a lot of talk about the great State regulations and the protections they offer and these mandated benefits and those mandated benefits. Let me tell you something. If you do not have health insurance in the first place, the mandated benefits and the regulations and the protections do not mean anything because they do not apply to you because you do not have health insurance. The fundamental bottom line is you have to have health insurance. At the end of the day that will be the question you have to ask yourself: Do you want some health insurance, or do you want to continue with no health insurance?

This plan works because it provides enhanced purchasing power for small businesses. They come together, and they have the leverage to put together an insurance plan to help those small businesses. They also can lower administrative costs so they get savings. Small businesses are very price sensitive. They will buy insurance even if they can get just a small amount of savings. So on balance it is a very good idea.

We hear a lot of talk about the vaunted cherrypicking. Again if you do not have health insurance, there is no cherrypicking because you are not there to be picked. But the important issue is there are regulations in this bill strictly regarding cherrypicking, prohibiting cherrypicking, so that is not really a problem.

Finally and most importantly, what people are saying is this is a bare bones policy and so you should not get it because it does not have all the protections that admittedly we would all like. I am submitting that it is better to have a basic policy that gets you into the doctor's office, because if you get into the doctor's office, your cancer, your heart attack, your diabetes and your blood pressure all can be picked up by your doctor. They say, it is a bare bones policy and no one's going to get it. Let me tell you, if it is that bare bones, if it is that bad, if it does not provide any benefits at all to the employee, they are not going to purchase it. They purchase it because it provides the basic insurance that they can use.

It is not everything we would like, but it is better than nothing; and at the end of the day, half a loaf is better than none.

Mr. ANDREWS. Madam Speaker, I yield myself 30 seconds. The gentleman is correct. At the end of the day, the question is whether one has health insurance or not. At the end of the day if this bill is enacted, 1 million more people will not have health insurance than do today because of the damage that this bill does. That is one of the reasons why State legislators across this country oppose this bill. Our next colleague is someone who served in the Minnesota State legislature, who fought for laws that protect women against discrimination. She will point out that this law does not do that.

Madam Speaker, I am happy to yield 3 minutes to the gentlewoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Madam Speaker, I rise today in strong opposition to the substandard health coverage that will be proposed in this bill. Americans deserve affordable, quality health care coverage for our children and for our families, not this substandard bill filled with gaps, holes and exceptions that leave women and children especially vulnerable. This bill leaves gaps for expecting mothers, leaves holes for children with diabetes, leaves exceptions for families requiring mental health care coverage. This legislation rewards bad medicine by preempting every State standard that guarantees quality health care, that protects women, children, and our families.

As a Minnesota State legislator, I fought hard for our State's health care requirements. People were not getting the care that they needed or deserved. Families living with diabetes came into my office and would tell me how their health plans would cover their insulin but would not cover the needles to deliver the insulin or the test strips to test their sugar levels. This basic health care is needed to keep people with diabetes healthy and enables them to manage and control their disease. We passed laws in Minnesota mandating basic coverage that health plans were not providing. They were not providing basic health coverage.

Today we are considering legislation that rolls back these basic health care protections. Minnesotans want comprehensive, affordable health care. Minnesota health care professionals in a hearing I held, nurses, pediatricians, psychologists and, yes, their patients, told me they strongly oppose these substandard association plans.

Let us ensure quality. Let us ensure affordable health care that protects women, protects children, protects our families and does not only protect

them but protects those who we have heard over and over again, the million people who stand to lose health insurance should this bill be enacted.

Mr. BOEHNER. Madam Speaker, I am pleased to yield 2 minutes to the gentleman from California (Mr. DOOLEY), one of my good friends and colleagues on the Committee on Agriculture.

Mr. DOOLEY of California. Madam Speaker, I rise in strong support of this legislation. One of the most difficult challenges facing those of us in Congress is how do we deal with the growing number of uninsured in our country, a number that is currently over 40 million. With the increases in health care costs that we are going to be seeing in the near future, that number is only going to continue to grow. This piece of legislation is an attempt to ensure that we can find ways in which small employers and farmers across the country can come together to develop a purchasing power that can allow them to negotiate better benefits at a less cost for the people they employ.

I represent a district in the central valley of California. It is 65 percent Latino. Many of those families are farm-worker families. They are low-wage workers. They are almost without exception without health insurance today. If they do have health insurance, it is through an association health plan that was offered by Western growers. They have coverage today that is benefiting them, and it is just basic coverage. This legislation is an attempt to ensure that more of those low-wage workers will have access to health care. It is unfortunate that it is not going to be a plan that has all the mandates that some of the States would require, but what I get so frustrated with is that we are willing to deny the ability of employers to come together to offer a basic level of health insurance to a lot of their low-wage workers and their families that right now are not having access to care. We can do better. This legislation is an attempt to do so.

I am struck by a lot of the opponents of this legislation that are saying that this is going to lead to cherrypicking. I will tell you today, there are not many insurance companies that are offering a plan through the State HIPCs or whatever else that are interested in coming out and trying to market a health insurance plan to a lot of the farmers and the farm workers whom they employ. This is an attempt to ensure that we can have an association of people who are committed to that industry and to those employers that will be able to come together to develop a basic health insurance product that will benefit the health of these low-wage workers. I urge my colleagues to support this legislation.

Mr. ANDREWS. Madam Speaker, one of the Members who is opposed to expanding the ranks of the uninsured by 1 million people and, therefore, opposes this bill is the gentleman from New York (Mr. MEEKS) to whom I yield 3 minutes.

Mr. MEEKS of New York. Madam Speaker, when I first saw the headlines of the bill, I looked at the bill, it came across my desk, because everybody wants to do something about small business. I first said to my staff, let's get on this bill; it will help small business. But then after I read it a second time and a third time, the devil is always in the details. The devil is in the fine print. The devil is in what you read.

When I really read the bill, I found that this bill would actually be devastating; it is what we call short-term gain for long-term pain. When you look over the years, the pain that really will happen to people who we are trying to help in the long-term will be devastating. Then when I looked even a little bit closer and tried to watch it to see how it affected those low-wage earners that my colleague just talked about and minorities and women in particular, then I noticed another substantial devastating event, the fact that what this bill does because many of the people that we want to help, they happen to be minority and women and how they disproportionately will be affected by this bill.

In fact, when you look at it, certain diseases because of people who are of color, Latino and African American, you look at approximately 2.8 million or 13 percent of all African Americans and 2 million or 10.2 percent of all Latino Americans have diabetes. They would not be covered under this. They could be cherrypicked. African American men have a 20 percent higher incident rate and a 40 percent higher death rate from all forms of cancer combined than white men do. They will be affected by this bill disproportionately. African American women with breast cancer are 67 percent more likely to die from the disease than Caucasians. They will be disproportionately affected under this cherrypicking, what this bill will do to them.

Hispanics experience the highest invasive cervical cancer incidence rates of any group other than Vietnamese. They will be hurt and devastated by this. Hispanics account for nearly one-fifth of HIV/AIDS cases in the United States. African Americans account for approximately 35 percent of HIV/AIDS cases in the United States. They will not be covered. They will not be picked up by these folks.

Now, more than ever, minority populations and women depend on health care. H.R. 660 stands to make this needed health care harder for those populations to obtain in the long run, not in the short run. In fact, most States require insurance to cover cancer screenings, maternity, diabetes treatment, and other benefits that provide medical care for minorities and women. However, Federal AHP legislation would allow certain insurers to avoid complying with these State laws. This means a loss of crucial benefits for many families, that 1 million that we hear my other colleagues talking about.

While our Nation is faced with a new health care crisis, H.R. 660 is not the solution. It is absolutely not the solution. We must work to pass legislation that offers genuine relief to small employers while preserving the significant health care reforms undertaken by the States. I urge my colleagues to voice their opposition to H.R. 660, the so-called Small Business Health Fairness Act.

Mr. SAM JOHNSON of Texas. Madam Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. KING), a member of the committee.

Mr. KING of Iowa. Madam Speaker, I am amazed at how the race card can be played on every single trick and every single issue that comes up. To me, this is just simply dollars and cents.

I started a small business in 1975 with actually a negative net worth of $5,000, no capital and a dream. By the mid-80s when then Congressman Grandy came to my hometown and held a hearing on health care, 70 or 80 of us in the basement of the Lutheran church in Odebolt, Iowa, sitting in the front row because I do not hear that good, he said, how many of you provide health insurance for your employees? I raised my hand as did about 11 other people in that room. No, excuse me. I raised my hand when he said, how many of you are employers? I kept it up when he said, how many of you provide health insurance for your employees? I was the only one in that room that provided health insurance for my employees. I can tell you, I know why. It is because the cost is too high for a group plan. Because the rules and the laws discriminate against small business. This association health care plan is designed exactly to correct that.

I have been involved in association work all of my life. That is the only bargaining chip that small business has. A sole proprietor of a small business is in a position where they cannot fully deduct all of their own health care insurance unless, of course, they happen to be a corporation and they are paying themselves a wage. That was put in place at the end of World War II when we had wage and price controls, and it was put in place because large business had the leverage, unions had the leverage, but small business did not. That is what this bill corrects, this association health care bill. It corrects the inequity to some degree, and it is a small degree, that was created in World War II.

I as a small business owner simply just sold out to my oldest son, and now he is in that situation, that predicament, where he can utilize this. About 60 percent of the uninsured are employed or are the proprietors of small business. It is not because they do not care about their employees. It is because of the law; it is because of the structure of the regulations. It is essential that we pass this bill.

Madam Speaker, that is why I rise here today to stand in support of this bill for association health care plans. It is essential to small business which provides most of the new jobs and most of the new innovation in America.

Mr. ANDREWS. Madam Speaker, I yield myself 30 seconds. I want to again reemphasize that the objective analysis of this bill, contrary to what we have heard repeatedly today, is that it will increase the number of uninsured persons. It will do so because those who are not in AHPs who must still comply with the mandated benefits and other consumer protection laws will experience an escalation in premiums which will cause a reduction in coverage. We believe the record is clear, that the passage of this bill will increase the number of uninsured persons by 1 million people.

Madam Speaker, I reserve the balance of my time.

Mr. BOEHNER. Madam Speaker, I yield myself the balance of my time. We could look at the problem of the 41 million Americans through many different lenses, and we could talk about solutions. We believe that we are bringing a solution here where we are showing the glass half full.

□ 1500

My colleagues on the other side want to look at this solution as a glass that is half empty. The fact is that 41 million Americans have no health insurance, and we in this Congress, over the last decade, have talked about it and talked about it and talked about it. As a matter of fact, we brought this bill to the floor on two occasions before today, and unfortunately the other body did not see fit to move the legislation. But we are not going to quit because if we do not help these 41 million Americans who have no health insurance, guess what, they are going to continue to get sicker. They are going to end up getting treatment later in their illness, and they are going to continue to pile up massive amounts of healthcare debt that by and large they do not pay for, those who purchase health insurance pay for in terms of higher fees.

We have heard all of the discussion about the fact that we do not mandate this coverage and mandate this coverage.

The reason that we have the crisis in many States is because they have mandated every coverage known to man be stipulated in each of the policies, whether they need the coverage or not. Large employer plans do not have mandates other than two small mandates that are in ERISA. Neither did the union plans. They cover virtually all of these diseases and all of these treatments because that is what their employees want. We know that bare-bones policies do not work because employers do not buy them and their employees do not want them. And if we look at the best plans in America, they happen to be large employer plans, union plans that cover broad healthcare coverage and those employees love those plans.

Why would we not allow small businesses to come together, and whether it is through the Ohio Chamber of Commerce or the National Restaurant Association or the Lumbermen's Association, or how about the Farm Bureau, why would we not allow them to allow their members to come together where they could offer them a package of healthcare plans? Maybe it is one or two, maybe it is four or five potential plans that their members would get to choose from.

Take the issue of farmers, I have got a lot of farmers in my district. They are independent contractors. Their ability to go out and buy health insurance on not on their own is about zero unless they wants to pay $1,000 to $2,000 a month. If they were allowed to come together with other farmers around Ohio, other farmers around the country, guess what? They would get much better coverage than they are getting today at far less cost, and why should we not give them the opportunity to do this?

So I say to my colleagues as we end the general debate today, this is a good bill. It has strong bipartisan support, and I urge my colleagues to support the underlying bill.

Ms. MAJETTE. Madam Speaker, today I voted against passage of H.R. 660, the legislation that would establish Association Health Plans (AHP's). Despite its intention to allow small businesses to band together in order to offer affordable health care benefits to their workers, this proposal will, in fact, make coverage more expensive for most small businesses and their employees. Though I support the intent of this legislation, some serious flaws became apparent during my consideration of the legislation in the Education and Workforce Committee, which prevented my support.

According to the Congressional Budget Office, 4 out of 5 of the small businesses that now have health coverage would face higher costs if H.R. 660 was enacted. A recent report by Mercer Risk, Finance & Insurance Consulting for National Small Business United underscored this fact, finding that H.R. 660 would make health coverage more, not less expensive for many small businesses. In Georgia there are 722,535 people that get insurance coverage through small businesses. If H.R. 600 passes, 578,028 of these individuals will pay higher premiums.

The problem with the legislation that will cause insurance costs to increase is a provision which preempts State laws regarding the degree to which insurance premiums can vary for different companies with a plan. Therefore, firms can be charged wildly different rates based on a variety of factors, including health status and age. This legislation would allow some nefarious companies to unfairly discriminate against consumers on the basis of age, gender or race. The ultimate effect, is that firms with sicker employees will not be able to afford coverage under an AHP. This means those firms and the firms currently in the traditional insurance market will end up paying higher premiums. Instead of offering a meaningful coverage alternative, AHP's would only help to those healthy enough to qualify for lower rates.

Furthermore, this legislation prevents a State's insurance commissioner from protecting consumers' rights when they have concerns about their association health plan. The bill does not specify who has the duty or the authority to help consumers if they have a problem with their AHP. Instead, the bill creates a complex web of authority, in which consumers might only have recourse through the U.S. Department of Labor, which does not have the manpower or expertise to provide that help.

When consumers have a serious problem with their health insurance coverage, they need to know they have somewhere they can go for real assistance. H.R. 660 just fails to guarantee that and could make it very difficult for consumers to get any assistance with their health insurance problems.

I offered amendments in the Education and the Workforce Committee to correct both of these key concerns and improve H.R. 660, but both were rejected. For this reason, and because of my overarching concern that the bill falls short in delivering real help for small businesses, I opposed final passage of H.R. 660. In doing so, I was supported by a diverse array of over 500 national, State and local organizations including small business, consumer, insurance, union, provider, and patient advocate groups, as well as Georgia's Attorney General and Insurance Commissioner, who have joined in opposition to H.R. 660. I will continue to be an advocate for the interests of small businesses, but am convinced that H.R. 660 does not address the problems they face.

I will continue to work with my colleagues to draft legislation that would give small businesses more options in offering health insurance without supplanting Georgia's consumer protection laws.

Mrs. JONES of Ohio. Madam Speaker, I rise today in opposition to H.R. 660. The bill will exempt those businesses that decide to form Association Health Plans from health insurance regulation of the various States. Thus, under the bill, these association health plans could operate in different States but would not be subject to the different health insurance regulations of those States. Instead, they would be subject to regulation by the Labor Department. This Bill would allow ''Cherry Picking.'' As the premiums rise, the employers will have the chance to pick who will receive the health care, which means, the employers will pick the youngest, and the healthiest for the plan so that it would not cost them as much. As a result, thousands of the sickest workers would end up losing coverage altogether. AHP will offer a very minimum benefits package that does not include cancer screening, mental health benefits, or autism coverage. CBO reports show that there are 41 million uninsured Americans and only 550,000 currently uninsured Americans would gain coverage and this number is less than one percent of the country's Americans uninsured. As health care cost rises, the problem of the uninsured shall only get worse. Ooh I get it!. Hurt small employers and make coverage unaffordable for all but the healthiest groups. According to the Congressional Budget Office.

Two-thirds of the lower premiums realized through AHPs would come from risk selection, and most of the rest would come from eliminating benefits.

Insured individuals switching from their current plan to an AHP would outnumber the newly insured 14-to-1.

20 million individuals would face additional rate increases under AHPs, and 10,000 of the sickest individuals would lose coverage entirely.

The 80 percent of small business employees not participating in AHPs would almost uniformly see their premiums increase.

Madam Speaker, Associated Health Plans will hurt Small Businesses and increase the ranks of the uninsured.

Mr. UDALL of Colorado. Madam Speaker, I rise in opposition to H.R. 660, the Association Health Plan bill we are considering today.

While I sympathize with the challenges that many small businesses face in providing health insurance to their employees, I do not think that exempting AHPs from State oversight is the right solution. I agree with the National Governor's Association, the National Association of Insurance Commissioners, the National Association of Attorneys General, the Health Insurance Association of America, and many other groups that oppose Federally regulated AHPs. I am most concerned that AHPs would be regulated under Federal laws and would be exempted from State laws that govern premium increases, benefits, consumer protections, and financial standards. H.R. 660 would override Colorado's new AHP law even before we have time to see if it is working. Additionally, H.R. 660 does not provide any resources to the Department of Labor to carry out important oversight functions. I believe this leaves room for much of the same abuse and fraud that we experienced with Multiple Employer Welfare Associations in the 1980s.

Insurance is based on the principle of pooling healthy and sick groups together so that the cost is more evenly distributed. Under this bill, associations would be able to circumvent State pooling requirements and siphon off healthier groups. As a result, sicker people would be left in State regulated pools, and the cost of care for these individuals would be shifted to the rest of us through higher taxes and premiums. The non-partisan Congressional Budget Office estimates that 80 percent of small employers and their families would face rate increases under this legislation.

I continue to believe that refundable health care tax credits and investments in our public health system would go much further in making health care more affordable and reducing the number of uninsured in our Nation. That's why I am supporting the substitute offered by Rep. RON KIND, which would establish the Small Employer Health Benefits plan and provide Federal subsidies to small employers who have fewer than 100 employees and offer health insurance to them.

Madam Speaker, Americans are concerned that if they get sick, they won't have health insurance coverage, or they are worried they will lose their health care in this sluggish economy. I too am concerned about the rising cost of health care and the uninsured, but removing oversight over insurance and scaling back consumer protections, benefits and coverage is not the way to go. I will continue to work on meaningful health care reform that makes insurance more affordable and provides coverage to the uninsured.

Mr. STARK. Madam Speaker, I rise today to oppose H.R. 660, the ''Small Business Health Fairness Act of 2003.'' This bill is badly misnamed. Rather than make the cost of health insurance for small businesses more fair, this bill would have the perverse effect of increasing the cost of health insurance for many people and increase the number of people without health insurance altogether.

This bill would allow these new entities, called Association Health Plans (AHPs), to bypass State regulation and offer bare-bones health insurance policies. Small businesses that don't choose to offer these inadequate policies would see their premiums increase by 23 percent on average. This premium hike would occur because AHPs, which would offer only skeletal coverage, would attract the healthiest individuals, leaving traditional health insurance plans with the sickest and most expensive patients. This shift would penalize businesses with sicker employees, and make health insurance for those who need it the most even more unaffordable.

Further, this legislation would swell the ranks of the uninsured by over one million more individuals. As traditional health insurance becomes increasingly expensive, more and more businesses would have no choice but to drop health insurance for their employees, leaving these individuals with little or no opportunity to purchase health coverage.

Contrary to what proponents of this bill claim, AHPs would not truly help small businesses purchase health insurance for their employees. Although proponents claim that AHPs would give small-employers bargaining power to purchase affordable health insurance, most States already have laws in place that allow for group purchasing arrangements. This bill would only harm existing laws while usurping the traditional role of States to regulate insurance.

In fact, this bill would override key State laws and regulations that protect millions of Americans. For example, many States regulate insurance premiums to prevent insurers from discriminating against the ill. But under this bill those laws wouldn't apply. AHPs would be allowed to offer extremely-low ''teaser'' rates, and then rapidly increase the premium if the enrollee becomes sick. Furthermore, nearly all States have enacted external review laws which guarantee patients an independent doctor review if a health plan denies them coverage for a particular service. Patients who join AHPs would lose this vitally important consumer protection.

This bill also exempts AHPs from State laws that require health insurance to cover particular benefits. These laws have helped to ensure that millions of Americans get access to the healthcare that they need—such as mammography screenings, maternity care, well-child care, and prompt payment rules. In my State, California, employees who join AHPs could well lose access to these services as well as certain emergency services, direct access to OB/GYNs, mental health parity, and other important benefits. Moreover, this law would allow health plans to ''gag'' doctors, the currently illegal practice of health insurers preventing doctors from discussing treatment options that the plan does not cover, even if some of those options are in the patient's best medical interest.

The problems go on. AHPs are likely to create new fraud and abuse problems in health care as well. These plans are very similar to Multiple Employer Welfare Plans (MEWAs) which Congress created in the 1970s. MEWAs were also exempt from State insurance regulation. The Department of Labor found that many of these plans were frauds and left their enrollees holding the bag for more than $123 million in unpaid health expenses. Congress had to come back and clean up the law to end this blatant abuse. We should learn from that mistake—not repeat it!

This bill is bad for patients, bad for small business, and bad for States. It is opposed by over 500 organizations—including both the Democratic and Republican Governors Associations, local Chambers of Commerce, small business associations, physician organizations, labor unions, and healthcare coalitions. H.R. 660 would increase premiums, increase the number of uninsured, lead to massive fraud, and remove key State protections. I urge my colleagues to reject this legislation.

Mr. CUMMINGS. Madam Speaker, I rise today to speak against the bill being considered today. With over 41 million Americans uninsured, Congress' chief objective should be to ensure that these people have access to quality health care coverage. However, today we consider legislation that actually would be an even greater detriment to the current health insurance coverage crisis, than doing nothing at all.

The Congressional Budget Office estimates that over 4 million individuals who currently have health coverage will be switched to lower benefit Association Health Plans (AHP) if this bill is passed. This means that these individuals could be forced into plans that would exclude benefits such as mammography screening, cervical cancer screening, check-ups for children, bone marrow transplants and diabetic supplies. These are critical needs, not options and this is an unfair result.

Another flaw with this bill is that it doesn't actually help small employers. The problem for most small employers is not their lack of desire to provide healthcare coverage, but often the lack of cash flow to afford monthly healthcare coverage. However, this bill does not assist small employers or their employees to afford rising monthly healthcare premiums. CBO found that the small businesses most likely to get more affordable coverage with lower premiums under AHPs would be those with the healthiest groups of employees. What this means is that least healthy, older employees and their employers would have higher premiums. This is just plain cherry-picking, which only puts the rest of non-AHP employees at risk of higher rates of coverage.

The CBO also estimates that AHPs would provide coverage for less than one percent (1 percent) of the 41 million uninsured Americans. As such, H.R. 660 fails to significantly expand health coverage for the uninsured and in fact, would reduce coverage for those who are currently insured by forcing them to switch to lower benefit AHP health plans. This will drive up the costs for other insured and will result in the loss of affordable health care coverage for at least 1,000,000 employees. This represents a net loss, not a net gain in helping the 41 million uninsured in this country.

Any bill that excludes significant health care benefits, especially for women, children and the elderly; that does not significantly expand health coverage for the uninsured; and that may allow minority communities and the elderly to be redlined and denied affordable health insurance, is ''fig leaf'' legislation which will do little to nothing to meet the needs of those small business employers it alleges to help.

Every American, despite his/her employer deserves to have first-class health coverage. This bill does not accomplish this goal—which explains why it is opposed by over 500 groups, including the AFL–CIO, AFSCME, the National Governors' Association, many State Attorneys General and many consumer organizations. I lend my voice to this opposition and urge my colleagues to vote against H.R. 660.

Mr. WELDON of Florida. Madam Speaker, one of the issues about which my constituents most frequently contact me is the high cost of health insurance and the need for affordable insurance coverage. We all know health insurance premiums are increasing significantly each year. As such, many small businesses are unable to afford health insurance for their employees. Furthermore, for those who can afford insurance for their employees, rising costs make U.S. products more expensive, harming U.S. competitiveness and costing American jobs.

Just last month I received a letter in my office written by a small business owner in Palm Bay, Florida. In it he wrote, ''As an independent businessman, I can only afford the most basic of health insurance policies for myself, of which premiums have gone up over 100 percent in the past two years, I might add. I sacrifice greatly to insure myself. But it is getting to the point I may not be able to afford health insurance myself.'' I know he is not alone. We have all heard similar stories.

Small businesses are the backbone of our economy, but the financial viability of many small businesses is being hurt by the escalating costs of health insurance. This hurts job creation and economic growth. The U.S. Small Business Administration's Office of Advocacy found that administrative expenses for small health plans make up about 35 percent of total costs. This is not good for small business owners, their employees, or the American economy. Congress must address this problem, which is why I support H.R. 660, the Small Business Health Fairness Act.

By passing H.R. 660 Congress will be leveling the playing field between small businesses, the self-employed and large corporations. This allows organizations of individuals and businesses to enter into an Association Health Plan (AHP). Under an AHP, small businesses can pool their resources and purchase health care similar to the way large corporations do. They can get better bargaining power in terms of costs and benefits for their employees. It gives workers, who do not have health insurance today, the opportunity to obtain health insurance coverage.

Whether it is a small business, a trade association, a farm bureau, or a local community organization that is seeking to purchase more affordable health insurance, this legislation will help them.

It is generally accepted that there are 41 million people in America without health insurance at any given time. According to the Congressional Budget Office, a more accurate estimate of the number of people who were uninsured for all of an entire year is 21 million to 31 million. Regardless, almost 60 percent of those individuals are employed by a small business. As health care costs increase, fewer and fewer employers and working families will be able to afford coverage, and more Americans will be without adequate health insurance. Those who work for small businesses should have the same type of access to quality health insurance that their counterparts in large corporations already enjoy.

I urge Congress to pass H.R. 660. Congress must pass this bipartisan legislation to give much needed relief to American small businesses, farmers, and hard working families.

Mr. NORWOOD. Madam Speaker, it is my opinion that H.R. 660 will hurt the ability of small employers to access insurance coverage. Contrary to creating larger pools of small employers, H.R. 660 will fragment the small group insurance market into a myriad of smaller and smaller pools with healthy small firms separated from those firms with sick employees. The basic fabric of small employer insurance—that healthy and sick must be pooled together to create cross-subsidies—will be irreparably torn to the detriment of all small firms. Small firms will be returned to the unstable and erratic marketplace of the 1980's—before states imposed small group reform protections. Specifically, the dissenting Members of the Committee find that H.R. 660 will lead to:

(1) Higher Premiums for Most Small Firms and Rampant Discrimination

(II) Widespread AHP Failure and Millions of Dollars in Unpaid Claims

(III) More Uninsured—Particularly Among the Most Vulnerable

(IV) Consumers Stripped of Their State Protections

(V) No Administrative Cost Savings

(1) HIGHER PREMIUMS FOR MOST SMALL FIRMS AND RAMPANT DISCRIMINATION

H.R. 660 would allow insured Association Health Plans (AHPs) to avoid covering the oldest and sickest smallest employers by charging them unaffordable rates that would not be allowed if the AHP was subject to state law. As a result, the Congressional Budget Office (CBO) found that 80 percent of small employers would see their premiums increased as a result of the passage of H.R. 660. A June 2003 Mercer study predicts health insurance premiums will increase by 23 percent for small employers that continue to purchase state regulated insurance.

Under H.R. 660, insured AHPs could ''forum-shop'' for the state with the weakest rating rules (a handful of states lack any formal premium restrictions). Once the AHP's policy is approved in a weekly regulated state, the AHP may sell the coverage across the country without regard to the rating rules in the remaining 49 states.

For instance, New York is normally a community rating state that does not allow variation of rates between small employers because of differences in the health status of their employees. But an insured AHP could sell coverage in New York that charges much higher premiums to small employers with sick employees. This will allow the AHP to attract low-risk employers from the state regulated pool—a practice known as ''cherry-picking''. Employers with sick employees would remain in the state regulated pool because they would be effectively barred from the AHP through the quotation of exorbitant rates. The Small Business Administration 2003 study on Association Health Plans describes it as follows:

''Thus AHPs located in states with the less stringent state laws could offer insurance to the lower cost groups that are now forced to subsidize higher cost groups in those states that require community rating or narrow rate ''bands.''

The American Academy of Actuaries warns against this exemption of AHPs from state rating rules:

''The result would be that small employers whose employees are greater health risks are more likely to obtain coverage from the private health insurance market, where rates are limited, than through AHPs, who may not have the same limitations. State small group legislation sought to eliminate this sort of selection in the market by requiring health insurers to put all their small groups in one pool and to limit the premium charged to one employer relative to another. Introducing AHPs that are not required to adhere to the same rating rules brings selection back into the market. The consequence will be that the rates for the two pools will diverge, causing further instability in an already fragile marketplace.''

The Committee had an opportunity to clarify this critical point during the Committee markup. Representative Majette (D–GA) offered an amendment that would have prohibited AHPs from varying the rates of small employers beyond the variance allowed under state law. The Committee rejected this amendment.

Indeed, it appears that proponents of AHP passage have long held evasion of state rating rules as a key objective. In ''Insuring the Uninsured through Association Health Plans,'' the AHP proponent National Center for Policy Analysis argues against premium rating restrictions in the small group market because they ''keep premiums artificially low for the sickest groups and artificially high for the healthiest.'' NCPA argues that ''in a competitive market, every new person in a plan will tend to be charged a premium that reflects the expected costs of that person's health care at the time of entry into the plan. . . . However, in health insurance the tradition is to scorn new entrants for 'cherry picking.' Yet cherry picking is nothing more than trying to satisfy consumer needs better than a rival.''

It is also important to recognize that H.R. 660 would allow discrimination against small firms with sick employees before and after enrollment with an AHP. In this cruel ''bait and switch'' game, a small firm believes it has secure health insurance coverage only to find it placed in jeopardy when an employee falls ill. The Small Business Administration 2003 study describes the post-enrollment discrimination process:

The House legislation, however, would also permit some of the abuses of the insurance principle that led states to adopt the rate reform legislation in the early 1990's. Some states still permit insurers to use forms of durational tier rating based on claims experience or ''reunderwriting'', the practice of processing claims information in a manner similar to the initial underwriting process, typically using diagnosis-based or other risk adjustment to determine like future claims experience and appropriate rerating action. The association's insurer could offer very low rates as long as all of a group's members are in good health, but increase the premium to reflect the fully anticipated cost when one or more group members develop expensive health conditions. AHPs would be mainly regulated by DOL which does not have the resources and experience of state insurance departments.[7]

The ability of AHP's to forum shop for the most lenient state means that a small firm enrolled in an AHP who has an employee contract cancer, or another dread disease, could

face an immediate—and unlimited—premium increase. The AHP would not necessarily have to wait until renewal to impose this premium increase and the premium increase could be of such a magnitude that the small firm would have no choice but to drop coverage. Although the firm could return to the state regulated market on a guaranteed issue basis, the premiums offered by regulated carriers would be very high because of the fact that AHPs had ''cherry picked'' the low-risk firms away from the state regulated pool. Ultimately, this dramatic adverse selection will drive carriers from the unsustainable state regulated small group market leaving high-risk small firms with no access to coverage within a short period following AHP passage.

With regard to self-funded AHPs, H.R. 660 allows them to differentiate the premiums of small firms based on health status to the extent state law allows. This is contrary to the Committee's stated objective of furthering the ability of AHPs to play the same role that large employers play under ERISA. Section 702 (b) of ERISA—added by the Health Insurance Portability and Accountability Act—clearly prohibits large employers from charging similarly situated employees different premiums based on their health status:

A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, may not require any individual (as a condition of enrollment or continued enrollment under the plan) to pay a premium or contribution which is greater than such premium or contribution for a similarly situated individual enrolled in the plan on the basis of any health status-related factor in relation to the individual or to an individual enrolled under the plan as a dependent of the individual.

This means that two computer engineers working in Seattle for Microsoft can expect to pay the same premium for their employer group health plan—even though one is very sick with cancer and the other perfectly healthy. Under H.R. 660 however, a sick computer engineer's firm could be charged a much higher premium than a healthy computer engineer's firm even though both firms are members of the same Association—perhaps a Seattle Association dedicated to technology startups.

Clearly H.R. 660 is not furthering the ability of small employers to access the stability of large employer coverage; instead it is retracting the stabilizing protections small employers enjoy under current state law. Furthermore, limiting a self-funded AHP's ability to rate based upon health status to state law will not limit an AHP's ability to ''cherry-pick'' from the state regulated market. Ample opportunity for risk selection remains, including:

Rating based upon age and gender: H.R. 660 would exempt AHPs from state rules that limit the ability to increase a firm's premiums based on the age and gender of employees. Older individuals typically generate claims costs nearly seven times those of younger individuals. In fact, actuaries consider age as a very close proxy for health status. Young females typically generate significantly higher claims than those of their male counterparts. With the unlimited age/gender rating flexibility granted under H.R. 660, AHPs could offer very low rates to firms with low-cost younger workers, draining the state regulated pool of the types of firms needed to keep premiums stable for firms dominated by older individuals or women in their childbearing years.

Geographic ''Redlining'': H.R. 660 allows AHPs flexibility to determine their geographic service area. AHPs would be free to avoid geographic locations with high health care costs. They could choose to avoid certain parts of a city with populations with a high prevalence of expensive illnesses. For instance, Hispanic Americans have a disproportionately high rate of diabetes, and the African American community has been particularly hard hit by AIDS. AHPs could avoid selling coverage in minority neighborhoods—or charge a much higher premium to firms located in those areas—as a proxy for rating for health status. AHPs also could avoid geographic locations where significant portions of residents engage in high-risk occupations—they could avoid lumberjacking towns or farming communities. The League of United Latin American Citizens and the National Council of La Raza recognize these risks and have opposed H.R. 660.

Exclusion of Very Small Firms: So-called ''baby groups''—firms with fewer than 5 employees—are actuarially very expensive to insure. Their claims expenses generally are much higher than those of firms with more employees. HIPAA requires insurers to accept these very small groups and states require insurers to pool these very small firms with the rest of the small group pool. H.R. 660 would allow AHPs to exclude very small firms from their membership altogether (e.g. establish a ''mid-sized'' business association) or accept the small firms as members but charge them much higher premiums than their larger counterparts.

The use of age, gender, geography and firm size in rating practices provide the flexibility necessary for self-funded AHPs to limit their covered lives to low-risk, low-cost firms. Opponents to this legislation recognize that the rampant cherry picking H.R. 660 will foster will hurt all small firms in the long run. That is why the American Academy of Actuaries and the National Association of Insurance Commissioners are joined in their opposition to H.R. 660 by the following business organizations:

National Small Business United

28 Chambers of Commerce

Four Farm Bureaus

10 Local Small Business Associations (e.g. New Hampshire High Tech Council)

17 Labor Organizations

(II) WIDESPREAD AHP FAILURE AND MILLIONS OF DOLLARS IN UNPAID CLAIMS

The General Accounting Office (GAO) reported that a previous 1974 preemption of state law for Multiple Employer Welfare Arrangements (note: all AHPs are MEWAs) left nearly 400,000 consumers with over $123 million in unpaid bills. H.R. 660 will force this sad history to repeat itself—but the unfortunate results will be magnified since the growth of the internet and other communications channels will allow unsound AHPs to attract vulnerable members at a much more rapid rate.

Former Chief Counsel for the Senate Permanent Subcommittee on Investigations and Inspector General for the Department of Defense Eleanor Hill warns:

AHPs are fundamentally the same types of organizations as many MEWAs that have, in the past, been sponsored through associations. If exempted from state regulation, AHPs would pose the same kinds of unacceptable risks to consumers. . . . Nothing in this legislation would prevent the same proliferation of plan failures and consumers losses that occurred when these types of organizations were last clearly exempt from state regulation.[8]

Former FDIC and Resolution Trust Corporation Chairman Bill Seidman also has issued warnings regarding the exemption of AHPs from state oversight: ''I am concerned that it places consumers at risk and could set the stage for a taxpayer bailout similar to the one necessitated by the savings and loan failures of the 1980's.

AHP failures will be driven by three fundamental weaknesses in H.R. 660:

1. DOL Lacks Resources and Expertise to Takeover State Regulation of Self-funded AHPs

2. Insured AHPs will Exist in a Regulatory Vacuum, with Neither the States or DOL Able to Regulate

3. Solvency Standards are Inadequate

DOL LACKS RESOURCES AND EXPERTISE TO TAKEOVER STATE REGULATION OF SELF-FUNDED AHPS

Transferring regulatory authority of self-funded AHPs to DOL will represent a monumental change in the scope of DOL's regulatory responsibilities. Although it is often quoted that DOL currently administers ERISA for current group health plans—DOL's role is very limited. They are not responsible for reviewing reserve levels or assuring that actuarially fair premiums are charged and they are not in constant monitoring mode as state insurance commissioners are. DOL has admitted that its enforcement efforts under ERISA are:

. . . considerably different from and often more limited than the remedies generally available to the states under their insurance laws. In this regard, it is important to note that, in many instances, states may be able to take immediate action with respect to a MEWA upon determining that the MEWA has failed to comply with licensing, contribution or reserve requirements under State insurance laws whereas investigating and substantiating a fiduciary breach under ERISA may take considerably longer.

In fact, H.R. 660 does not even authorize the Secretary to immediately terminate a failing AHP's operations. Instead, it directs the Secretary to apply to the appropriate United States district court for appointment as trustee to administer the termination of the plan.

A 2002 General Accounting Office (GAO) report found that DOL's Office of Pension and Welfare Benefits Administration (PWBA) is understaffed for its current responsibilities. With regard to pension responsibilities, the report found that DOL faces an ''overabundance of work'' as well as ''limited investigative resources'' and ''staff shortages.'' It found that a review to determine pension plan noncompliance with ERISA would ''require PWBA's full investigative staff 90 years to fully and accurately complete.

Similarly in 1997, Assistant Secretary of Labor Olena Berg testified: ''An infrastructure adequate to handle the new responsibilities [for Association Health Plans] replicating the functions of 50 state insurance commissioners, simply does not exist.'' Berg noted that the current staff would be able to review each health plan once every 300 years.

H.R. 660 includes no provisions that would address this problem. No additional resources or retraining dollars for DOL are included.

INSURED AHPS WILL EXIST IN A REGULATORY VACUUM, WITH NEITHER THE STATES NOR DOL ABLE TO REGULATE

H.R. 660 includes very broad preemption language that appears to authorize an insured

AHPO to sell insurance coverage nationwide and disregard the laws of 49 states once its policy is approved in one state. Thus once an AHP has an approved filing in Michigan, it could sell insurance coverage to New Yorkers. But who would protect the interests of New York policyholders? The New York state insurance commissioner will not know which consumer protection laws are or are not included in Michigan statute. And even if the New York commissioner was an expert regarding Michigan law, it is unlikely he would be authorized to enforce such protections. The enforcement authority of insurance commissioners is generally limited to the enforcement of their state's laws—not the laws of other states. Conversely, it is unlikely the Michigan insurance commissioner is authorized to take action against an insurer for behavior against a resident of another state. His role is to protect the interests of his residents.

Thus, the insured AHP would exist in a regulatory vacuum. State insurance commissioners' hands would be tied by the Federal preemption provisions, and the Department of Labor's oversight authority is quite limited with regard to insured AHPs—the focus being on the initial certification of meeting the Board and other requirements to be considered a ''bona fide'' association. This regulatory vacuum will allow fraudulent and sham operations to flourish. Premium dollars will have disappeared into personal off-shore bank accounts before any action by regulators can be taken, leaving consumers uninsured and providers with large unpaid medical bills.

SOLVENCY STANDARDS ARE INADEQUATE

The National Association of Insurance commissioners, the American Academy of Actuaries and others have all criticized H.R. 660 for inadequate solvency standards. H.R. 660 allows AHPs to maintain as little as $500,000 in surplus and caps even the largest AHPs at a $2,000,000 requirement—an amount equivalent to just two premature million dollar babies in a neo-natal intensive care unit. This is contrary to typical state solvency regimes which use open-ended rules, recognizing that the larger an AHP grows the larger a capital base is necessary. The American Academy of Actuaries notes:

The proposed rules governing the minimum surplus requirements for AHPs do not account for the growth of the AHP. Historically, there have been many examples of AHP-like organizations becoming insolvent. Following such events, most states enacted solvency standards. To maintain the benefit of these standards to consumers, the surplus standards should be similar to the minimum requirements for Heath Risk-Based Capital (RBC) developed by the National Association of Insurance Commissioners (NAIC). Also the bills at issue rely on affordable reinsurance vehicles that do not currently exist in today's marketplace.

Former Resolution Trust Chairman Bill Seidman warns that ''The Savings and Loan experience teaches us that a lack of adequate solvency standards or investment guidelines can quickly lead to financial failures.'' The NAIC also criticizes H.R. 660 as including ''woefully inadequate capital reserve requirements'' and further cautions:

The most troubling aspect of the NFIB plan is it lacks sufficient oversight to ensure that financial struggles do not result in failures. Under the NFIB legislation, the AHP would work with an actuary chosen by the company to set reserve levels with little or no government oversight to ensure the levels are sufficient or maintained. Also, that AHP is required to ''self-report'' any financial problems. As we have seen in recent months, relying on a company-picked accountant or actuary to alert the government of any problems can have dire consequences for the consumers who expect to have protection under their health plan.

The combination of a regulatory vacuum for insured AHPs, an understaffed and inexperienced DOL and inadequate solvency standards lay the seeds for a large crop of devastating AHP failures and frauds across the country that injures thousands of consumers. Organizations with vast experience in health care fraud—such as the National Association of Attorneys General—recognize that opposition to H.R. 660 is imperative because ''State oversight and regulation is the best way to insure that plans remain solvent and that consumers are protected against fraud.

(III) MORE UNINSURED, PARTICULARLY AMONG THE MOST VULNERABLE

A June 2003 Mercer study performed for National Small Business United indicates that an additional one million individuals would lose coverage and become uninsured if H.R. 660 became law. A 1999 Urban Institute study predicted the uninsured would increase by 250,000 if AHPs were exempt from state law and the Congressional Budget Office (CBO) indicated that as many as 100,000 of the sickest individuals could lose coverage.

While these reports differ in nagnitude, they all predict that AHPs will worsen the uninsured problem, not solve it as proponents contend.

(IV) CONSUMERS STRIPPED OF THEIR STATE PROTECTIONS

States have enacted a broad pantheon of state consumer protections in the last decade. A sampling of these protections include:

44 states ensure access to independent review;

48 states limit how much insurers can charge sicker groups;

50 states impose detailed requirements to assure fair marketing;

50 states require mammography screening coverage; and

47 states require diabetic supplies and education.

Self-funded AHPs would be exempt from state consumer protection laws under H.R. 660. Insured AHPs could forum shop for the state with the least consumer protection laws and only use those limited protections when selling in the remaining 49 states. The Committee accepted an amendment by Rep. VAN HOLLEN (D-MD) that would apply state prompt payment laws to insured AHPs. This amendment did not apply any other state consumer protection laws to insured AHPs, nor did it apply state prompt payment laws to self-funded AHPs. With one stroke, passage of H.R. 660 would eliminate thousands of state consumer protections across the country.

(V) NO ADMINISTRATIVE COST SAVINGS

Numerous research reports have reviewed Association Health Plans and all found that lower premiums offered by AHPs would stem from ''cherry-picking''—because the AHP limits its coverage to the healthiest small employers—and the avoidance of state mandated benefits. The 2003 Small Business Administration Study found:

From an objective standpoint, AHPs are likely to lead to moderately lower insurance premiums from a combination of lower direct and indirect taxes, avoiding anti-selection and other cross subsidies, avoiding some mandated benefits and avoiding the cost to comply with multiple state regulations.

The Congressional Budget Office assumed no administrative savings from AHPs and predicted that nearly two-thirds of any cost savings from AHPs would result from attracting healthier members from the existing insurance pool, with virtually all of the remaining savings stemming from reduced benefits.

A June 2003 Mercer study estimates that AHPs would gain a pricing advantage through risk selection, not greater administrative efficiency. The modeling estimates that the average morbidity (a measure of whether a firm is ''sick'' or ''healthy'') of firms enrolling in AHPs would be 21 percent lower than the average morbidity of small employers in the market today.

These reports found no administrative savings for AHPs because AHPs would need to perform the same functions as insurers today—enrollment, billing, claims administration. Providing health insurance to small firms is resource intensive because the insurer is often providing the types of services that a large employer receives internally from a dedicated employee benefits department. Research report after research report indicates that AHPs cannot avoid those costly functions and that their prime avenue for costs savings is ''cherry picking'' and benefit reduction.

CONCLUSION

Exemptions from state law for Association Health Plans have been tried and failed before. Far from being a solution to the plight of the small employer, H.R. 660 would exacerbate the cost and stability problems in the small employer market. Consumers will find themselves uninsured just when they need coverage the most—when they fall ill. And providers will be left with millions in unpaid medical bills. Furthermore, H.R. 660 will undo the small group reforms woven together by states over the last decade to respond to the damage and pain that rampant cherry picking imposed on the small employer community in the late 80's.

Mr. McKEON. Madam Speaker, I rise today in strong support of H.R. 660, the Small Business Health Fairness Act, which will allow small businesses to join together to better provide their hard-working employees with health care coverage. This important legislation will solve a serious problem with the growing number of uninsured American workers.

In September 2002, the Census Bureau reported that as many as 60 percent of the 41 million uninsured Americans were employed in small businesses throughout the country. Over the last few years, small business employers have become unable to provide their workers with affordable health care as a result of the rapid and unjust rise in the cost of health insurance. A survey by Mercer Human Resource Consulting found that health insurance costs rose 14.7 percent in 2002.

As a former small business owner, I understand the plight felt by employers, who want to provide employees and their families with quality health care.

The Small Business Health Fairness Act will afford these smaller businesses the same rights that large corporations and unions have and enable their representative associations to form Association Health Plans (AHPs), which

will offer health care nationwide to member businesses. AHPs will be crucial in closing the gap the small business community is facing with the increase of uninsured American workers.

The opponents of this bill will consistently tell wild tales about this legislation saying that AHPs will only offer health care to the healthiest. This assertion is wholly untrue, as the bill specifically prohibits AHPs from denying people on the basis of health status.

It is imperative that we act now by passing this legislation so that our nation's small business employees can immediately begin receiving health care for their families.

We can no longer allow these dedicated employees to live and work without health insurance.

Mr. KILDEE. Madam Speaker, today we are considering a bill that will nullify coverage requirements and patient protections that states across the nation have determined are appropriate and necessary for the health and well-being of their citizens.

Association health plans will be exempt from state laws that protect patients, including requirements for external independent review of denied claims and laws requiring coverage for, mammography screening, prostate screening, maternity benefits and coverage of diabetes supplies and education.

The American Diabetes Association states that, ''if allowed to pass as written, this legislation will undermine state laws that ensure coverage of essential diabetes medication, equipment, supplies, and education by state-regulated health insurance policies. Over 475 organizations have voiced their opposition to AHP's, including state governors, insurance commissioners, attorneys general, state legislators, providers and physician groups, consumer and advocacy organizations, chambers of commerce, unions, farm bureaus, and small business associations.

H.R. 660 will not lead to health insurance cost decrease. According to the CBO, more than 800,000 workers in my state of Michigan will pay higher premiums under H.R. 660.

I urge my colleagues to vote for the substitute and oppose H.R. 660, a bill that hurt, not help, the small business community.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise in strong opposition to the Small Business Health Fairness Act of 2003, H.R. 660. This legislation would exempt Association Health Plans from state regulations and oversight.

As a former nurse, I have spent much of my public career working to ensure that the nation's health care system is affordable and provides the best services possible to all Americans.

Although I agree in principle with the Small Business Health Fairness Act H.R. 660), legislation that attempts to reduce the high cost of health insurance for small businesses and the self-employed, after careful review I have developed.

One of the problems I have with H.R. 660 is that it would exempt associated Health Plants (AHPs) from state regulation and oversight. I am afraid that this could lead to soaring insurance premiums, discriminatory coverage and loss of crucial protections, such as guaranteed access to medical care and critical benefits. With over 41 million Americans uninsured, and almost 65 percent of them being Hispanic or African America, I am extremely concerned that this legislation coiuld lead to loss of critical health services for some of the neediest families.

Madam Speaker, while proponents claim that federal AHPs would make insurance more affordable, and analysis by the Congressional Budget Office (CBO) concluded that AHPs would save money primarily by ''cherry picking'' the healthy from the existing insurance pool. The CBO estimated that as a result of the risk pool fragmentation caused by AHPS, health premiums would rise for 20 million workers and dependents while only 4.6 million would experience premium reductions. The CBO also found that the other source of savings would be the result of the elimination of state mandated benefits. Examples of benefits likely to be dropped by AHPs include mental health services, breast and prostate cancer screenings, maternity coverage and prescription drugs.

I agree that all families should have access to a affordable health care coverage. But schemes that would exempt association health plans from state oversight would exacerbate existing problems by causing further segmentation of the risk pool and putting consumers at greater risk of plan insolvency and outright fraud. For these reasons urge my colleagues to oppose H.R. 660

Mr. MARIO DIAZ-BALART. Madam Speaker, small businesses across the country face no greater challenge than access to affordable health care. Too often, small businesses are forced to sacrifice growth in order to provide health care to the employees. Many others are unable to meet the rising costs of health care and force their employees to go without altogether.

Over 60 percent of the uninsured in America are small business owners and employees. Not only are high costs an enormous burden on small businesses and a large danger for employees, but also an unfortunate disincentive for growth. Capital lost on high health care costs limit economic growth of countless small businesses throughout the nation.

No matter the size of business, all Americans deserve access to affordable health care. Small businesses should have the same access to health care as their counterparts in large corporations and unions. There is no rationale for punishing America's entrepreneurs by blocking the access to affordable health care.

As an original cosponsor of the Small Business Health Fairness Act (H.R. 660), I stand committed to ending this great injustice to America's small businesses. As the true foundation of America's economy, it is essential to ensure small businesses have every incentive to grow and succeed. Without affordable health care for employees, small businesses will continue to be burdened with unfair health care costs resulting in reduced growth.

Associated health plans will allow small businesses owners to join together in order to purchase health care for their families and employees. This will not only lower health care costs for small business owners, but will also provide greater choice.

I ask my colleagues to join me in supporting H.R. 660 and helping the 41 million uninsured Americans receive access to affordable health care.

Mr. BEREUTER. Madam Speaker, this Member wishes to add his strong support for the Small Business Health Fairness Act of 2003 (H.R. 660) which would allow small business owners to band together across state lines through associations to purchase health insurance for families and employees.

This Member would like to commend the distinguished gentleman from Ohio [Mr. BOEHNER], the Chairman of the House Committee on Education and the Workforce, and the distinguished gentleman from California [Mr. MILLER], the ranking member of the House Committee on Education and the Workforce for bringing this important resolution to the House Floor today; this issue is very timely as this week is Small Business Week. This Member would also like to commend the distinguished gentleman from Kentucky [Mr. FLETCHER] for sponsoring H.R. 660.

Over the past several years, we have witnessed significant changes in our health care system. Congress, employers, and the American people are currently searching for ways to control the cost of health care. In doing so, it is important that we do not compromise access and quality. This Member believes that Congress must evaluate three key areas when considering heath care proposals: affordability so that people can purchase health care that best fits their needs; accountability, so patients are guaranteed the quality they were promised; and accessibility, so millions more Americans can receive high-quality health care coverage that best fits their personal and family needs.

Access to affordable health insurance is a major problem for many of the 26 million uninsured Americans who live in families supported by the self-employed or small business employees. Professional societies and trade associations have tried to fill that void by offering health insurance plans to their members. Unfortunately, the myriad of state regulations and mandatory coverage requirements make it very difficult, expensive, and often impossible to offer coverage in all 50 states. If health insurance is not affordable it's not accessible.

The Small Business Health Fairness Act is intended to enhance the purchasing power of small businesses so that they could purchase such insurance more cheaply, and thereby provide health insurance coverage to more people. The association health plans created by the measure would be exempt from health insurance regulations of the various states. Thus, under the bill, these association health plans could operate in different states but would not be subject to the different health insurance regulations of those states. Instead they would be subject to regulation by the Labor Department. Similar association health plan language has been included in patient protection bills that Congress has recently considered. This Member has always supported these proposals.

Madam Speaker, in closing, this Member urges his colleagues to support H.R. 660.

Mr. ANDREWS. Madam Speaker, for all the reasons we have stated, we oppose the bill.

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

The SPEAKER pro tempore. All time for debate on the bill has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. KIND

Mr. KIND. Madam Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. KIND:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Small Employer Health Benefits Program Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Establishment of Small Employer Health Benefits Program (SEHBP).
''PART 8—SMALL EMPLOYER HEALTH BENEFITS PROGRAM
''Sec. 801. Establishment of program.
''Sec. 802. Contracts with qualifying insurers.
''Sec. 803. Additional conditions.
''Sec. 804. Dissemination of information.
''Sec. 805. Subsidies.
''Sec. 806. Authorization of appropriations.

SEC. 2. ESTABLISHMENT OF SMALL EMPLOYER HEALTH BENEFITS PROGRAM (SEHBP).

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

''PART 8—SMALL EMPLOYER HEALTH BENEFITS PROGRAM (SEHBP)

''SEC. 801. ESTABLISHMENT OF PROGRAM.

''(a) IN GENERAL.—The Secretary shall establish, in accordance with this part, a program under which—

''(1) qualifying small employers (as defined in subsection (b)) are provided access to qualifying health insurance coverage (as defined in subsection (c)) for their employees, and

''(2) such employees may elect alternative forms of coverage offered by various health insurance issuers.

''(b) QUALIFYING SMALL EMPLOYER DEFINED; OTHER DEFINITIONS.—For purposes of this part:

''(1) QUALIFYING SMALL EMPLOYER.—

''(A) IN GENERAL.—The term 'qualifying small employer' means a small employer (as defined in paragraph (2)) that—

''(i) elects to offer health insurance coverage provided under this part to each employee who has been employed by that employer for 3 months or longer; and

''(ii) elects, with respect to an employee electing coverage under qualified health insurance coverage, to pay at least 50 percent of the total premium for qualifying health insurance coverage provided under this part.

''(B) ELECTIONS.—Elections under subparagraph (A) may be filed with the Secretary during the 180-day period beginning with the first enrollment period occurring under section 803 and during open enrollment periods occurring thereafter under such section. Such elections shall be filed in such form and manner as shall be prescribed by the Secretary.

''(C) PART-TIME EMPLOYMENT.—Under regulations of the Secretary, in the case of an employee serving in a position in which service is customarily less than 1,500 hours per year, the reference in subparagraph (A)(ii) to '50 percent' shall be deemed a percentage reduced to a percentage that bears the same ratio to 50 percent as the number of hours of service per year customarily in such position bears to 1,500.

''(2) SMALL EMPLOYER.—The term 'small employer' means, with respect to a year, an employer who employed an average of fewer than 100 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the year.

''(3) SEHBP.—The term 'SEHBP' means the small employer health benefits program provided under this part.

''(c) QUALIFYING HEALTH INSURANCE COVERAGE.—For purposes of this part, the term 'qualifying health insurance coverage' means health insurance coverage that meets the following requirements:

''(1) The coverage is offered by a health insurance issuer.

''(2) The benefits under such coverage are equivalent to or greater than the lower level of benefits provided under the service benefit plan described in section 8903(1) of title 5, United States Code.

''(3) The coverage includes, with respect to an employee that elects coverage, coverage of the same dependents that would be covered if the coverage were offered under FEHBP.

''(4)(A) Subject to subparagraph (B), there is no underwriting, through a preexisting condition limitation, differential benefits, or different premium levels, or otherwise, with respect to such coverage for covered employees or their dependents.

''(B) The premiums charged for such coverage are community-rated for employees within any State and may vary only—

''(i) by individual or family enrollment, and

''(ii) to the extent permitted under the laws of such State relating to health insurance coverage offered in the small group market, on the basis of geography.

''(d) OTHER TERMS.—

''(1) HEALTH INSURANCE COVERAGE; HEALTH INSURANCE ISSUER; HEALTH STATUS-RELATED FACTOR.—The terms 'health insurance coverage', 'health insurance issuer', 'health status-related factor' have the meanings provided such terms in section 733.

''(2) SMALL GROUP MARKET.—The term 'small group market' has the meaning provided such term in section 2791(e)(5) of the Public Health Service Act (42 U.S.C. 300gg–91(e)(5)).

''(3) FEHBP.—The term 'FEHBP' means the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code.

''SEC. 802. CONTRACTS WITH QUALIFYING INSURERS.

''(a) IN GENERAL.—The Secretary shall enter into contracts with health insurance issuers for the offering of qualifying health insurance coverage under this part in the States in such manner as to offer coverage to employees of employers that elect to offer coverage under this part. Nothing in this part shall be construed as requiring the Secretary to enter into arrangements with all such issuers seeking to offer qualifying health insurance coverage in a State.

''(b) CONTINUED REGULATION.—Nothing in this part shall be construed as preempting State laws applicable to health insurance issuers that offer coverage under this part in such State.

''(c) COORDINATION WITH STATE INSURANCE COMMISSIONERS.—The Secretary shall coordinate with the insurance commissioners for the various States in establishing a process for handling and resolving any complaints relating to health insurance coverage offered under this part, to the extent necessary to augment processes otherwise available under State law.

''SEC. 803. ADDITIONAL CONDITIONS.

''(a) LIMITATION ON ENROLLMENT PERIODS.—The Secretary may limit the periods of times during which employees may elect coverage offered under this part, but such election shall be consistent with the elections permitted for employees under FEHBP and shall provide for at least annual open enrollment periods and enrollment at the time of initial eligibility to enroll and upon appropriate changes in family circumstances.

''(b) AUTHORIZING USE OF STATES IN MAKING ARRANGEMENTS FOR COVERAGE.—In lieu of the coverage otherwise arranged by the Secretary under this part, the Secretary may enter an arrangement with a State under which a State arranges for the provision of qualifying health insurance coverage to qualifying small employers in such manner as the Secretary would otherwise arrange for such coverage.

''(c) USE OF FEHBP MODEL.—The Secretary shall carry out the SEHBP using the model of the FEHBP to the extent practicable and consistent with the provisions of this part, and, in carrying out such model, the Secretary shall, to the maximum extent practicable, negotiate the most affordable and substantial coverage possible for small employers.

''SEC. 804. DISSEMINATION OF INFORMATION.

''The Secretary shall widely disseminate information about SEHBP through the media, the Internet, public service announcements, and other employer and employee directed communications.

''SEC. 805. SUBSIDIES.

''(a) EMPLOYER SUBSIDIES.—

''(1) ENROLLMENT DISCOUNT.—

''(A) IN GENERAL.—In the case of a qualifying small employer who is eligible under subparagraph (B), the portion of the total premium for coverage otherwise payable by such employer under this part shall be reduced by 5 percent. Such reduction shall not cause an increase in the portion of the total premium payable by employees.

''(B) EMPLOYERS ELIGIBLE FOR DISCOUNTS.—A qualifying small employer is eligible under this subparagraph if such employer employed an average of fewer than 25 employees on business days during the preceding calendar year.

''(2) EMPLOYER PREMIUM SUBSIDY.—

''(A) IN GENERAL.—The Secretary shall provide to qualifying small employers who are eligible under subparagraph (C) and who elect to offer health insurance coverage under this part a subsidy for premiums paid by the employer for coverage of employees whose individual income (as determined by the Secretary) is at or below 200 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section) for an individual.

''(B) SUBSIDY SCALED ACCORDING TO SIZE OF EMPLOYER.—The subsidy provided under subparagraph (A) shall be designed so that the subsidy equals, for any calendar year—

''(i) 50 percent of the portion of the premium payable by the employer for the coverage, in the case of eligible qualifying small employers who employ an average of fewer than 11 employees on business days during the preceding calendar year;

''(ii) 35 percent of the portion of the premium payable by the employer for the coverage, in the case of eligible qualifying small employers who employ an average of more than 10 employees but fewer than 26 employees on business days during the preceding calendar year; and

''(iii) 25 percent of the portion of the premium payable by the employer for the coverage, in the case of eligible qualifying small employers who employ an average of more than 25 employees but fewer than 51 employees on business days during the preceding calendar year.

''(C) EMPLOYERS ELIGIBLE FOR PREMIUM SUBSIDY.—A qualifying small employer is eligible under this subparagraph if such employer employed an average of fewer than 50 employees on business days during the preceding calendar year.

''(b) EMPLOYEE SUBSIDIES.—

''(1) IN GENERAL.—The Secretary shall provide subsidies to employees whose family income (as determined by the Secretary) is at or below 200 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section) for a family of the size involved.

''(2) AMOUNT OF SUBSIDY.—Such subsidies shall be in an amount equal to the excess of the portion of the total premium for coverage otherwise payable by the employee under this part for any period, over 5 percent of the family income (as determined under paragraph (1)(A)) of the employee for such period.

''(3) COORDINATION OF SUBSIDIES.—Notwithstanding paragraph (1), under regulations of the Secretary, an employee may be entitled to subsidies under this subsection for any period only if such employee is not eligible for subsidies for such period under any Federal or State health insurance subsidy program (including a program under title V, XIX, or XXI of the Social Security Act). For purposes of this paragraph, an employee is 'eligible' for a subsidy under a program if such employee is entitled to such subsidy or would, upon filing application therefore, be entitled to such subsidy.

''(4) AUTHORITY TO EXPAND ELIGIBILITY.—The Secretary may, to the extent of available funding, provide for expansion of the subsidy program under this subsection to employees whose family income (as defined by the Secretary) is at or below 300 percent of the poverty line (as determined under paragraph (1)).

''(c) PROCEDURES.—The Secretary shall establish by regulation applications, methods, and procedures for carrying out this section, including measures to ascertain or confirm levels of income.

''SEC. 806. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated, for the period beginning with fiscal year 2004 and ending with fiscal year 2014, $50,000,000,000 to carry out this part, including the establishment of subsidies under section 805.''.

(b) REPORT ON OFFERING NATIONAL HEALTH PLANS.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Labor shall report to Congress the Secretary's recommendations regarding the feasibility of offering national health plans under part 8 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as added by subsection (a).

(c) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

''PART 8—SMALL EMPLOYER HEALTH BENEFITS PROGRAM (SEHBP)

''Sec. 801. Establishment of program.
''Sec. 802. Contracts with qualifying insurers.
''Sec. 803. Additional conditions.
''Sec. 804. Dissemination of information.
''Sec. 805. Subsidies.
''Sec. 806. Authorization of appropriations.''.

Amend the title so as to read: ''A Bill to provide for the establishment in the Department of Labor of a Small Employer Health Benefits Program.''.

The SPEAKER pro tempore. Pursuant to House Resolution 283, the gentleman from Wisconsin (Mr. KIND) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. KIND).

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

Madam Speaker, we have had I think a very enlightening discussion so far today in regards to the real impact of these associated health plans, what they are potentially capable of doing and what the danger of them are. As the gentleman from New Jersey (Mr. ANDREWS) has been citing repeatedly, there is an objective study there indicating the potential impact if this legislation enacted of increasing the ranks of the uninsured throughout the country by an additional million people. That is heading in the wrong direction considering we have 41 million uninsured today, many of them, between 50 and 60 percent of that 41 million, working in small businesses throughout our Nation.

We have a serious issue that requires a serious response and a serious plan to provide some real relief for small business employers to their employees. These are people who wake up every morning. They go to work. They play by the rules. They are asking for basic health care coverage like their neighbors next to them.

Unfortunately, H.R. 660 pulls up a little bit short in a couple of respects. First of all, it creates a current two-tiered system exempting the health care plans from currently State-regulated requirements. These are decisions made by State legislatures reflecting community values in regards to what type of health care coverage is important for their citizens, for their communities, for the society at large. And what is being proposed now is exempting a whole category of health insurance plans from basic health coverage such as cancer screening, mammographies, prenatal care, maternity care, diabetes, autism coverage in some States, and for those whoever worked with autistic children understand the importance of treating autism is early recognition, early intervention, and a lot of times that will not occur unless there are health plans that provide such coverage, and if we do not intervene early in these children's lives, there are exponentially greater costs for society at large down the road.

We offer a substitute, which I believe addresses the challenge that we are facing as a Nation more honestly and more fairly. The Democratic alternative that I have worked on with the gentleman from New Jersey (Mr. ANDREWS) and others on the committee would provide direct assistance to small businesses and their employees, another shortcoming of H.R. 660. There is no incentive, there is no help financially to enable employers to provide this type of coverage for their employees. And everyone I know is familiar with the small business employer that is operating on the margin, oftentimes losing money rather than making money.

And if there is not some type of financial incentive that our substitute bill offers it is unlikely that they are going to be able to extend their health insurance coverage to their employees who currently do not have them.

What our substitute would do is it would direct the Department of Labor to establish a small employer health benefit plan similar to the Federal Employee Health Benefits Plan. Many of the Members of Congress here today are members of the Federal Employee Health Benefits Plan. I have not encountered too much criticism of the health plan that Members of Congress are receiving. I think small business owners and their employees should be given the same opportunity on an affordable basis. The program would contract with State license insurers to offer a minimum insurance package for all employees of businesses of fewer than 100 people. Small businesses would be eligible for a premium assistance under our plan as would employees earning below 200 percent of the poverty level.

This alternative has the potential of providing health insurance coverage to 33 million Americans who currently go without it today. The number stands in stark contrast to the estimated 550,000 that the Congressional Budget Office has calculated under H.R. 660.

Perhaps most importantly, our plan is paid for under the budget resolution that the majority party has passed earlier this year. It fits within the budget confines by providing these premium assistance to small business employers, and to those employees at 200 percent less of poverty, providing financial assistance and the financial means to actually access health plans and provide coverage for their employees. H.R. 660 does not provide any of those means.

What we may see under their budget resolution coming back at us shortly is some form of tax credit or some type of tax deduction, which is not going to help the numerous employees and small businesses operating at 200 percent or less poverty level, who are paying very little Federal income taxes in order to qualify for such credits, unless they are willing to extend that coverage to those employees. But wait a minute. We are right now engaged in a heated debate over a child tax credit on these very same principles; so it is doubtful that they are going to be able to provide that type of tax relief to employees who need it and cannot afford health plans generally.

I mean there is a reason why the National Governors Association, Republican and Democratic governors alike, are in opposition, why the State Attorney Generals Association is opposing, why the State legislatures throughout the country are opposing, why many consumer interest groups and health care providers are opposing H.R. 660, because they fear that the ultimate income will be expanding the ranks of

the uninsured rather than reducing that number.

I think we all have the best intentions in the plans that we are advocating here today to try to reverse course on the 41 million, to try to provide small businesses with an opportunity of providing some health care coverage for their employees, but we believe there is a right and there is a wrong way of doing it. We believe that the Democratic substitute being offered which does not preempt State law, which does provide some financial assistance, premium assistance for small employers, which is paid for under the budget resolution is the way to go if we are truly interested in reducing the number of the uninsured in this country, and thereby affecting the premiums that other health plans have to pay.

Because if the uninsured get sick or get hurt, they still go in, they still access, they still get care, but those costs are then shifted on to those plans that pay for it. Our plan would reduce the number of uninsured and thereby save costs and help reduce the premium increases that so many of our employers, large and small, are experiencing today. And with that, I encourage my colleagues to support the substitute. Vote no on the H.R. 660.

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

Mr. BOEHNER. Mr. Speaker, I am opposed to the gentleman's amendment and claim the time in opposition.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Ohio is recognized for 15 minutes.

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

Mr. Speaker, instead of embracing this bipartisan bill like many of their colleagues, some House Democrats have, instead, offered a substitute that is really no alternative at all.

Their plan does nothing to address one of the real issues that is really at the heart of this debate, and that is cost. In fact, it takes us exactly in the wrong direction of where we are trying to going, raising costs for small businesses and imposing with new mandates on employers. Instead of relying on competition that AHPs would provide, thereby lowering costs, their alternative could drive small employers out of business altogether.

Moreover, the substitute comes with a $50 billion price tag establishing a complex new Federal program that includes health care subsidies for certain small businesses and some workers who work in small businesses. It would establish a national Government-subsidized health care plan that attempts to model itself after the Federal Employee Health Benefits Plan, but instead imposes a new mandate such as requiring small employers to pay 50 percent of their premiums for employees.

However, unlike the Federal Employee Health Benefits Plan that is exempt from costly State mandates and regulations, coverage offered under this substitute would subject this plan to the more than 1,500 State mandates that make up about 15 percent of the rising cost of health insurance. In addition, in order to qualify, the substitute imposes new mandates on employer plans. For example, the substitute mandates that employers provide health care coverage to every employee who has been employed for at least 3 months.

In addition, it mandates that employers pay 50 percent of the cost of health care premiums for employees and that they cover all dependents of their workers. Well meaning, but in the end, these mandates will prohibit employers from proceeding. Self-employed individuals, however, are not covered by the substitute and would receive no benefits.

So let us make clear this fact. Small businesses today have the highest health care premiums of any other group. Premiums increased this year by at least 15 percent, the highest increase in a decade. And premiums are even higher for small businesses that see increases of 40 to 50 percent a year as employers continue to get out of small group activities and States. In fact, the increase in the uninsured this year, now 41 million Americans, was made up entirely of small business workers who lost their health care coverage because their employers could not afford to continue to provide this benefit.

So in answer to this, the substitute proposes to raise the cost to those small employers by adding new coverage requirements and subjecting it to more than 1,500 State mandates. And then we are going to spend $50 billion worth of Federal taxpayers' money to subsidize this coverage.

In contrast, AHPs use the strengths of the employer-based system that cover about 150 million American lives today, and we rely on the private market. The benefits of competition, the economies of scales that are enjoyed by large unions and large companies all across the country to help lower costs and to provide better coverage for their workers.

AHPs allow small businesses to access the benefits of ERISA that are currently offered to large employers and unions. ERISA exempts large employers and unions from State mandates so that they are able to offer a quality benefit package from one coast to another or in just several adjoining States.

□ 1515

This uniformity reduces the cost so that more of the health care dollar that they are spending can actually go to benefits for their employees, and the lowering of the administrative costs also allows these companies and unions to offer more benefits to their members.

Through ERISA, employers and unions are able to offer benefits that best fit the needs of their employees. Their small business counterparts deserve the same opportunity to craft benefit packages that are both high quality and affordable.

The substitute would offer employers a difficult Hobson's choice: Meet these conditions, which may strap a business to the point of going under; or face limited and costly alternatives to health care coverage; or they can just do what they do today, offer no health care coverage to their employees.

Instead of making it possible for small businesses to access more affordable coverage, their coverage options will actually be more expensive, and then we are going to finance it with higher taxes.

While AHP legislation would be implemented quickly, the Democrat substitute might take years to get up and running because we are going to require the Department of Labor to design this, then to figure out how they are going to sell it, and then figure out how they are going to parcel out the $50 billion. If the appropriation does not go through, then you have got a plan with no financing behind it at all.

So, let me make myself clear, if I have not already: I believe our Nation's employer-sponsored health care system is a huge American success story. Employers provide coverage for the vast majority of our Nation's population, and almost 150 million Americans have coverage through ERISA.

The Committee on Education and the Workforce and the Department of Labor through our oversight of ERISA have jurisdiction over employer-sponsored health care, and I support the employer-based system to address the problem of the uninsured.

However, the way that the substitute does that is not by building on our strengths to offer really good plans. The mandates in their bill will basically say to small employers, you either offer the best health care plan in the entire market that is possible to your employees, or you get no help at all.

I think the strengths of the current system are good, and I think building on those by allowing Association Healthcare Plans will, in fact, work.

This bill is being supported by our nation's small business associations. The NIFB, the National Retail Association, the National Association of Wholesale Distributors, the National Association of Homebuilders, the U.S. Chamber of Commerce and others strongly support this bill, and the same groups oppose the substitute that we have before us.

So I hope Members will join me in offering assistance to our Nation's small businesses by supporting the underlying bill, and I ask my colleagues to reject the substitute we have before us.

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

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

Mr. Speaker, this is modeled after the Federal employee health plan. I

never heard so much complaining about the Federal employee health plan before, which Members of Congress participate in. It is the classic case of the double standard yet again.

There are no new mandates. We respect State law. We do not preempt state law. Furthermore, their own Congressional Budget Office estimates that the Associated Health Plans will lead to higher insurance costs for 80 percent of small business employers and employees. Their legislation will impose a higher cost burden on small businesses throughout the country.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Rhode Island (Mr. LANGEVIN), someone who is concerned about the increase of 1 million more uninsured under H.R. 660 and also understands the importance of State health insurance coverage.

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

Mr. Speaker, I rise today in opposition to H.R. 660, the Small Business Health Fairness Act, and in support of the substitute.

As health care costs soar and small business owners struggle to offer health benefits, it is critical to increase incentives for them to cover their workers. However, it is equally important that the health plans available to these workers be high quality and not jeopardize the stability of the health insurance marketplace.

This legislation, as it is written, encourages the formation of federally certified Association Health Plans by exempting these plans from State laws that govern health insurance sold to small employers today.

For years, patients have been denied necessary care as a result of HMOs' exemption from State regulation. As long as I have been in Congress, we have struggled to pass a meaningful Patients' Bill of Rights to assert the rights of individuals to a more basic minimum of health care.

Creating more exemptions is contrary to our efforts to preserve and enhance the existing regulatory system. We must think creatively about how to make health insurance affordable for small business owners and employees without threatening the progress we have made in ensuring patients' protection.

In Rhode Island, we have experimented with the successful program called RIte Share, which has made it possible for workers eligible for the State's Medicaid program who have access to employer-sponsored insurance to participate in the employer's programs. This month, I will reintroduce the Making Health Care Available for Low Income Workers Act, which would support demonstration projects such as RIte Share.

As we look for innovative ways to provide health care to all, we must not sell small business owners and employees short. The National Small Business United opposes this legislation, as they recognize that it would ultimately have a detrimental impact on small employer premiums and would cause a significant number of small employers to drop coverage, thereby increasing the Nation's uninsured population and undermine the quality of available coverage.

To that end, I urge my colleagues to vote against H.R. 660 and for the substitute.

The SPEAKER pro tempore (Mr. SIMPSON). Does the gentleman from Texas (Mr. SAM JOHNSON) seek to control time for the opposition?

Mr. SAM JOHNSON of Texas. Yes, Mr. Speaker.

The SPEAKER pro tempore. Without objection, the gentleman from Texas (Mr. SAM JOHNSON) will control the time in opposition.

There was no objection.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. BALLENGER), a member of the Committee on Education and Workforce and a long-time Member of Congress and a small businessman.

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

Mr. Speaker, today we are going to hear a lot of discussion, important discussion, about over 40 million Americans who are uninsured. Very few people in Congress have actually had the experience of dealing with employees and their health insurance. Well, I have, with them and their dependents.

H.R. 660 will allow small business to pool their resources in Associated Health Plans, giving them healthcare purchasing power that they do not have today.

As one Member who is a small business owner, I know firsthand that ballooning costs are a major reason why so many Americans are uninsured. When the company I founded employed only 5 or 10 workers, I was at the mercy of the insurance companies. Small companies lack the bargaining power that is necessary to find the best deal, and the smaller the company, the worse it gets.

Like me, most employers care deeply about their employees and want to give them access to quality care. Unfortunately, skyrocketing costs have forced many of us to distribute health insurance costs to our employees, to drop health coverage or to close up shop altogether. And this is nothing short of a tragedy, not only for millions of uninsured or underinsured workers and their families, but also for employers who can no longer afford the high cost of health insurance.

Mr. Speaker, the problem is not going away. While AHPs may not cover every uninsured American, I know that it will help many Americans gain access to quality care.

Some Members of this Congress will only be satisfied with universal healthcare coverage. Let me just ask you, does small business want the U.S. Government as a partner? Well, not where I come from.

These Members argue that we are somehow misguided when we want to take a common sense approach toward any American access to quality healthcare insurance. Associated Health Plans will allow small businesses to pool their resources and increase their bargaining power with insurance companies. This will allow them to negotiate better rates and purchase quality healthcare at a lower cost. In essence, AHPs will put small business on equal footing with the large, self-insured companies and unions.

Mr. Speaker, it is good to talk about the plight of the uninsured, but let us do something to help them. Let us support AHPs.

Mr. KIND. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Ms. WOOLSEY), a very knowledgeable member of the Committee on Education and the Workforce.

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman for yielding me time, and I thank the gentleman from New Jersey (Mr. ANDREWS) for this substitute that we have here today.

Mr. Speaker, I rise in support of the Kind plan because it is actually kind to small businesses and it is kind to hard-working employees, and it makes affordable coverage accessible to the employees, the hard workers that need and deserve that coverage.

As a small business owner, I know firsthand how difficult it is to provide workers with first-class health coverage, but the reality is these hard-working families need access to quality healthcare, not just bare bones, expensive coverage. I would have appreciated the Kind plan for my employees, I can tell you that.

The Republican plan actually provides employers and employees with a false sense of security. It is a false security. They will assume they are paying for standard coverage, like the owner of the business has for his or her family. They will assume they are paying for mammograms, prenatal and postnatal coverage, coverage for illnesses like diabetes, and for prostate cancer, because these are generally State-mandated coverages. And when they find out differently after they have enrolled in one of these plans, it will be too late.

I support the Kind substitute, because it gives small businesses the option to enroll in a health plan that is similar to the Federal Employees Health Benefit Plan, giving workers a choice of plans. Why should the hard-working people of America, those employed by small businesses, have fewer options than Federal workers?

Mr. Speaker, the Kind substitute provides an affordable option to small businesses by granting subsidies. It gives them choices guaranteed to cover the most important medical procedures. This substitute provides working families, desperate for quality

health coverage, the choices they need and want, and I urge my colleagues to support the Kind substitute.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT), a member of the committee.

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

Mr. Speaker, I rise in strong opposition to the substitute to H.R. 660. The mandates contained in this substitute will drive up costs and defeat the very purpose of H.R. 660, which is to make healthcare insurance more affordable.

Talk to most business owners, small business owners, in my district, and they will say that the fastest growing cost to their businesses is rising health insurance premiums for their workers. Talk to other small business owners in my district, and they will say that they cannot afford to offer their workers healthcare coverage.

In fact, if you talk to any of the 41 million Americans who have no health insurance, 6 out of 10 of them will say they work for a small business. It is not that these small business employers, employees or owners do not want health insurance or do not realize its importance; they simply cannot afford it.

Health insurance is expensive, even if you work for a large company. Studies show health insurance costs rose by 14.7 percent in 2002, and others predict they will rise another 15 percent for 2003.

In large companies, health coverage costs are spread out over many employees, making coverage more affordable for each employee. However, when there are fewer employees, each must bear a higher share of the costs and the cost per worker for the employer is very high. Far too often, small businesses either cannot afford to offer insurance, or, if they offer it, it is too costly and their employees cannot afford it.

Let us give small businesses the same economies of scale that are enjoyed by large businesses. I urge my colleagues to vote against this substitute which would establish new mandates and turn the plan into a nationalized, government-subsidized health care plan.

I urge a yes vote for final passage of H.R. 660. Let us give more working Americans access to affordable, quality insurance coverage.

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

Mr. Speaker, let me quickly dispel a couple of myths. We have heard a couple of occasions new mandates are going to add costs to the employers.

First of all, there are no new mandates under the substitute. We merely respect State law. We do not require compliance. It is a voluntary program. If small business employers do not think it is a good financial deal for them, they do not have to join. There is nothing mandating their requirement.

We have also heard the word ''taxes'' being used, too. Let me reiterate, this is paid for in their own budget resolution. So there is no new taxes that we are talking about with respect to this substitute.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. ANDREWS), the coauthor of this alternative bill.

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

Mr. ANDREWS. Mr. Speaker, I would like to thank the gentleman from Wisconsin (Mr. KIND) for all the leadership he has shown on this, all the hard work he has done, and his usual, thoughtful approach to this problem.

□ 1530

Understand the desirability of the substitute versus the underlying bill. It would be helpful to think of a person who runs a tool and die shop with a dozen employees, or a cafe with 15 or 20 employees. Under the majority's Republican underlying bill, the most optimistic people believe there would be about a 15 percent premium savings for that employer. I think that is unduly optimistic, but let us give them the benefit of the doubt.

In my State, it costs about $6,000 to provide a health care package for an individual, and about $12,000 for family coverage. That means for that individual plan, the price would drop from $6,000 down to about $5,100. For the owner of that tool and die shop or that cafe, even if that price drop would occur, it is not nearly enough to afford the premiums that would be involved.

The majority's bill provides zero to the owner of that tool and die shop or that cafe to help them buy those premiums.

The substitute goes to the majority's budget resolution, identifies, as the majority did, $50 billion over 5 years, without any increase in taxes or revenues, as the gentleman from Wisconsin (Mr. KIND) just said, and uses that $50 billion creatively and wisely to provide subsidies to what we estimate would be 5 million employers and 16 million employees.

The person running the tool and die shop or the cafe, even if you are right, and we think you are wrong, meaning the majority, even if that person enjoys a reduction in premiums from $6,000 down to $5,100, it is not enough to increase coverage.

The plain fact is this: people who are employing people at the bottom of the wage ladder in low-margin businesses are not going to be able to afford the price of health insurance unless there is a significant subsidy. That is a fact. It is a fact the majority would choose to ignore, because the majority has taken over $2 trillion from the public Treasury that could be used to address the problem of 41 million uninsured people and flushed that money away. This substitute is an appropriate way to close that gap.

I also again want to reiterate that we believe you do not have to make this false choice between people being covered, as our various States would have them covered, with mammogram protection, with diabetes care, with prenatal and well-baby care. You do not have to make the choice between providing those vital benefits and no coverage at all.

The Mercer study shows that the underlying bill from the majority will result in an increase of 1 million people to the ranks of the uninsured. Eight million people, the CBO now tells us, will move from regular protected plans into these new unprotected, at-risk AHPs. We will get the worst of both worlds: eight million people for whom there is no guaranteed coverage against breast cancer, against diabetes, against the other diseases and conditions people worry about, and an increase in the number of uninsured.

The plan that the gentleman from Wisconsin (Mr. KIND) has taken the lead on would do the opposite. It will address the real needs of the owner of that tool and die shop and the real needs of the owner of that cafe by providing him or her with a meaningful subsidy that would help purchase health insurance benefits for his or her employees. There is a 5 million person difference when it comes to employers, a 16 million person difference when it comes to employees, and all the difference in the world when it comes to the approach here.

The plan the gentleman from Wisconsin (Mr. KIND) has put forward will work. It will work within the contours of the majority's own budget resolution. It provides real help and real aid to those who need it, not the empty promise of the majority's bill.

I urge our colleagues on both sides of the aisle to support the Kind substitute.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, I thank my good colleague for yielding me this time.

We have heard about these studies today; and the gentleman knows that is the study, or at least has heard me say that the study done by Mercer is very similar to the study done by the Congressional Budget Office, and they are both flawed. They are very flawed. They do not take into account the fact that we have anti-cherrypicking language in the bill, and they assume in their studies that cherrypicking would be allowed.

Secondly, they assume that there would not be any difference in the administrative fees for running the plan. The fact is that we have studies that show that up to 8 million of the uninsured would have access to affordable, quality health insurance.

Let me also point out exactly what our bill does. The gentleman from New Jersey just said in the State of New Jersey, for a single person to buy a

health insurance plan is about $6,000 and family coverage is about $12,000. The average cost for a large employer for the cost of their health insurance is about $3,300 for a single person and about $5,500 for a family.

Mr. ANDREWS. Mr. Speaker, would the gentleman yield?

Mr. BOEHNER. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Speaker, would the gentleman care to cite the source of that statistic?

Mr. BOEHNER. Mr. Speaker, I made some phone calls to find several plans that were both in the same area.

The fact is, that is exactly what this bill does. It allows small employers to band together to get themselves into a larger pool to design their own plan so that they can, in fact, offer better coverage at lower cost to their employees.

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

Mr. KIND. Mr. Speaker, I shudder to think we may be making major policy based on a few phone calls here today.

Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

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

I understand there are variations in plan costs around the country. I would once again say, however, that the most enthusiastic proponents of the AHP plan do not talk about a reduction of the magnitude that the chairman of the full committee just talked about; they talk, at best case, about a 15 or 16 percent premium reduction.

If you live in a market that has a $6,000-per-person premium, which I do, that is nowhere near a $2,700 reduction which the chairman's phone calls have uncovered.

Mr. BOEHNER. Mr. Speaker, would the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Speaker, the 15 percent reduction is only the reduction in the administrative costs of running the plan. When you begin to look at what pooling and larger pools will do, it brings the costs down significantly.

Mr. ANDREWS. Mr. Speaker, reclaiming my time, what premium benefit then would the chairman claim would result from this bill?

I yield to the chairman to tell us what premium benefit he predicts would result from the underlying bill.

Mr. BOEHNER. Mr. Speaker, we believe that the average reduction for a small employer would be somewhere between 15 and 30 percent.

Mr. ANDREWS. Fifteen and 30 percent. That is a new number for us, Mr. Speaker.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. MANZULLO), the chairman of the Committee on Small Business.

Mr. MANZULLO. Mr. Speaker, as the chairman of the Committee on Small Business, our Nation's small businessmen and -women tell me over and over that accessible and affordable health care is their number one priority. I have heard from thousands of small employers in America who have been pleading for options to help them manage their surging health care costs. In fact, so many letters came in, we put them into a binder called ''Health Care Horror Stories from America's Small Employers.'' The NFIB assisted us in putting this together for us.

The small business owners tell us regularly how they struggle to provide their workers with health insurance but, each year, they face double-digit increases. Small business owners tell me they do not know how much longer they can continue to provide health care for their employees. Mom and pop businesses tell me they want to provide health care for their employees, but they cannot because of the expense of the policy. My own brother who runs a family restaurant is drowning in the surging costs and the exorbitant costs of health care insurance. This is a family business. We know personally what it costs when you are little, when you have a very small pool. People like my brother Frank are horrified at the thought of not being able to have insurance.

As one of my small business constituents wrote, ''I have always wanted to take care of my employees and provide them with competitive benefits and wages, but each year it gets more and more difficult. Our health insurance costs were raised 43 percent last year and 34 percent this year.''

Another constituent: ''Health care costs and insurance are draining us. Last year we had a 14 percent increase, and now the costs are going up 21 percent again. I have nowhere else to go.''

So they go out of business because they cannot afford insurance.

Today we bring forward a great option, association health plans, to help control these outrageous costs. Of the 41 million Americans with no health insurance, 60 percent of these are small entrepreneurs, their families and their employees.

Why should the small businesses of this country not have the same right to band together as local labor unions do to purchase their insurance in large pools? That is all this is. It is just that simple. The more people you have in the pool, the cheaper the rates are for the insurance. It is a matter of equity. The little guys out there, the people that are struggling, why can they not have the same right, the same legal right to get together as labor unions? Why does there have to be a double standard, to allow labor unions to get together and do the smart thing, which they have been doing for 60 or 70 years, and using the union as the center post around which to buy their insurance, and allow associations as a center post around which to buy insurance for the small business people?

It is simply a matter of equity, it is a matter of fairness, and the biggest argument that we have here is this: the larger the pool, the lower the rate. There is not anybody here on the floor today or in this country that can dispute that fact. My brother is a pool of two, him and his wife, at the restaurant.

As the Chairman of the Small Business Committee, our nation's small business men and women tell me over and over that accessible and affordable health care is their number one priority.

I have heard from thousands of small employers in America who have been pleading for options to help them manage their surging health care costs.

Small business owners tell me regularly how they struggle to provide their workers health insurance, but each year they face double digit increases.

Small business owners tell me they don't know how much longer they can continue to provide health care for their employees because each year the premiums rise, their coverage decreases and out of pocket expenses soar.

''Mom and Pop'' businesses tell me how they want to provide healthcare for their employees, but they cannot because of the expense for a policy that covers less then ten people.

My own brother, who runs the family restaurant, is staggering at the exorbitant cost of health care insurance.

They are horrified at the thought of leaving their workers high and dry without health insurance.

As one of my small business constituents wrote, ''I've always wanted to take care of my employees and provide them with competitive benefits and wages, but each year it is getting more and more difficult. Our health insurance costs were raised 43 percent last year and 34 percent this year and there is nothing we can do about it.''

Another constituent writes, ''Health care costs and insurance are draining us. Last year, we had a 14 percent increase. Now, the costs are going up 21 percent again. I have nowhere to go.''

They are hopeless. Our entrepreneurs, whose ingenuity and hard work ethic have driven the American economy, have run out of options to battle this crisis. They need our help.

And today, we bring forward a great option—Association Health Plans—to help them control these outrageous costs and continue offering vital health insurance to their employees and their families.

Of the 41 million Americans with no health insurance, 60 percent are small entrepreneurs, their families and their employees.

One of the reasons small businesses cannot afford health coverage for their employees is that they are unable to achieve the economies of scale and purchasing power of larger corporations and unions.

Small businesses suffer from unequal treatment—what they want most is a level playing field when it comes to health care.

Large corporations and labor unions use the purchasing power of thousands of employees to offer affordable health insurance to their workers.

Small business owners have to find their insurance on an individual basis, making it very difficult and expensive to find affordable health coverage.

The premiums that small businesses pay for health insurance are typically 20–30 percent higher than those of large companies or unions which can self-insure.

Additionally, the administrative costs incurred by small businesses are likewise higher than those of large businesses; 25–27 percent versus 5–11 percent for large businesses.

Association Health Plans can provide hope to those who lack health care by expanding the pool of people and bringing down costs by 15 to 30 percent.

For small businesses, that savings can mean the difference between providing health care or not.

That savings can be the difference between profitability or losing money.

In March, I held a Small Business Committee hearing on this very topic.

The Washington State Farm Bureau testified to the success they have enjoyed operating an AHP for the last 3½ years.

Traditionally, farmers have had great difficulty buying health insurance because their business is usually made up entirely of their family.

Of those who have taken advantage of the Washington State Farm Bureau's AHP, 25 percent did not have health insurance prior to enrolling.

Additionally, the Washington State Farm Bureau AHP has operated with a 99 percent retention rate.

The proof is irrefutable. AHPs work.

I urge all of my colleagues to support H.R. 660.

Mr. KIND. Mr. Speaker, would the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from Wisconsin.

Mr. KIND. Mr. Speaker, with all due respect to the gentleman from Illinois, my good friend, that is why our substitute is much better. We have one comprehensive pool that small businesses can buy into if they choose, therefore leveraging their bargaining power.

Mr. MANZULLO. Mr. Speaker, reclaiming my time, that is a government-run pool with a government-run subsidy, and that will end up like every other government-run program: it will bankrupt the country, and the small businessperson will be at the end of it.

Try this. See if this works. This is so simple. If it works for the labor unions, why can it not work for Frank and Mary Ann Manzullo?

Mr. KIND. Mr. Speaker, would the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from Wisconsin.

Mr. KIND. Mr. Speaker, one of the strengths of the labor union is they are there representing the workers. They leverage the number of workers there, and they are representing their interests, and they oftentimes reduce wages in order to get a better health care plan.

The SPEAKER pro tempore (Mr. SIMPSON). The time of the gentleman from Illinois (Mr. MANZULLO) has expired.

Mr. KIND. Mr. Speaker, I yield such time as she may consume for the purposes of a colloquy to the gentlewoman from Minnesota (Ms. MCCOLLUM), a former State legislator and a colleague on the Committee on Education and the Workforce.

Ms. MCCOLLUM. Mr. Speaker, I just want to make sure that I understand clearly the benefits of the Kind amendment in contrast to the underlying bill that we will be asked to vote on later.

One of the concerns I had in committee, as the gentleman knows, was that gender discrimination by the coverage that can be allowed under the existing bill that we are going to be voting on would have a direct impact on women's health care coverage, especially during their reproductive years.

So I would like to know, under the Kind plan, is cervical cancer screening covered if States cover it?

Mr. KIND. Mr. Speaker, would the gentlewoman yield?

Ms. MCCOLLUM. I yield to the gentleman from Wisconsin.

Mr. KIND. Mr. Speaker, it would be, because we respect existing State law.

Ms. MCCOLLUM. Mr. Speaker, would contraceptive coverage be allowed for women under the Kind plan?

Mr. KIND. Again, it is not mandated unless the State offers that right now.

Ms. MCCOLLUM. If the State requires mammography screening, is that covered under the Kind amendment?

Mr. KIND. That would be covered.

Ms. MCCOLLUM. If a State requires maternity coverage so it is not the drive-through maternity coverage that we have heard about in past years, is that covered?

Mr. KIND. That would also be covered under our substitute.

Ms. MCCOLLUM. Is a minimum mastectomy stay also covered if States have that as part of their law?

Mr. KIND. That would be covered.

Ms. MCCOLLUM. Would a minimum maternity stay be covered?

Mr. KIND. That is right.

Ms. MCCOLLUM. So we have good reproductive health coverage for women while we are expecting. But also I found with many of the women I have spoken with, and their husbands too, they would like to make sure that women have access to gynecologists, sometimes as their primary care physicians, and many States allow this. Would the Kind amendment allow this to continue?

Mr. KIND. Yes, it would.

Ms. MCCOLLUM. And does the Kind amendment also allow for second automatic referrals if States allow for second opinions?

Mr. KIND. It would, indeed.

Ms. MCCOLLUM. Mr. Speaker, I thank the gentleman.

Mr. ANDREWS. Mr. Speaker, would the gentlewoman yield?

Ms. MCCOLLUM. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Speaker, and it is also true, is it not, like I said to my colleague from Minnesota, that in the underlying bill that the majority offered, that each one of those State protections that the gentlewoman just outlined would be invalidated?

Ms. MCCOLLUM. Mr. Speaker, reclaiming my time, that is totally correct. In fact, many of these I was directly involved in in the State of Minnesota, because we had families, women, mothers, husbands, brothers, aunts and uncles come and say that this was basic health care coverage that their mothers needed, that their grandmothers needed, that their nieces needed.

Mr. ANDREWS. Mr. Speaker, if the gentlewoman would further yield, what the gentlewoman is saying is that if the insurance industry chooses to keep these protections, it may; but if it chooses not to, the person who is covered under the plan does not get any of the coverage the gentlewoman just spoke of; is that correct?

Ms. MCCOLLUM. That is correct. And it is my understanding that insurance companies did not offer these coverages because they were, in their opinion, too expensive to cover, and that put gender discrimination at risk for women in their reproductive years.

□ 1545

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

Ms. MCCOLLUM. I yield to the gentleman from Wisconsin.

Mr. KIND. One other significant difference between our substitute and H.R. 660 is ours would have a uniform premium rate for all employees. Employees could not be discriminated against with higher premium rates because they happen to be sicker than their fellow employees in the workforce. Ours would establish a uniform insurance premium rate for them so there would not be that type of price discrimination against the sicker in our population.

Ms. MCCOLLUM. I thank the gentleman. I will be supporting the Kind amendment because if the gentleman from Wisconsin (Mr. KIND), and the gentleman from New Jersey (Mr. ANDREWS) and I all worked for the same employer, I would like to think that my basic health care coverage, including my reproductive health, would be covered.

The SPEAKER pro tempore (Mr. SIMPSON). Does the gentleman from Ohio (Mr. BOEHNER) wish to reclaim the time in opposition?

Mr. BOEHNER. I do, Mr. Speaker.

The SPEAKER pro tempore. Without objection, the gentlemen from Ohio will control the time in opposition.

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. ISAKSON), a member of our committee.

Mr. ISAKSON. Mr. Speaker, I have not had any time to make any phone calls. I did not read the think tank studies. I did, however, for 22 years prior to coming to Congress, manage a company. When we left, we had 220 employees covered by an ERISA-qualified

group medical insurance coverage. And their salaries was paid and my salary was paid by the proceeds of sales made by independent contractors of which 90 percent were women.

Under the independent contractor law and IRS requirements, we could not offer them group medical insurance and they had no ERISA protection. They were at the mercy of what was available.

Now, those 220 for whom we provided group medical insurance, I would have to resent the fact that the illusion was made that an employer who had that many women as a percentage of their workforce would not provide gynecological benefits and other reproductive benefits available to women. Of course you would.

Now what this bill does it does not preclude a mandated 48-hour stay any more than it precludes any other benefit. It offers the employer the option of offering it. It is true there is an exemption from the State requirement. It is untrue that it necessarily, on its face, takes that benefit away from a company.

Who in here would believe for a moment that an employer who wants to offer a benefit to his employees would take away the very benefit that is most important to those employees? Facts are stubborn things.

The fact of the matter is, 41 million Americans do not have health insurance. Now there are contributing reasons to that. But one of the main contributing reasons are those independent contractors, small business people, laborers, people who make the money that pay the taxes who have no accessibility to health insurance.

Now, I have lobbied on both sides about this and I care about this very deeply. I have a campaign staff right now and I am providing insurance to those few individuals I have employed because I know how important it is to have it, and I know how expensive it is to go out and get it on an individual basis, even though they are basically young. But understand this, this bill does not preclude a health care benefit for women that is mandated in State law from being offered.

It gives the choice for companies to put together a cafeteria-type of plan which may or may not include it, but do not sell those employers short that they would not offer a benefit that the very basis of their employees have to have.

Secondly, as I understand it, the cost of this is about $354 million in terms of CBO's estimate of H.R. 660 and $50 billion in terms of the substitute. I would say this, if we can make an investment that is $49,442,000,000 less expensive to offer insurance to 41 million Americans or a lot of them, we estimate 8 to 10, to provide benefits to give them health care that they do not have, then we should vote for the underlying bill. We should reject the substitute, and we should reject any false perception that this is taking away the integrity of a business in offering a qualified plan to their qualified employees.

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

Mr. ISAKSON. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Speaker, the gentleman referred to his ability to offer a package under ERISA to your 220 employees on the business you managed, but what about those 900 real estate agents that work as independent contractors for this company, who had to go out and fight on their own, day in and day out, to get a policy for themselves or for their family? And under this bill, if I am correct, the National Association of Realtors or the Georgia Realtor Association could offer a group plan to their real estate agents which would bring their costs down substantially.

Mr. ISAKSON. Mr. Speaker, the gentleman is absolutely correct, and if I may take the remainder of the time to tell the gentleman that in that exact scenario, since I could not offer those benefits because they were independent contractors, but because I cared very deeply about my independent contractors and the quality of life they had, I tried to scratch and find those.

What this bill does, it opens up an opportunity for employers who have independent contractors as their employees, to take the benefits of pooling and provide for those independent contractors the benefit that ERISA guarantees the opportunity to provide in terms of the employees that company has. This is an important step forward for 41 million Americans.

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

Mr. Speaker, again, we state that our substitute is fully paid for under the budget resolution, so we are not asking for new money. And with due respect to my friend from Georgia, we would hope a lot of employers would continue to offer the basic health care coverage that exists today. But the reason there were so many State battles throughout the country in State legislatures is because many of them were not. That is why these hard-fought battles need to be respected, and our substitute does.

Mr. Speaker, I yield 3 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

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

Mr. Speaker, I rise today in opposition to H.R. 660, and in support of the Democratic substitute. As a member of the Committee on Small Business, a physician and former small business owner, the issue of meeting the health care needs of the small business community is a priority for me and it is alarming that their employees represent 60 percent of our Nation's uninsured.

Whereas, I commend my colleagues on both sides of the aisle for their work in bringing legislation to the floor, I cannot support H.R. 660. The Congressional Budget Office estimates that AHPs could insure additional 330,000 Americans, but would drive up health care costs for the rest of the Nation to such an extent that 1 million presently insured Americans would be unable to afford coverage.

H.R. 660 would exempt AHPs from State insurance mandates regarding the coverage of such basic and life saving treatments as maternity care, emergency room visits, cancer screening and diabetes coverage, leaving it to individual plans to decide. More than 450 national and local organizations have joined in opposing Federal legislation that would allow associated health plans to operate without State oversight.

The American Diabetes Association has said it would be a disaster for people with diabetes. The American Nurses Association argued that by removing coverage for cost effective benefits such as well-child care, AHPs created by H.R. 660 could drive up the cost of health care. States have enacted safeguards to ensure that the health insurance plans offered to small employers and their families are fairly priced, cover a specific set of benefits, that they can not cherrypick.

Under the proposed legislation, small employers who have joint AHPs could lose these important safeguards. The Kind-Andrews Democrat substitute addresses these concerns. It would use the Federal Employee Health Benefits Program as a base benefit package without superseding State laws and regulations. Most importantly, the Kind-Andrews substitute offers incentives and subsidies to firms of fewer than 50 employees and provides premium subsidies for employees who are below 200 percent of poverty. The Kind-Andrews substitute would make a real difference in covering the uninsured while maintaining consumer, personal and professional rights.

This is a good approach and a far better bill that can really do a lot to cover more than half of the 41 million uninsured.

Mr. Speaker, I urge support for the Kind-Andrews substitute and urge a no vote on H.R. 660.

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

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

Mr. Speaker, I rise in opposition today to the substitute and in support of H.R. 660, the Small Business Health Fairness Act.

Of the more than 41 million Americans that are uninsured, almost 60 percent of those individuals are from families that are employed by small businesses that cannot afford to pay health benefits. We can no longer stand by as health insurance premiums for small businesses are increasing at double digit rates. Their choices of plans and benefits continue to decrease.

The passage of the Small Business Health Fairness Act would be an important step in providing access to affordable health insurance for millions of workers and their family, helping to stop the growing numbers of uninsured Americans. As a former small business owner for 13 years, I struggled with the skyrocketing costs of health care benefits. Employers, small business owners must decide whether to scale back or cut coverage altogether. By allowing businesses to join together in associated health plans, they will have the same opportunities that large businesses and unions have. Hard working Americans employed by small businesses deserve access to quality and affordable health care too.

Mr. Speaker, I would like to commend the gentleman from Ohio (Mr. BOEHNER), the gentleman from Illinois (Mr. MANZULLO) and the gentleman from Kentucky (Mr. FLETCHER) for their outstanding leadership, and as a small business owner, I urge my colleagues to support H.R. 660.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) has 8 minutes remaining. The gentleman from Wisconsin (Mr. KIND) has 5 minutes remaining.

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

Mr. BURGESS. Mr. Speaker, today the United States is confronted with an increasing number of Americans who are without health insurance. The Census Bureau estimates that 41.2 million Americans are without insurance and the numbers continue to rise.

Remarkably, the policy makers here in Washington have all too often made attempts to remedy this situation with convoluted policies that have just exacerbated this very serious problem.

The bill before us today, H.R. 660, will make great strides in addressing this problem by not imposing a top-down Washington-type solution, but instead giving small businesses in Flower Mound, Texas and cities and towns, as in all of our districts, the ability to make responsible health care coverage decisions for their employees.

H.R. 660 will make American families without health insurance and help small businesses struggling with the high cost of insurance for their employees. As the owner of a medical practice in Lewisville, Texas, I understand how difficult it can be to provide health care insurance to your employees. Only 10 percent of businesses with 50 or fewer employees offer their employees health care coverage. This number is low because group coverage for small businesses is costly and heavily regulated.

H.R. 660 will give retailers, wholesalers, printers, medical practices, churches and other businesses the ability to purchase health insurance through associated health plans by freeing them from restrictive mandates and maximizing their ability to spread risks across a large number of employees. I believe this bill will decrease the number of uninsured in the United States, but I am afraid that the best our friends on the other side of the aisle can come up with in the form of this substitute is a continuation of the Washington, D.C. style solution that does not trust small business owners with decisions about what is best for their employees.

The substitute places more mandates on small business and does nothing to increase access to health insurance. By stacking requirement on top of requirement, it is clear that they do not trust Americans to make their own health decisions.

Mr. Speaker, the Democratic substitute is just another in a long line of unrealistic health care reform proposals that they simply cannot relinquish. I urge my colleagues to vote against the substitute and vote in favor of passage of H.R. 660.

Mr. BOEHNER. Mr. Speaker, I yield 1 minute to the gentleman from South Bend, Indiana (Mr. CHOCOLA).

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

Mr. Speaker, before coming to Congress, I was a small business owner. Now that I am a member of Congress, I am on the Committee on Small Business. And not a day goes by that I do not hear from a constituent at home or someone talking to the Committee on Small Business that is a small business owner about the horrors of trying to provide health care to their employees.

We in government cannot make people successful. We cannot make businesses successful. But what we can do is create an environment that gives people and businesses the opportunity for success. In creating an environment where small business owners can join together with common interest on a nationwide basis and go out and provide health care for their employees to meet their particular employees needs, is exactly what we should be doing as Members of Congress.

□ 1600

I think that we have to pass this bill because the bottom line is that the people who have to live with the reality of providing health care for their employees will encounter lower costs and greater access to the health care coverage they wish to provide for their employees. So I urge my colleagues to vote in favor of H.R. 660 and against the substitute.

Mr. KIND. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MCCARTHY), a distinguished member of the Committee on Education and the Workforce.

Mrs. MCCARTHY of New York. Mr. Speaker, I thank my colleague from the Committee on Education and the Workforce for yielding me this time and for introducing this bill, because this substitute is actually the answer to what we are looking for, and it is also paid for.

Let me say what this amendment will do, the substitute. It provides small employees the same access to health benefits that Federal employees have. All small business employees and employers are offered coverage. It minimizes the adverse selection. ''The Secretary shall establish an initial open enrollment period and thereafter an annual enrollment period.'' It uses state-licensed insurers without preempting State laws.

For some reason, I thought basically, especially on the other side of the aisle, that we never wanted to preempt State laws.

This amendment provides a minimum benefit package similar to Federal employees. All participating insurers must offer benefits equal to or greater than the options offered to Federal employees. It also provides for affordable small employer premiums with premium assistance.

This is the answer to help our small businesses. And again I will say, on the main bill, when we have Republican and Democratic Governors throughout this country saying this is not the answer, when we have State attorneys general saying this is not the answer, and that this substitute is the answer, then I believe this can help our small businesses. We all want to do that.

So I would say to my colleagues here on the right, and certainly the right side and the left side of the aisle, that this substitute is the answer to what our Governors would like, certainly our State attorneys general would like. It would help the people and not take away the minimum health care benefits that we have been fighting for for gosh knows how many years.

I will stress again and again that the only reason that we have decent basic health care coverage in our States, 48 of them, is because they realized that was the way to go.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Georgia (Mr. GINGREY), a member of our committee.

Mr. GINGREY. Mr. Speaker, I rise in strong support of the Small Business Health Fairness Act, H.R. 660, and against the amendment.

By anybody's estimate, 41 million uninsured Americans is entirely too many, and the Bureau of the Census has estimated that over 60 percent of those uninsured Americans are employed. They are not unemployed. They are just working for small businesses, small employers that cannot afford to go into that small market and purchase health insurance, which is rising at least 14 percent a year. The AHPs, with a minimum pool of 1,000 or more employees, spreads the risk, and it gives them the opportunity to get that same volume discount that the Fortune 500 companies and the large labor unions enjoy.

But maybe the most important savings and the reason that the premiums are lower is that they are not bound now by each and every of the 50 States with their multiple mandates. The

other side wants to talk about how unfair it is that these plans could not include a routine screening mammogram or could not exclude the fact that some plans have so-called drive-through deliveries, and that patients might not be able to stay overnight when they had a radical mastectomy. Mr. Speaker, these plans that are being offered under ERISA protection have all of these provisions in them.

What we are talking about, and I know this as a physician member of the State legislature, and the demands to include one mandate after another, things like coverage or screening for chronic adult fatigue syndrome, or carpal tunnel syndrome, or a blood test for this or a blood test for that, pretty soon they will be requiring routine screening for fissle phosphate levels in everybody's blood. It just goes on and on and on, and it becomes absolutely ridiculous and prohibitively expensive.

So that is why we need this bill. That is why we need these AHPs. I think we will insure not 330,000 more people, but probably over 2 million.

Mr. KIND. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. HINOJOSA), a distinguished member of the Committee on Education and the Workforce.

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

Mr. HINOJOSA. Mr. Speaker, I rise today in strong opposition to H.R. 660, the Small Business Health Fairness Act. Like many of my colleagues, I have heard from numerous industry groups, health plans, medical associations, and, most importantly, my constituents on whether or not AHPs are the best solution to address the growing number of uninsured in our Nation. I am particularly concerned about finding workable solutions for small business employers.

Like many of my colleagues, my district in south Texas is built on the foundation of small businesses. They employ a large percentage of the workforce in the Rio Grande Valley. Most employers are faced with difficult choices on how to offer loyal employees the benefit they deserve or risk losing them to larger companies in larger cities. The high cost of health insurance is extremely burdensome for these small firms, and that is why we are here today.

H.R. 660 is a well-intended bill. Many of the 41 million Americans without health insurance are employed by small businesses. If Congress can find a way to help these employers provide health insurance for their workforce, we will be well on our way to reducing the number of uninsured in this country. But in my view, AHPs are not the way to do it. AHPs will offer minimal coverage, sufficient only for the young and the healthy. Our workforce will have none of the protections that State benefit mandates offer. They will have no assurance against fraud or premium inflation and no assurance that Federal oversight by the Department of Labor will even be conducive to fair handling of disputes. AHPs create an entirely new health care crisis, with 8.5 million newly underinsured Americans.

As a member of a heavily Hispanic border district, I am particularly concerned about what this will mean for the diagnosis and the treatment of diabetes, a disease that strikes many of my Hispanic constituents.

Mr. Speaker, over 11 million Americans have diagnosed diabetes, while another 6 million have diabetes but don't know it.

Diabetes hits minority populations especially hard. Untreated, this disease leads to end-stage renal failure, blindness, amputations and over 200,000 deaths annually. However, it has been demonstrated that appropriate use of diabetes medications, equipment, supplies, and education can dramatically reduce the incidence and impact of complications associated with diabetes. President Bush surely knew this when he was Governor of Texas and signed into law the diabetes coverage mandated currently in effect in Texas.

My principal concern is that the AHP legislation before us today preempts the State benefit mandates in Texas and 45 other States, your home States, for coverage of diabetes supplies and education. The amendment that the gentleman from Michigan, Mr. KILDEE and I offered, unsuccessfully, in committee would have corrected this dangerous omission. We also tried, again without success, to have the amendment made in order during floor consideration.

By refusing to include a requirement that AHPs adhere to State coverage laws associated with diabetes, we will be leaving millions of people with diabetes to fend for themselves. It is not a matter of cost effectiveness; it is a matter of right and wrong.

Mr. Speaker, the Democratic substitute offers small business employers and their workers a fair alternative. It establishes a small employer health benefit plan with minimum coverage similar to the Blue Cross/Blue Shield standard plan.

I urge my colleagues to support the Kind-Andrews substitute, and if that substitute is defeated, to vote against H.R. 660.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Texas (Mr. SAM JOHNSON), the chairman of the Subcommittee on Employer-Employee Relations, the gentleman who shepherded this bill through our committee.

(Mr. SAM JOHNSON of Texas asked and was given permission to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise in opposition to this amendment. We have been hearing all day that it is going to create all this stuff, and it is not going to create anything. Our bill allows for anything to be covered, and it will all be covered.

This amendment creates an incredibly complex $50 billion government-run program. The program sets up brand-new health care subsidies, but only for certain small businesses and some workers. Unlike the Federal employee plan, the new program would be subject to thousands of State mandates. As we have heard time and again, those mandates make up at least 15 percent of the rising cost of health insurance.

Now, here is the real kicker. In order to qualify for the subsidy, employers are required to pay at least 50 percent of the cost for the care of their employees. The Democrat substitute will raise health care costs for small employers and then spend $50 billion to subsidize it.

AHPs are going to give everybody the ability to obtain insurance. Mr. Speaker, I urge rejection of this substitute.

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

Mr. Speaker, this is a very important debate that we are having today. Just to correct one of the things just stated by the previous speaker, the Department of Labor, just like H.R. 660, would be in charge of administering the substitute plan that we have before us today. They would actually contract with state-licensed insurers to offer basic insurance plans.

The significant difference, though, is that we are asking everyone to play on a level playing field, to respect States' rights, and to not have Federal preemption. Because for those who believe in the free market system, which I think most of us do, it can only work if everyone is playing by the same rules instead of trying to establish a two-tier system. And that, I believe, is going to be the best hope we have, through price competition, of keeping a check on rising premium costs.

There has been a lot of citing of statistics throughout the afternoon, a lot from the Congressional Budget Office, and so I will provide for the RECORD a letter from the Congressional Budget Office stating their analysis of H.R. 660.

Mr. Speaker, I would encourage our colleagues, in conclusion, to support the substitute, one that does provide an opportunity for more small employers to provide health care coverage to their employees, one that respects State law, one that provides some premium assistance so they can afford it. I encourage support of the substitute and a ''no'' vote on H.R. 660.

Mr. Speaker, the letter referred to above is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 18, 2003.

Hon. GEORGE MILLER,
Senior Democratic Member, Committee on Education and the Workforce, House of Representatives, Washington, DC.

DEAR CONGRESSMAN: This letter responds to your request of June 17, 2003, for additional information on CBO's estimate of the impact of H.R. 660 on enrollment in the health insurance markets for small employers and self-employed workers. We expect that the effects of the bill would be fully reflected in those markets by 2008, and all of the following numbers refer to that year.

Under current law, CBO estimates that approximately 30.1 million people will be enrolled in health insurance offered by plans in the state-regulated small group insurance

market. Under the bill, CBO estimates that combined enrollment in state-regulated plans and association health plans (AHPs) would rise by about 550,000 people to a total of 30.7 million people. Of this, approximately 23.2 million people would retain coverage in the state-regulated market. About 7.5 million people would be enrolled in AHPs, including the additional 550,000 people who would not have been covered by any small-employer plan under current law, and 6.9 million people who would have been covered in the state-regulated market.

The same consideration apply to self-employed people. We estimate that approximately 4.7 million people will be enrolled in state-regulated coverage purchased by self-employed workers under current law. Under H.R. 660, CBO estimates that combined enrollment through state-regulated insurers and AHPs would rise by about 70,000 people to 4.8 million people. Of this, approximately 3.8 million people would retain state-regulated coverage. About 1.0 million people would obtain coverage through AHPs, including the additional 70,000 people who would not have been insured under current law, and 0.9 million people who would have been covered in the state-regulated market.

If you would like additional information on this estimate, the CBO staff contact is Stuart Hagen, who can be reached at 225–2644.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

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

Mr. Speaker, we have 41 million Americans who do not have health insurance. As I said before, Congress has been talking about this for a decade. And while the underlying bill will not solve the entire problem, it will help in addressing the needs of the uninsured.

As we heard before, some 60 percent either work for or have a dependent who works for a business, and so they have jobs. We are not talking about the poor here, because the poor get covered by Medicaid. We are talking about people who go to work every day, but they happen to work in an industry that maybe does not traditionally cover health insurance, or they work for a small employer who just cannot afford it because they are locked in a small State insurance pool.

We know what the cost of health insurance and these increases do. It creates more uninsured. In the Wall Street Journal today, CALPERS, the country's largest health plan, is set to increase premiums on an average of 17 percent for the next year, a 17 percent increase from the largest health care plan in the country. It is time that we step up and take action.

The underlying bill will in fact help small businesses create more coverage for more people. Small businesses. And who are small businesses? How about the dry cleaner down the street or the convenience store? How about the farmers in America today who have to go fend for themselves as an individual in the marketplace? They may be by themselves, maybe just family coverage. How about the real estate agents we talked about before, independent contractors, and others who may be self-employed that have to go fight to get insurance in very small risk pools in many States? If we allow them to come together with large State associations, national associations, and to group themselves, they can have real coverage for a much more reasonable cost.

This is the right thing to do today, to help those who pay high premiums; and it is also the right thing to do to help those who have no insurance at all. Those plans that are out there covered under ERISA are the Cadillac of plans in the country. Why not let small employers have the same advantage.

The SPEAKER pro tempore (Mr. SIMPSON). All time for debate on the amendment has expired.

Pursuant to House Resolution 283, the previous question is ordered on the bill and on the amendment offered by the gentleman from Wisconsin (Mr. KIND).

The question is on the amendment in the nature of a substitute offered by the gentleman from Wisconsin (Mr. KIND).

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

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

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 183, nays 238, answered ''present'' 1, not voting 12, as follows:

[Roll No. 294]

YEAS—183

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardoza
Clay
Clyburn
Cooper
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gordon
Green (TX)
Grijalva
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—238

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gonzalez
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Stearns
Sullivan
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Velazquez
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

ANSWERED ''PRESENT''—1

Baird

NOT VOTING—12

Carson (IN)	Gingrey	Smith (NJ)
Conyers	Gutierrez	Smith (WA)
Costello	Hastings (FL)	Souder
Gephardt	Neal (MA)	Tiahrt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1632

Messrs. OSE, BLUNT, NEUGEBAUER and OXLEY changed their vote from ''yea'' to ''nay.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. GINGREY. Mr. Speaker, on rollcall No. 294, the voting machine did not properly record my vote. I would have voted ''nay.''

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 MRS. MCCARTHY OF NEW YORK

Mrs. MCCARTHY of New York. Mr. Speaker, I offer a motion to recommit.

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

Mrs. MCCARTHY of New York. Yes, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. MCCARTHY of New York moves to recommit the bill H.R. 660 to the Committee on Education and the Workforce with instructions to report the same back to the House forthwith with the following amendment:

Page 14, insert after line 17 the following:

''(e) PROTECTION OF EXISTING GROUP HEALTH PLAN COVERAGE.—

''(1) IN GENERAL.—The requirements of this section are not met with respect to an association health plan if—

''(A) during the 1-year period preceding the date of the enactment of the Small Business Health Fairness Act of 2003, any participating employer of the plan maintained another group health plan providing a type of coverage described in paragraph (2), and

''(B) such association health plan does not provide such type of coverage.

''(2) TYPES OF COVERAGE.—A type of coverage is described in this paragraph if it consists of—

''(A) coverage for breast cancer screening and tests recommended by a physician,

''(B) coverage for the expenses of pregnancy and childbirth,

''(C) coverage for well child care, or

''(D) direct access to those obstetric or gynecological services which are provided by the plan.

''(3) PREDECESSORS AND CONTROLLED GROUPS.—For purposes of this subsection, a predecessor of an employer or any member of the employer's controlled group shall be treated as the employer. For purposes of this paragraph, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.''

Mrs. MCCARTHY of New York (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 New York?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes in support of her motion.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield myself 2 minutes.

I rise in strong support for the motion to recommit. This motion will prohibit employers from joining association health plans if it allows for a reduction in coverage for breast cancer services. A vote against this motion and for the bill will allow employers that already cover basic mammograms to drop this coverage.

Mr. Speaker, a reduction in health insurance in any form is a reduction in health care. It is just that simple. States know that without guaranteeing basic health care, patients will not get the services they desperately need. They will only seek help under extreme circumstances, requiring more expensive medical treatment for their disease, putting their lives and the lives of their children at risk.

According to the American Cancer Society, over 211,000 new cases of breast cancer will be diagnosed in the United States this year alone. Two thousand of those cases will be in my State. Breast cancer is potentially fatal, but early detection through mammogram screenings is the key to proper treatment of this disease. Timely screening could prevent approximately 15 percent to 30 percent of all deaths from breast cancer among women over the age of 40. Currently, New York and 47 other States require insurance companies to cover mammogram screenings. However, under this bill, associated health plans would be exempt from having to provide this critical benefit in these 48 States. This motion would at least present a reduction of health care services to those who already have this important benefit.

As a nurse, I cannot believe this House, after hearing from cancer survivors for years about the need for treatments and screenings to beat this deadly disease, is now going to be rolling back these patient protections.

Today before you vote, truly realize a vote against this motion to recommit will harm millions of patients across this country.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Mr. Speaker, I am proud to join my colleagues today in offering a motion to recommit to protect the coverage that women and children currently have today. This motion simply states that associated health plans cannot stop coverage for well-child visits, maternity or other types of visits that are vital to women's and children's health care. Children deserve a healthy start in life. Coverage to promote healthy children is required in Minnesota and 30 other States. This coverage ensures that children have regular visits to pediatricians to get immunizations and preventive care. Why would we not want to protect our children?

This coverage is particularly important because getting a good start in life can prevent avoidable illnesses, identify serious disabilities, and reduce future health care costs. We have all seen the importance of childhood immunizations. For example, today polio has been eradicated because of the determination and commitment our country had to immunize children when they were young. Regular doctor visits for newborns is absolutely critical. Thirty-three children are born every day with severe hearing loss. If caught early enough through preventive doctor visits, this screening can make a difference. It can make a difference in their lives and a difference in the money spent on special education.

This motion ensures that families who currently have well-child visits and maternity coverage will not lose it tomorrow. We should be ensuring access to quality, comprehensive health care for our Nation's working families and not rolling back basic coverage. I urge my colleagues to support the motion to recommit.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield 30 seconds to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, few health services are as important to a woman as an annual mammogram. Early detection is necessary as a weapon in our fight against breast cancer. Breast cancer has already touched far too many families. I simply cannot accept the idea of even one woman in any of our districts forgoing her annual mammogram and then later being diagnosed with advanced breast cancer because her association health plan does not cover mammograms.

Support this motion to recommit. Help save the lives of our wives, mothers, daughters, and sisters. The women of this country are counting on your vote.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield the balance of my time to the gentleman from New Jersey (Mr. ANDREWS).

The SPEAKER pro tempore. The gentleman from New Jersey is recognized for 1 minute.

Mr. ANDREWS. Mr. Speaker, if the underlying bill becomes law, 4 million American women who presently are guaranteed breast cancer care will only have it if the insurance companies they move to decide to let them have it. We can change that by voting ''yes'' on this motion to recommit. The question is simple: Do we want our mothers and our sisters and our daughters and our

wives to rely upon the whims of the insurance industry or the power of our votes? If you want to guarantee that this care goes forward, the only way to do it is to vote ''yes'' on the motion of the gentlewoman from New York. I urge a ''yes'' vote.

Mr. BOEHNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Ohio is recognized for 5 minutes.

Mr. BOEHNER. Mr. Speaker, the underlying bill seeks to address the needs of 41 million Americans who have no health insurance. What the motion to recommit does is essentially mandate coverage on association health care plans. If you have no health insurance, a mandate will do you no good. What we seek to do with the underlying bill is to cover more people. Sixty percent of the people who are uninsured either work in a small business or have a relative that works in a small business. What we are trying to do here is level the playing field so that small businesses can buy health insurance for their employees just like large companies and unions can do today.

Under ERISA, there are but several small mandates. We do not mandate every coverage. But if you ask employees of large companies and you ask employees and members of large unions, they will tell you that they have the best health care plans in America. These large plans in our country have great benefits. They cover virtually all the illnesses and all the diseases that are there. But they are allowed to design one benefit issue for each of these mandates that covers all 50 States. It may not read the same in every particular State. What we are trying to do with the underlying bill is to give small businesses the same advantage in the marketplace that big businesses have today.

I would urge my colleagues at this hour, reject the motion to recommit and vote for the final passage of this bill.

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

There was no objection.

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

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

RECORDED VOTE

Mrs. MCCARTHY of New York. 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 final passage.

The vote was taken by electronic device, and there were—ayes 192, noes 230, not voting 12, as follows:

[Roll No. 295]

AYES—192

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Clay
Clyburn
Cooper
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—230

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Velazquez
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Carson (IN)
Conyers
Costello
Cox
Gephardt
Hastings (FL)
Johnson, E. B.
Neal (MA)
Ney
Smith (NJ)
Smith (WA)
Tiahrt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1700

Mr. DOOLEY of California changed his vote from ''aye'' to ''no.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. NEY. Mr. Speaker, on June 19, 2003, I was unable to be present for rollcall vote 295 on H.R. 660, the Small Business Health Fairness Act of 2003 due to important business in the Subcommittee on Housing and Community Opportunity, which I chair. Had I been present I would have voted "no" on rollcall vote No. 295.

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

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

RECORDED VOTE

Mr. ANDREWS. 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 262, noes 162, not voting 11, as follows:

[Roll No. 296]

AYES—262

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCarthy (MO)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (TX)
Snyder
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Velazquez
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOES—162

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Clay
Clyburn
Crowley
Cummings
Davis (CA)
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gordon
Green (TX)
Grijalva
Gutierrez
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Jackson (IL)
Jefferson
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
Meehan
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Norwood
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Roybal-Allard
Ruppersberger
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOT VOTING—11

Carson (IN)
Conyers
Costello
Gephardt
Hastings (FL)
Johnson, E. B.
McNulty
Neal (MA)
Smith (NJ)
Smith (WA)
Tiahrt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1707

Mr. RUSH 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.

PERSONAL EXPLANATION

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, on rollcall No. 295, had I been present on the Motion to Recommit, I would vote ''aye''; on the next rollcall, No. 296—final passage—I would vote ''no''.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT MONDAY, JUNE 23, 2003, TO FILE PRIVILEGED REPORT ON DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2004

Mr. ROGERS of Kentucky. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight Monday, June 23, 2003, to file a privileged report making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 1 of rule XXI, points of order are reserved.

STRENGTHEN AMERICORPS PROGRAM ACT

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1276) to improve the manner in which the Corporation for National and Community Service approves, and records obligations relating to national service positions, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1276

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 ''Strengthen AmeriCorps Program Act''.

SEC. 2. PROCESS OF APPROVAL OF NATIONAL SERVICE POSITIONS.

(a) DEFINITIONS.—In this Act, the terms ''approved national service position'' and ''Corporation'' have the meanings given the terms in section 101 of the National and Community Service Act of 1990 (42 U.S.C. 12511).

(b) TIMING AND RECORDING REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding subtitles C and D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq., 12601 et seq.), and any other provision of law, in approving a position as an approved national service position, the Corporation—

(A) shall approve the position at the time the Corporation—

(i) enters into an enforceable agreement with an individual participant to serve in a program carried out under subtitle E of title I of that Act (42 U.S.C. 12611 et seq.) or title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.); or

(ii) except as provided in clause (i), awards a grant to (or enters into a contract or cooperative agreement with) an entity to carry out a program for which such a position may be approved under section 123 of the National and Community Service Act of 1990 (42 U.S.C. 12573); and

(B) shall record as an obligation an estimate of the net present value of the national service educational award associated with the position, based on a formula that takes into consideration historical rates of enrollment in such a program, and of earning and using national service educational awards for such a program.

(2) FORMULA.—In determining the formula described in paragraph (1)(B), the Corporation shall consult with the Director of the Congressional Budget Office.

(3) CERTIFICATION REPORT.—The Chief Executive Officer of the Corporation shall annually prepare and submit to Congress a report that contains a certification that the Corporation is in compliance with the requirements of paragraph (1).

(4) APPROVAL.—The requirements of this subsection shall apply to each approved national service position that the Corporation approves—

(A) during fiscal year 2003 (before or after the date of enactment of this Act); and

(B) during any subsequent fiscal year.

(c) RESERVE ACCOUNT.—

(1) ESTABLISHMENT AND CONTENTS.—

(A) ESTABLISHMENT.—Notwithstanding subtitles C and D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq., 12601 et seq.), and any other provision of law, within the National Service Trust established under section 145 of the National and Community Service Act of 1990 (42 U.S.C. 12601), the Corporation shall establish a reserve account.

(B) CONTENTS.—To ensure the availability of adequate funds to support the awards of approved national service positions for each fiscal year, the Corporation shall place in the account—

(i) during fiscal year 2003, a portion of the funds that were appropriated for fiscal year 2003 or a previous fiscal year under section 501(a)(2) (42 U.S.C. 12681(a)(2)), were made available to carry out subtitle C or D of title I of that Act, and remain available; and

(ii) during fiscal year 2004 or a subsequent fiscal year, a portion of the funds that were appropriated for that fiscal year under section 501(a)(2) and were made available to carry out subtitle C or D of title I of that Act.

(2) OBLIGATION.—The Corporation shall not obligate the funds in the reserve account until the Corporation—

(A) determines that the funds will not be needed for the payment of national service educational awards associated with previously approved national service positions; or

(B) obligates the funds for the payment of such awards for such previously approved national service positions.

(d) AUDITS.—The accounts of the Corporation relating to the appropriated funds for approved national service positions, and the records demonstrating the manner in which the Corporation has recorded estimates described in subsection (b)(1)(B) as obligations, shall be audited annually by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States in accordance with generally accepted auditing standards. A report containing the results of each such independent audit shall be included in the annual report required by subsection (b)(3).

(e) AVAILABILITY OF AMOUNTS.—Except as provided in subsection (c), all amounts included in the National Service Trust under paragraphs (1), (2), and (3) of section 145(a) of the National and Community Service Act of 1990 (42 U.S.C. 12601(a)) shall be available for payments of national service educational awards under section 148 of that Act (42 U.S.C. 12604). The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING AMENDMENT PROCESS FOR CONSIDERATION OF H.R. 2471, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004

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

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet the week of June 23 to grant a rule which could limit the amendment process for floor consideration of H.R. 2417, the Intelligence Authorization Act for Fiscal Year 2004. The Permanent Select Committee on Intelligence filed its report in the House yesterday, June 18, 2003.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules in Room H–312 of the Capitol by 10 a.m. on Tuesday, June 24.

Members should draft their amendments to the text of the bill as reported by the Permanent Select Committee on Intelligence.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

LEGISLATIVE PROGRAM

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

Mr. HOYER. Mr. Speaker, I take this time for the purpose of inquiring of the majority leader the schedule for the House.

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

Mr. HOYER. Mr. Speaker, I will be glad to yield to the majority leader for the purposes of informing us of the proposed schedule for next week.

Mr. DELAY. Mr. Speaker, I thank the gentleman from Maryland for yielding to me.

Mr. Speaker, the House will convene on Monday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of those bills will be sent to Members' offices by the end of this week. Any votes called on these measures will be rolled until 6:30 p.m. Monday.

For Tuesday and the balance of the week, we will consider several additional measures under suspension of the rules. We will also consider the fiscal year 2004 Homeland Security appropriations bill; the Intelligence Authorization Act for Fiscal Year 2004; H.R. 1, the Medicare Prescription Drug and Modernization Act; and the Fiscal Year 2004 Military Construction Appropriations bill; and, finally, we may consider H.R. 2351, the Health Savings Account Availability Act.

I thank the gentleman for yielding, and I am happy to answer any questions he may have.

Mr. HOYER. I thank the gentleman for providing us with that information. The leader points out that the Medicare prescription drug bill will be on the floor.

First I would like to know, Mr. Leader, if you know which day of the week or days of the week can we expect to see the Medicare prescription drug bill on the floor?

Mr. DELAY. If the gentleman will yield, I would anticipate that the Medicare bill would probably come later in the week. I cannot give the gentleman a firm time, but I would anticipate either late Wednesday or certainly no later than Thursday.

Mr. HOYER. It would be the intention of the leader to have this bill finished prior to the end of next week?

Mr. DELAY. We anticipate to finish that bill. I know it is a big, complicated measure, but it would be our intention to finish that before we broke for the July 4th district work period.

Mr. HOYER. Reclaiming my time, Mr. Leader, obviously this will be one of the most important bills that we consider during this session of the Congress of the United States, and I would ask if it is the gentleman's intention and the leadership on your side's intention to provide a rule which will allow the minority to offer such amendments as it deems to be appropriate, to offer a substitute that it deems to be appropriate, and to provide sufficient time to debate those amendments?

I yield further to the gentleman from Texas.

Mr. DELAY. I appreciate the gentleman yielding further.

As the gentleman knows, this gentleman is very hesitant to speak for the Committee on Rules, but we do understand how important the Medicare Modernization Act is, how important it is to the seniors of this country, and we would give the minority every consideration to provide a substitute.

Mr. HOYER. Reclaiming my time, we appreciate the fact that the gentleman will be, I am not sure I heard you, you will be giving us a substitute or you will consider giving us a substitute. I am not sure I understood.

Mr. DELAY. If the gentleman will yield, it concerned me when the gentleman said ''what the minority deems as a substitute.'' Obviously we need to look at all of these things individually and considerations need to be made.

For instance, one consideration is, is the substitute within the bounds of the Budget Act and the budget rules of this House? That may not be the qualifying issue, but that is one example of issues that we consider.

The bill marked up, at least, in the Committee on Ways and Means, I know the Committee on Energy and Commerce has not finished yet, but the bill

marked up by the Committee on Ways and Means fits within the budget rules of the House.

So we have to look at everything on its own merits and make that decision, and the Committee on Rules will make that decision.

Mr. HOYER. Reclaiming my time, Mr. Leader, we understand that, but everybody on this floor, every Member, perhaps not the American public, but every Member knows that the majority, when it needs a waiver of the rules to present something on the floor that it wants to present, waives those rules.

□ 1715

So when I said something that the minority wants to offer, I meant that, very frankly, if the democratic process is going to operate openly and effectively so that there can be different alternatives considered, alternatives that we believe are appropriate, as well as, obviously, the majority can present the alternatives it deems to be appropriate. Clearly, if one fashions a bill so that the alternative we believe is appropriate is not consistent with those rules and will not give us a waiver, you effectively have precluded us from offering that substitute or those amendments. I mentioned the substitute, but I also would hope that there would be a willingness to make in order numerous amendments from the minority side of the House.

As I have pointed out, Mr. Leader, we represent approximately 140 million Americans on this side; you represent approximately 150 million Americans. That is pretty close. The Americans who sent us here obviously would want to see their alternatives considered by the full House. And if they are rejected, so be it. But I would urge the leader, particularly on a bill as important as this, as controversial as this, having such ramifications to 40 million Americans on Medicare, that you would be, you and the Speaker and the whip on your side, would urge the gentleman from California (Mr. DREIER) and the Committee on Rules to be as broad in their approval of alternatives as they could be.

I see the gentleman from California (Mr. DREIER) is on the floor. I carry around with me, as he knows, quotes. I do not know how many people carry around quotes of the gentleman from California, but I carry around quotes of the gentleman from California in my pocket. From time to time I bring them out. He made the point as a minority Member that a Member ought to be given the ability to offer alternatives; and if they lose, they lose. But in a democratic institution that prides itself on being the people's House, all of the people's representatives ought to be given an option to offer their alternatives.

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

Mr. HOYER. I yield to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank the gentleman for yielding, and I appreciate the fact that my friend from Maryland has again raised this issue.

I will tell the gentleman that the Committee on Rules is anxiously looking forward to considering the measures that will emerge from both the Committee on Energy and Commerce and the Committee on Ways and Means as we deal with this extremely important issue. The American people have spoken very clearly. They want us to put into place, and the President very much wants to have, a package which will provide access to affordable, quality prescriptions for seniors. We want to do this in a way that will allow for a wide range of issues to be considered. And I know that based on the 8 hours that was expended by all of the members of the Committee on Ways and Means, through their markup, that many proposals were offered there, and I know that this process is an ongoing one. I will assure my friend that the Committee on Rules will deliberate, and we will make a determination as to exactly what it is that we will move forward with.

The distinguished majority leader just talked about the fact that we will hope that measures will fall within the guidelines of the $400 billion that was allocated in the budget over a 10-year period to deal with prescription drugs; and when the majority leader was talking about that, I know that what we are looking at will be something that will fall within the strictures that were put forth in the budget, and that is all that the majority leader was indicating. His hope is that if a substitute is submitted that it will fall within those guidelines.

The gentleman from Maryland is correct when he refers to the fact that the Committee on Rules does have the power to provide waivers. And waivers are often provided to the minority just as they are to the majority as well, for amendments, for substitutes. So I just want to assure my friend that we plan, as we take this up next week, to take this issue very seriously, as we do all others; and we will take whatever requests that the minority makes into consideration as we deliberate.

I thank the gentleman for yielding.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments. As we all know, the Committee on Rules is the least representative committee in terms of distribution of numbers, and that was true when we were in charge, so I understand that. It is not a criticism. That is the way the Committee on Rules is run. It is an agent, if you will, of the majority. It is how the majority runs the House.

We are not deluded on our side, anymore than you were when you were in the minority, deluded to the fact that you would be able to make an impact in committee. So very frankly, taking under consideration seriously our request is interesting and we are appreciative that you will take it under consideration.

But more basically than that, the gentleman has sole authority to do it. You can do it any way you want. We understand that. But our expectation is that on a bill of this magnitude and importance, that we will be allowed not only to offer a substitute, but amendments.

I will tell the gentleman that we understand the strictures of the Republican budget and, by the way, our budget, both of which have close numbers, we had $528 billion and I think you had $5 billion in terms of a number of items in your budget. But the fact is, we understand those strictures. And if those are the only strictures which we are confronted with, we will work within those restraints.

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

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

Mr. DREIER. Mr. Speaker, I thank my friend for yielding.

I would simply say that it is true that the Committee on Rules has traditionally had this 9 to 4 ratio, and we continued another tradition that we learned when you were in the majority of maintaining that.

My point is very simply that we will take this issue very seriously. The Committee on Rules has yet to act. No decisions have been made. I think that it is important for us to underscore that. I know that there will be members of the minority who will come before the committee who will offer proposals, and we will look forward to hearing about those proposals, and then we will deliberate on it. I thank the gentleman for yielding.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his representation. Let me, reclaiming my time, make another observation.

In times past, the defense bill being, for instance, the authorization bill which we passed very quickly a few weeks ago, we had spent 6 days, 7 days on that piece of legislation. This legislation is going to have an extraordinary impact on millions of Americans, and we would hope that there would be sufficient time to debate the bill and, again, substitutes and amendments, so that we could fully air its ramifications to those millions of people, and to Medicare itself.

Obviously, there are different points of view on how to get to where we all want to get, or at least most of us want to get. I think there is a substantial difference on whether or not we want to see a program in a viable, ongoing, healthy Medicare, or whether or not Medicare is eliminated or shrunk very substantially and the private sector is in charge of whether or not to offer such benefits. That is a significant policy difference between us, I think; and it needs to be debated.

So not only would I urge that we be given the amendments and substitutes that we seek, but also the time to develop those amendments and positions

on those amendments, as it is appropriate for the American public to understand the perspectives of the parties and of the individuals offering amendments.

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

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

Mr. DREIER. Mr. Speaker, I thank the gentleman for yielding. Just one clarification. I do not know of any Member of this House who has offered a proposal that would eliminate Medicare. I do not believe that either committee will be moving a proposal that would eliminate Medicare.

Our goal is a very clear and simple one: it is to make the Medicare program as efficient as we possibly can to ensure that our seniors have the best quality health care and access to affordable prescription drugs. So I just wanted to make it clear that I do not know of any proposal to eliminate Medicare.

Mr. HOYER. Mr. Speaker, reclaiming my time, I appreciate that. I think we have made our point. I do hope that the chairman, although we may differ on intents, but in any event, I think the gentleman is absolutely correct, nobody has introduced something like that. Nobody has been so bold as to introduce a specific proposal, although many have been bold enough to discuss that objective and result, I say to my friend from California. Some have been that bold to discuss that result, if not introducing such a bill.

Mr. Speaker, I thank the chairman of the Committee on Rules.

On the appropriation bills, again, this is a concern that we have, because we have heard some discussions, Mr. Leader, about having restrained rules for appropriations. As the gentleman knows, more often than not, when we were in the majority, we brought many appropriation bills to the floor without a rule. As the gentleman knows, under the rules, appropriation bills do not need a rule.

Can the gentleman tell me what the majority contemplates for appropriation bills as they come to the floor and the rules that they may be coming to the floor under?

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

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, as the gentleman knows and has stated, we do have a tradition of having open rules for consideration of appropriations measures. I do not know what discussions the gentleman is referring to. This side has had no discussions that I am aware of about what the rules would look like on appropriations. I would hope that we would continue the tradition of open rules on appropriations; but obviously, we do have to look at all of these bills on a case-by-case basis.

Mr. HOYER. Mr. Speaker, reclaiming my time, I appreciate the gentleman's assertion of what we have done in the past and that he hopes we can continue to do that.

The intelligence authorization, when does the gentleman believe that that would be coming up? I yield to the gentleman.

Mr. DELAY. Mr. Speaker, I am advised that it is quite possible that the intelligence reauthorization bill would come on Tuesday or Wednesday.

Mr. HOYER. Mr. Speaker, I saw a grimace, and I thought I would give time for communication between the people who know what is going on like our staff here and the gentleman and myself.

Mr. DELAY. Mr. Speaker, if the gentleman will yield, the source of my intelligence says it is probably Wednesday.

Mr. HOYER. Okay. Fine.

The MSA bill. When does the gentleman expect that? We are trying to get sort of the flow of bills so we can be prepared. The Medicare bill we assume is going to come late Wednesday and Thursday, and then these other bills will come earlier. The MSA bill, when does the gentleman think that will come?

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

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, the Health Savings Accountability Act we would hope to get to sometime next week, but this is a bill that is just being marked up, I think today; and we do have a very ambitious schedule for next week, and we just wanted to warn the Members that the Health Savings Accountability Act could very well be brought up, if we can find time next week to do so. But the other list of major pieces of legislation will take priority over that, and we hope to get to it; but I really cannot say what day we might get to it.

Mr. HOYER. I thank the leader.

Now, Mr. Leader, one of the things I was very concerned about in hearing the schedule, it has now been just short of 7 days that we passed the child tax credit legislation that many of us have expressed real concern about. We went to conference that same day, as the gentleman knows.

Can the gentleman tell me whether or not the conference is meeting? Can the gentleman tell me whether we expect to consider a conference report so that prior to July the 6.5 million families and the 12 million children that were left out when it came out of conference might be helped? Can the gentleman tell me whether or not there is either the conference proceeding or whether or not there is any expectation that we will take a conference report up on the floor next week prior to going home for the July 4th break? I yield to the gentleman.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding; and as the gentleman knows, we are very excited about extending the $1,000 per child tax credit beyond 2005, to extend it to 2010. Rather than leaving out refundable tax credits, those that are getting refundable tax credits will continue to get them. They just will not get the full $1,000 unless we are able to pass this bill.

□ 1730

And we are also very excited about the fact that the House put many tax provisions tax relief for our military and military families. And we are very excited about the fact that we gave some tax relief to those families that lost their loved ones in the shuttle accident. So we are very interested in getting this bill done as quickly as possible.

I am sure the gentleman knows that the other body just went to conference yesterday and, therefore, we are discussing how we can do this conference and, hopefully, do it before the Fourth of July district work period. However, the other body also is very much engaged in the debate over their Medicare bill, which ties up their finance committee and ties up those Members that would be serving on the conference committee. So we are trying to work that out, and we hope that we can call a conference and come to some sort of agreement on this bill and have it out before the Fourth of July.

Mr. HOYER. I thank the gentleman for that information. I also thank him for his excitement and because he is so excited about passing this, I want to tell him, and I say this very seriously on behalf of our leader, the gentlewoman from California (Ms. PELOSI) and myself, we are prepared to give you unanimous consent to take the Senate bill from the desk, put it on the floor and pass it by unanimous consent. We were excited about it, too. But much more than being excited about it, we think it is an essential act of fairness to assist some of the neediest working tax-paying families in America who were left on the cutting room floor when it came out of conference. And if you share, as I think you do, or at least you express that excitement and enthusiasm for accomplishing that objective, we may not be able to accomplish everything. But we can accomplish some things. And we ought not to have everything fail or some things fail because we could not do everything.

And I say very sincerely to the leader, on our side, we are prepared to give unanimous consent on Monday night, Tuesday, Wednesday, Thursday or Friday or Saturday or as long as we want to stay here next week for the purposes of passing that, so those families who were included but cut out in the conference would be included and would participate in the advantages under the tax bill that has already been signed by the President.

Mr. DELAY. I greatly appreciate the gentleman's generous offer, but I remind the gentleman that that Senate bill has nothing on it that would give tax relief to our fighting men and

women and their families. And that particular provision passed this House and has been sitting over in the Senate for a very, very long time. It is a provision that had huge support in this House. And along with giving working families their $1,000 per child tax credit and extending it to 2004, rather than what the gentleman is suggesting, allowing it to go away in 2005, giving the working families that you have such concern for only 2 years of benefits, we think they ought to get the benefits permanently, but if we cannot get it permanently, we would like those benefits to be until 2010.

So if we just take up the Senate bill, they may enjoy it for 1 or 2 years, but then it goes away in 2005. We think they ought to be able to count on it until 2010, and we think military families ought to have the tax relief they deserve.

Mr. HOYER. I will tell you, Mr. Leader, very seriously that these 6½ million families, these 12 million children will, frankly, not understand that the perfect of what you just spoke was the enemy of the extraordinarily good, which is included in the Senate bill. And I will tell the gentleman further, during the Senate bill, unlike the bill that we passed in the House, the men and women in combat who fall within the income constraints which were covered in the Senate bill were not covered in the House bill. And while we certainly agree with you on helping all of the military who qualify, we certainly believe that the folks in combat whose combat pay is now counted against them for qualifications under this bill, would be helped by the Senate bill. So I think we could help the men and women in combat first.

And I will tell you also, Mr. Leader, we are prepared to offer unanimous consent for a companion know bill as we pass the Senate bill to fix the problem or address the problem of which you have spoken with reference to the military. But we ought not to, Mr. Leader, with all due sincerity, if we are excited, if we believe this is an important thing to do, if you wanted to make it permanent, you could have done so, of course, you did not make it permanent. You did it 5 more years than we did it. We were in the constraints of the Senate bill.

We would like to make it permanent as well. However, what we would not like to do is have July come and there be no relief for these families which is going to happen if the perfect, if the objective of doing everything defeats us in doing something.

Mr. DELAY. I just cannot let the gentleman get away by scaring working families in this country by saying they will get no relief. That is entirely untrue.

In the bill that we passed and signed by the President in 2001, it gave these working families refundable tax credits. It just did not, what we are discussing is accelerating 2 years up to this year and giving them an additional $400 from this, in addition to the $600 that they are already receiving. So to say that they get no relief, I think, is just untrue. And to say that the military families are not covered by the bill passed by this House is also untrue, because military families are covered by the bill passed by this House and is presently in conference.

Mr. HOYER. Well, the bill passed, I think we disagree on some of the information, Mr. Leader, that you have just said. I do not think you are accurate on some of that information, but be that as it may.

Mr. DELAY. If the gentleman will yield, I am not accurate that since 2001 working families have been receiving refundable tax credit?

Mr. HOYER. The gentleman is accurate on that. As you know, in the Senate bill, we increased from 10 to 15 percent the credit that would be available to them. That was dropped, as you know, in the conference.

Mr. DELAY. Were they not to receive that 15 percent starting in 2005?

Mr. HOYER. That is correct.

Mr. DELAY. And we were talking about accelerating the 15 percent to 2003?

Mr. HOYER. That is correct.

Mr. DELAY. Which is in the House bill sitting in conference right now.

Mr. HOYER. The House bill has not been taken up, Mr. Leader. It is very nice to say and, reclaiming my time, that it is in the House bill. It is permanent in the House bill. We do a lot of things in the House bill. On our side, we did not believe the House bill was going to be taken up, and we said that, which is why we said we ought to take up the Senate bill and pass it and do something, even though we were not doing everything, and we still maintain that position. And as I am reminded, and I would remind the leader, this House voted to instruct the conferees to take the Senate bill.

So we are simply giving unanimous consent to do what the House has already voted on that same day last Thursday to do, and that is, pass the Senate bill. That is what we instructed the conferees to do. So it is not as if we are asking for something that the House has not voted on to do and to accelerate the passage of this legislation so we can help these families.

Mr. DELAY. Will the gentleman yield? The gentleman is correct. The motion instructed the House to accept the Senate bill in a small margin in doing that. Unfortunately, the Senate does not agree with our motion to instruct. And as the gentleman knows, it is not binding anyway. The Senate decided to go to conference. They could have and they decided to work out the differences between the House and the Senate, and those conferees will be meeting hopefully next week and produce a bill that will give much needed relief to families in this country.

Mr. HOYER. Reclaiming my time, Mr. Leader, I hope we are not going to give people the impression that a body that passed a bill 94 to 2 would not agree to us passing their bill because, frankly, I do not think that is the case.

I understand what you are saying, and I understand that they have been told you are not going to take the Senate bill; and, therefore, they need to go to conference. So they are bowing to practicality. What I am saying is we ought to bow to needs and to practicality and pass the bill. And I am saying to you that we can give you and will give you unanimous consent to do exactly that so that these folks can get that which they will not get, and that is, the additional payment which was provided for in the conference but not reported out of the conference, and, therefore, we are going to leave 200,000 armed services personnel not advantaged as others were in the bill.

We are going to leave 6½ million families with 12 million children not advantaged, as was the intent of the Senate, and I think most of the House.

ADJOURNMENT TO MONDAY, JUNE 23, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday next for morning hour debates.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON RESOURCES

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Resources:

HOUSE OF REPRESENTATIVES,
June 19, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House,
Washington, DC.

DEAR MR. SPEAKER: I hereby resign from the Committee on Resources.

I appreciate the opportunity to serve you and Chairman POMBO.

Sincerely,

ADAM H. PUTNAM,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. TERRY. Mr. Speaker, I offer a resolution (H. Res. 284) and 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. 284

Resolved, That the following Members be and are hereby elected to the following standing committees of the House of Representatives:

Committee on Agriculture: Mr. Neugebaurer.

Committee on Resources: Mr. Neugebaurer.

Committee on Science: Mr. Neugebaurer.

Committee on Small Business: Mr. McCotter.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid upon the table.

RECOGNIZING THE CONTRIBUTIONS LOU GEHRIG AND HIS LEGACY HAVE MADE IN THE FIGHT AGAINST ALS

Mr. TERRY. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the resolution (H. Res. 278) recognizing the contributions Lou Gehrig and his legacy have made in the fight against Amyotrophic Lateral Sclerosis, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

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

Mr. ENGEL. Mr. Speaker, reserving the right to object, I do not intend to object, but I would like to speak from the well so I can stand here with a picture of Lou Gehrig of the New York Yankees.

Today is the 100th birthday of Lou Gehrig, and I am proud to rise today in favor of my resolution H. Res. 78 which celebrates Lou Gehrig's 100th birthday.

Lou Gehrig was born on June 19, 1903, 100 years ago today. He lived a storied life which ended tragically at the hands of a disease that still carries his name, Lou Gehrig's Disease, known as Amyotrophic Lateral Sclerosis or ALS. It is a devastating condition and a testament to Lou Gehrig's courage in the face of this horrible affliction.

In my own family, my grandmother, my father's mother, also died of the same disease and literally thousands upon thousands of Americans are suffering with this ALS disease.

Today there are celebrations in New York in honor of Lou Gehrig, most notably at Yankee Stadium in the Bronx, where I am from, this afternoon. The ALS Association is remembering Lou Gehrig; today is Lou Gehrig Day at Yankee Stadium, the Iron Horse, that was his nickname, and is raising greater awareness about the disease. The ALS Association is committed to greater awareness about those suffering with ALS and the sacrifices of their loved ones who require the intense care these patients require.

Approximately 30,000 individuals in the United States are afflicted with ALS with about 5,000 new cases appearing each year. ALS destroys the lives of its victims and their families, leaving patients unable to walk, eat or even talk.

□ 1745

The life expectancy of an individual with ALS is only 3 to 5 years from the time of diagnosis. I have had many sufferers of ALS come into my office very courageously to talk about this affliction.

There is no known cure or cause for ALS. Research has given birth to new aggressive treatments for the symptoms of ALS that can extend the lives of patients. Recent advances in ALS research have produced promising leads into neurodegenerative diseases, and it is imperative that this important work continues. Furthermore, the sequencing of the Human Genome holds great promise in the search for cures for many diseases, including ALS.

My resolution honors Lou Gehrig and the contributions his legacy has made in the fight against this terrible disease. It also recognizes the efforts of the ALS Association in raising awareness, pursuing research, and providing support for ALS patients and their families. ALS patients exhibit incredible courage in their fight against this disease, and this resolution commends them for that and affirms the support of Congress for continued research into better treatments and a cure for ALS.

Mr. Speaker, perhaps there was no greater act of courage than when Lou Gehrig gave his farewell speech before the Yankee faithful at Yankee Stadium who were not ready to let him go. I want to read that famous speech into the RECORD. We all know it, where he said he considered himself the luckiest man on the face of the earth. He said: ''Fans, for the past two weeks you have been reading about the bad break I got. Yet today, I consider myself the luckiest man on the face of the earth. I have been in ballparks for 17 years and have never received anything but kindness and encouragement from you fans.

''Look at these grand men. Which of you wouldn't consider it the highlight of his career just to associate with them for even one day? Sure I'm lucky. Who wouldn't consider it an honor to have known Jacob Ruppert? Also, the builder of baseball's greatest empire, Ed Barrow? To have spent six years with that wonderful little fellow, Miller Huggins? Then to have spent the next nine years with that outstanding leader, that smart student of psychology, the best manager in baseball today, Joe McCarthy.

''Sure I'm lucky. When the New York Giants, a team you would give your right arm to beat, and vice versa, sends you gifts, that's something. When everybody down to the groundkeepers and those boys in white coats remember you with trophies, that's something. When you have a wonderful mother-in-law who takes sides with you in squabbles with her own daughter, that's something. When you have a father and a mother who work all their lives so you can have an education and build your body, it's a blessing. When you have a wife who has been a tower of strength and shown more courage than you dreamed existed, that's the finest I know. So I close in saying that I may have had a tough break, but I have an awful lot to live for.''

Now, Mr. Speaker, I will close by saying that we must do all we can to find a cure for a disease that still ravages the lives of its victims. I am proud that our colleagues in the House of Representatives are honoring a true hero in Lou Gehrig and affirming its commitment to overcoming the scourge of ALS for Lou Gehrig and every person who has fought this terrible disease.

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

Mr. ENGEL. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Nebraska.

Mr. TERRY. Mr. Speaker, I thank my friend from the Bronx, and a Yankee fan, for yielding to me.

''Today, I am the luckiest man on the face of the earth.'' That one Yankee phrase immortalizes and is synonymous with courage, and that is why I am proud to stand with my friend from the Bronx and rise in support of his resolution, House Resolution 278. It is brought to the floor on June 19, 2003, the 100th birthday of Lou Gehrig, baseball's original ''Iron Horse,'' and perhaps the greatest, or one of the greatest to ever play the game. As my friend from New York knows, I am a bit of a baseball fan myself, having named two of my children Noland and Ryan.

Now, more importantly, this resolution recognizes the contribution that Gehrig and his legacy have made in the fight against ALS, the disease that claimed Lou Gehrig's life at age 37, and the disease that is named after him.

So what is Lou Gehrig's disease? Quite simply, ALS is the slow but steady deterioration of nerve cells in the brain and in the spinal cord. When these motor neurons can no longer send impulses to the muscles, the muscles begin to waste away causing increased muscle weakness. As the disease reaches its advanced stages, its victims struggle to even breathe and swallow. There is no cure for ALS.

Every day, an average of 15 people are newly diagnosed with ALS. Approximately one out of 800 male deaths and 1 out of 1,200 female deaths in the United States are due to ALS. More

people die every year of ALS than Huntington's Disease or multiple sclerosis.

One of the more frightening aspects of this disease is its unpredictability. It can arise in a family that has never had ALS throughout its generations. It is truly an equal opportunity disease, with no racial, ethnic, or socioeconomic boundaries. All of us are threatened by this disease.

This country has devoted substantial resources to finding a cure for ALS. Last year alone, the National Institutes of Health spent nearly $35 million on ALS research. However, while this is a significant amount of money, it pales in comparison to the amount we spend on other diseases.

Recent advances in genetics and technology have created new opportunities for the study and treatment of this terrible disease, but more can be done. This resolution recognizes that fact while providing the House of Representatives an opportunity to pay tribute to one of America's greatest heroes and human beings, Lou Gehrig.

Mr. ENGEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Is there objection to the request of the gentleman from Nebraska?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 278

Whereas Amyotrophic Lateral Sclerosis (hereinafter in this resolution referred to as ''ALS'') is a progressive neuromuscular disease characterized by a degeneration of nerve cells of the brain and spinal cord leading to the wasting of muscles, paralysis, and eventual death;

Whereas approximately 30,000 individuals in the United States are afflicted with ALS, with approximately 5,000 new cases each year;

Whereas the life expectancy of an individual with ALS is three to five years from the time of diagnosis;

Whereas there is no known cause or cure for ALS;

Whereas aggressive treatment of the symptoms of ALS can extend the lives of individuals with the disease;

Whereas recent advances in ALS research have produced promising leads related to shared disease processes that appear to operate in many neurodegenerative diseases;

Whereas, on June 19, 1903, New York Yankee baseball legend Henry Louis (Lou) Gehrig was born in New York City;

Whereas, on June 19, 2003, The ALS Association will help America celebrate what would have been Lou's 100th birthday, honoring his magnificent baseball career and his unwavering courage as he faced the deadly disease that would carry his name; and

Whereas The ALS Association Greater New York Chapter will celebrate Lou Gehrig's 100th birthday at Yankee Stadium on June 19, 2003, by honoring the life and legacy of Lou Gehrig through a pre-game home plate ceremony, and these activities will help bring greater awareness to the disease, Amyotrophic Lateral Sclerosis: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the celebration of Lou Gehrig's 100th birthday and commends the contributions he and his legacy have made in the search for better treatments and a cure for ALS;

(2) acknowledges the struggle of the thousands of individuals battling ALS everyday and their courage in facing this debilitating disease;

(3) supports cutting-edge research to find a cure for ALS; and

(4) applauds the efforts of all organizations, including The ALS Association, in their endeavors to raise awareness about the disease, support research initiatives, and assist those suffering with ALS and their families in the challenges of coping with this terrible affliction.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONGRATULATING THE SAN ANTONIO SPURS FOR WINNING THE 2003 NBA CHAMPIONSHIP

Mr. CARTER. Mr. Speaker, I ask unanimous consent that the Committee on Government Reform be discharged from further consideration of the resolution (H. Res. 279) congratulating the San Antonio Spurs for winning the 2003 NBA championship, and ask for immediate consideration.

The Clerk read the title of the resolution.

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

Mr. GONZALEZ. Mr. Speaker, reserving the right to object, I would be happy to yield to my colleague, the gentleman from San Antonio, Texas (Mr. SMITH), for an explanation of the resolution.

Mr. SMITH of Texas. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Texas.

Mr. SMITH of Texas. Mr. Speaker, I thank my colleague from San Antonio for yielding to me.

Mr. Speaker, first of all I would like to read the resolution congratulating the San Antonio spurs for winning the 2003 NBA Championship.

Whereas, on June 15, 2003, the San Antonio Spurs won the National Basketball Association's Championship best-of-seven series with an 88–77 victory over the New Jersey Nets;

Whereas the Spurs' victory over the Nets is their second NBA championship in 5 years;

Whereas this year's Spurs-Nets Finals is the first time two former American Basketball Association teams have played for the NBA Championship;

Whereas 7-foot center David Robinson joined the Spurs in 1987, and Tim Duncan joined the team in 1997;

Whereas last night's match-up was the final game of David Robinson's 14-year career, and his 13 points, 17 rebounds, and two blocked shots will be remembered as his best performance of the season;

Whereas Tim Duncan's triple-double, 21 points, 20 rebounds, and 10 assists, and his eight blocked shots will be remembered as one of the greatest individual efforts in finals history;

Whereas Tim Duncan won the regular season Most Valuable Player award for the second consecutive year, and he was named the Finals Most Valuable Player following the Spurs victory;

Whereas spurs head coach Gregg Popovich was recognized as the NBA Coach of the Year for the 2002–2003 season;

Resolved that the House of Representatives congratulates the San Antonio Spurs and Coach of the Year Gregg Popovich for an unforgettable season of basketball excellence and for winning the 2003 National Basketball Association Championship.

Mr. Speaker, this year's NBA champions, the San Antonio Spurs, showed America their determination and their character. They never gave in and they never gave up, and that is why they are champions today.

Owner Peter Holt, Coach Gregg Popovich, and the Spurs' players provided the City of San Antonio with an unforgettable season of basketball excellence that will be remembered for years. They deserve the thanks of our grateful city.

Mr. Speaker, I want to take this opportunity to say a few words about Spurs Center David Robinson. It is fitting that he close his storybook career as an NBA champion. Few players represent their teams and their cities with such class and dignity. We all agree that David Robinson achieved greatness on the basketball court, but what is less known to the general public is that David Robinson is a man who cares deeply about the City of San Antonio and the education of our children.

Through the David Robinson Foundation, he donated $9 million toward the construction and operation of the Carver Academy, a school on the east side of San Antonio that opened its doors in 2001. David Robinson serves as the school's chairman. This donation is believed to be the largest ever made by a professional athlete.

Named for George Washington Carver, the school serves elementary-aged students from a culturally diverse community. The core curriculum focuses on excellence in reading and language arts, social studies, math, science, technology, fine arts, athletics, and foreign languages including German, Japanese, and Spanish.

David's community involvement is extensive. At Spurs' home games he reserves special seats for underprivileged families. He has contributed to the homeless, children's charities, and hurricane victims. In 1991, he promised 94 fifth graders at San Antonio's Gates Elementary School a $2,000 college scholarship if they finished high school. Well, in 1998, 50 students graduated at the ceremony that was attended by Robinson himself.

In 1992, Robinson and his wife Valerie started their foundation, which supports programs that address the physical and spiritual needs of the family. He said their goal is ''To build a foundation for future generations. We want

to make these children the heroes of tomorrow by teaching them principles of integrity, discipline and faith.''

Fittingly, David Robinson has been described as the Goliath of Giving. Every community in America needs a David Robinson. San Antonio has been blessed by his generosity, thoughtfulness and compassion.

Mr. Speaker, David Robinson's extraordinary ability will be missed on the basketball court, but it is off the court where his work continues to give others the opportunity to seek a better and brighter future.

Again, Mr. Speaker, I thank the gentleman from Texas (Mr. GONZALEZ), my colleague from San Antonio, for yielding to me.

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

Mr. GONZALEZ. I am happy to yield to the chairman for a few words regarding this particular resolution and the Spurs.

Mr. CARTER. Mr. Speaker, I thank the gentleman for yielding to me, and I rise today in support of House Resolution 279 introduced by the gentleman from my home State of Texas (Mr. SMITH).

This resolution congratulates the San Antonio Spurs, again the champions of the National Basketball Association. On Sunday night, the Spurs defeated the New Jersey Nets 88 to 77 in game six of the NBA Finals to win their second championship in the last 5 years. The city of San Antonio and the entire State of Texas is celebrating the Spurs great victory on the high stage of basketball.

Mr. Speaker, this San Antonio Spurs team is truly one for the ages. Beyond being their second title in recent years, this is a team full of superstars, both on and off the court. The Spurs feature the greatest player in the NBA today, two-time reigning Most Valuable Player of the league, Tim Duncan.

Duncan capped off his final performance on Sunday night with a near-quadruple-double. He scored 21 points, grabbed 20 rebounds, handed out 10 assists, and blocked eight shots during one of his most outstanding performances of the season.

□ 1800

After the game on Sunday night, Duncan was deservedly awarded the finals' Most Valuable Player trophy. After being the number one pick in the NBA draft in 1997, Tim Duncan's first 6 years have been extraordinary, and I commend his efforts.

The accolades extend to the Spurs' outstanding head coach, Gregg Popovich, who earned this season's NBA Coach of the Year award. Coach Popovich won his second well-deserved NBA title on Sunday, and I congratulate him for this momentous accomplishment. I am concerned that Coach Popovich may be underappreciated across the country, but I can assure this House that the people of San Antonio and the fans of the Spurs know that Gregg Popovich is a great coach.

The Spurs also feature such outstanding standouts as Tony Parker, Stephen Jackson, Bruce Bowen, Manu Ginobili, veterans Kevin Willis and Steve Kerr, among many other players. But I want to particularly recognize another great Spurs player who has been one of the NBA's very best ambassadors over the last decade. David Robinson played his last game in the NBA on Sunday, finishing with 13 points and 17 rebounds. This very strong effort completed a 14-year career, over which Mr. Robinson averaged 21 points and nearly 11 rebounds per game.

Also a U.S. Naval officer and compassionate humanitarian, David Robinson was named one of the NBA's 50 Greatest Players in 1996, as well as the 1995 MVP, the 1992 Defensive Player of the Year, and the 1990 rookie of the year. I think it is important to note that David Robinson earned his final honor after serving a 2-year Naval Academy commitment, prior to which he was the first selection in the 1987 NBA draft. I congratulate David Robinson for winning this year's NBA championship, for going out on top, and for his remarkable career.

Mr. Speaker, I congratulate the San Antonio Spurs for winning the 2003 NBA championship. I urge passage of House Resolution 279, and I thank the gentleman from Texas for yielding me this time.

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

Mr. GONZALEZ. Further reserving the right to object, I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Speaker, what a privilege to stand in the United States Capitol to honor the World Champion San Antonio Spurs. In life, it is not just how you win, but it is how you play the game.

America has seen that the Spurs are a team of character. There are no ball hogs, no billboard tattoos, no nose rings or show boats. It is a team that works like a well-oiled machine. No longer can anyone in the NBA say that nice guys finish last.

David Robinson is not just a basketball icon; he is known internationally as a great community servant. It is appropriate that the NBA renamed its community service award after David.

Tim Duncan, the Tower of Power. Those blocked shots in the final game will always be remembered as part of an all-time great performance, and the list goes on and on.

Tony Parker's trademark clutch tear-drop shots and the interviews he would do with the French media speaking French gave a new twist to the finals.

Bruce Bowen's defense and the 3-point bonanza in a critical game against the Lakers is something we are still talking about.

Steve Jackson's three pointers, and Malik Rose's intensity and willingness to bang hard under the basket at crucial times in the game, Manu Ginobili's ability to defy gravity and make those clutch shots and steal the ball at critical times. He became Charles Barkley's favorite player, and Charles loved yelling his name out, Manu Ginobili, during the beginning of the game and afterwards.

Then there is Steve Kerr. Boy, did he give the Spurs a boost with those heart-stopping three-point shots in the fourth quarter just when we needed them. This is Steve Kerr's sixth championship ring, and we congratulate him.

The rest of the guys all played vital roles just when they were needed, Speedy Claxton, Danny Ferry, Steve Smith, and Kevin Willis. And Coach Gregg Popovich now has two NBA titles with the Spurs. A lot of political bigshots could, frankly, take a lesson from Popovich. He always believes in doing what is right, the media be damned.

Congratulations to the owners, Peter and Juliana Holt, two friends and wonderful people who are so deserving. They also set an example for patience and doing what is right for the Spurs, and they continue to serve the community every day of their lives.

From all of us in the congressional delegation of San Antonio, thank you for making us proud. And the best news is next year the Spurs are expected to be even better.

Mr. DAVIS of Illinois. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. Further reserving the right to object, I yield to the gentleman from Illinois.

Mr. DAVIS of Illinois. Mr. Speaker, I simply rise to say we are always delighted and pleased to see Steve Kerr display the skill and talent he learned in Chicago. But more importantly, I rise to congratulate the city of San Antonio for being one of the most beautiful cities in the country and also the great championship, the skill displayed by the Spurs as they won the 2003 NBA championship.

But, Mr. Speaker, I was really touched hearing of the great contributions of David Robinson, not just on the court but off the court in the community, in the neighborhood, his willingness to give of his resources and of himself, to display what it really means to be a great American. And so I rise to really congratulate him.

Oftentimes we hear that athletes are not willing to give back, that they get whatever it is that they get from being what they are and who they are and do not necessarily give back to the rest of the world.

Well, I think that David Robinson is the epitome of a gentleman, a great man; and I congratulate all of you for the fact that he is a Texan and part of the San Antonio Spurs.

Mr. GONZALEZ. Mr. Speaker, reclaiming my time, it is a great honor to join my colleagues. This is an occasion of bipartisan pride, and it is a wonderful occasion; but the Spurs did not get there, and it was not an easy road for them. I think Members know

those playoffs were tough, and I would like to acknowledge the adversary and that is the New Jersey Nets, which put up a noble fight; but the better team did win for many, many reasons. It was not just athletic ability, though.

I think some of my colleagues have touched on what makes this team so special. It is about character, and when we talk about individuals like David Robinson, we understand what character is all about. It has been pointed out this is a Naval Academy graduate who put in his military obligation and finished that and then went on to his professional basketball career.

We also speak about Tim Duncan, and we have forgotten a very important chapter in Tim Duncan's life, and I think Members may have heard this story before, but these are role models. These are the kinds of models that we need to display and demonstrate to all of the youth in this country.

Tim Duncan had an opportunity to leave Wake Forest early. He did not have to get a degree, but his family instilled that kind of appreciation. His mother wanted him to graduate. As a result of a promise made to his mother, he remained at Wake Forest before he pursued his professional basketball career; and it has been an incredible time for not just Tim Duncan, but for all his fans.

This type of class, this type of character starts at the very top; and I have to say that you start with the owner, Mr. and Mrs. Holt. Next, look at the coach, Coach Popovich. Then look at the first string, but also at the bench; and this is a lesson to all of us. We cannot all be starters, but we can all make a contribution because this championship belongs to that entire team. Also the staff that supports the Spurs and the very special San Antonio fans second to none in the United States.

It was a class act, and one of skill and challenge. If you have character, I think you will always be a winner. In this instance they do have the ring. They are going to have the trophy, but I think they have something which is so much more important, and that is an accomplishment which is earned through character, skill, dedication, and commitment.

Mr. RODRIGUEZ. Mr. Speaker, as the mighty San Antonio Spurs entered the arena on game six of the NBA National Championship you could tell that it was going to be an amazing game. The crowd was on their feet chanting Go Spurs Go, non-stop, it was energizing. Every player from Tim Duncan to Kevin Willis had their game faces on. There was something in their look as if they knew what was going to happen, as if they had dreams of three point shots and death defying dunks the night before. They had hoop dreams.

The New Jersey Nets put up a great fight, but the Spurs' dominance of the fourth quarter seemed too much for even the Nets to overcome. After a 19 point scoring run, from a combination of aerial and ground attacks, the San Antonio Spurs defeated the Nets 88–77.

Similar to the likes of Jordan/Pippen, Bird/McHale, Magic/Jabbar. Tim Duncan and Dave "the Admiral" Robinson proved to be an unstoppable force. With Duncan's field goals and amazing drives along with Robinson's dominance on the paint they helped lead the Spurs to their second championship season.

The 2003 NBA Finals MVP was Tim Duncan; he gave an amazing performance, scoring 20 points and 20 rebounds, 10 assists and 8 blocked shots. Robinson scored 13 points and 17 rebounds in the final game of his amazing Spurs career.

This propelled the Spurs to their second championship win in less than 5 years.

It is my pleasure to congratulate the San Antonio Spurs on a great season and a great championship. This is not only a great day for San Antonio and San Antonians, but for all of Texas. Great job Spurs. Go Spurs go.

Mr. GONZALEZ. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 279

Whereas, on June 15, 2003, the San Antonio Spurs won the National Basketball Association's (NBA) Championship best-of-seven series with an 88–77 victory over the New Jersey Nets;

Whereas the Spurs' victory over the Nets is their second NBA championship in five years;

Whereas this year's Spurs–Nets Finals is the first time two former American Basketball Association teams have played for the NBA Championship;

Whereas seven foot center David Robinson joined the Spurs in 1987, and Tim Duncan joined the team in 1997;

Whereas last night's match-up was the final game of David Robinson's 14-year career, and his 13 points, 17 rebounds, and two blocked shots will be remembered as his best performance of the season;

Whereas Tim Duncan's triple-double, (21 points, 20 rebounds, and ten assists), and his eight blocked shots will be remembered as one of the greatest individual efforts in Finals' history;

Whereas Tim Duncan won the regular season Most Valuable Player award for the second consecutive year, and he was named the Finals Most Valuable Player following the Spurs victory;

Whereas Spurs head coach Gregg Popovich was awarded the Red Auerbach Trophy as the NBA Coach of the Year for the 2002–03 season; and

Whereas Gregg Popovich is the first Spurs coach in franchise history to win the Red Auerbach Trophy: Now, therefore, be it

Resolved, That the House of Representatives congratulates the San Antonio Spurs and Coach of the Year Gregg Popovich for an unforgettable season of basketball excellence and for winning the 2003 National Basketball Association Championship.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 279.

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

There was no objection.

TRIBUTE TO LARRY DOBY

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

Mr. PASCRELL. Mr. Speaker, I have some sad news this morning. A great American passed last evening. Larry Doby, 79 years of age, broke the color barrier in the American League and became a Hall of Famer, but he was a Hall of Famer in his life.

He said when inducted into the Hall of Fame in 1998, ''Kids are our future, and we hope baseball has given them some idea of what it is to live together and how we can get along, whether you be black or white.''

He was a great American. He lost his wife, Helyn, just 2 years ago. Larry lived a very productive life in my hometown of Paterson, New Jersey, and lived in Montclair, which is part of my district as well.

Mr. Speaker, if I can read from the resolution, a tribute to him back in 1997, which was entered into the CONGRESSIONAL RECORD, ''Despite his great accomplishments, Larry Doby has remained modest and endearing and a true gentleman. Mr. Doby always gives thanks to God for giving him the talent to help integrate baseball and American society and to Mr. Veck for giving him the opportunity to use that talent and to his wife Helyn for holding together their family while he was away.''

I ask that my colleagues join in a resolution which I will be introducing. We have lost a good American.

[From the Record, June 19, 2003]

LARRY DOBY, HALL OF FAMER, DIES

Hall of Famer Larry Doby, who grew up in Paterson and became the first black player in the American League, died Wednesday night after along illness at his home in Montclair, his son, Larry Doby Jr. said. Doby was 79.

Doby was a seven-time All-Star in a 13-year career, almost all of it spent in the outfield for the Cleveland Indians. He helped lead the Indians to their last World Series title in 1948.

On July 5, 1947—just 11 weeks after Jackie Robinson broke baseball's color barrier—Doby joined the Indians.

Although he hit .283 with 253 home runs and 969 RBI in a big-league career that lasted through 1959, his locker room reception that first day was chilly. Some teammates would not even shake his hand.

''Very tough'', Doby once recalled. ''I'd never faced any circumstances like that. Teammates were lined up and some would greet you and some wouldn't. You could deal with it, but it was hard.''

Doby ended his major league career in 1959 with the Detroit Tigers and Chicago White Sox. In 1978, he took over as manager of the White Sox, becoming only the second black to manage a major league team (following Frank Robinson).

Although Doby was voted into the Hall of Fame by the veterans committee in 1998, he

always had commanded respect throughout the community.

He was a standout athlete at Eastside High School and starred with the Newark Eagles of the Negro Leagues for four seasons. Doby never forgot his roots and always gave his time to others. In the late 70's he was named director of community relations of the NBA's Nets and got involved in a number of inner-city youth programs.

Last year, then Paterson Mayor Marty Barnes unveiled a lifesize bronze statute of Doby at a rededication of Larry Doby Field at Eastside Park.

''You have done more for Paterson...than Paterson has done for you,'' Barnes said at the time. ''What we are hoping is that we could try to catch up and give you all the accolade that you deserve.

Earlier this year, the Yogi Berra Museum announced it would be constructing a Larry Doby wing to house an exhibit of Negro League memorabilia.

''Larry Doby could do everything hit, run, field and throw,'' Berra said.

Doby and his wife, Helyn, had five children. She died of cancer in 2001.

''Larry and I were very good friends,'' Indians' teammate Bob Feller said Wednesday.

''He was a great guy, a great center fielder and a great teammate. He helped us win the pennant in 1948 and three World Series. My thoughts go out to his family,'' he said.

Feller remembered some of the difficulties Doby faced when he entered the league.

''It was tough on him,'' Feller said. ''Larry was very sensitive more so than [Jackie] Robinson or Satchel Paige or Luke Easter or some of the other players who came over from the Negro Leagues. He was completely different from Jackie as a player. He was aggressive, but not like Jackie was.''

While Robinson's ascension to the majors was widely recognized, Doby received relatively scant attention.

In his first decade with the Indians, Doby was kept apart from his teammates—eating in separate restaurants, sleeping in separate hotels—even during spring training. From players and fans, he was the frequent target of racial taunts.

Despite provocation, Doby kept his temper, heeding Bill Veeck's advice when the Indians' owner bought Doby's contract from the Newark.

Doby was a 22-year-old second baseman when the Indians signed him. Two seasons later, as the team's starting center fielder, he helped Cleveland win the World Series, hitting a home run in Game 4.

Doby played in six straight All-Star Games. In 1949, he, Robinson, Roy Campanella and Don Newcombe became baseball's first black All-Stars.

In 1943, Doby recorded another first—he became the first black to play in the American Basketball League, a forerunner of the NBA, as a member of the Paterson Panthers.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

DISASTROUS U.S. TRADE POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, well, congratulations are in order for the Bush administration. They have set yet another record, something to be proud or at least something that their political campaign contributors can be proud of, which is the trade policy of the United States which is a disaster for working Americans and the industrial infrastructure of this country, but immensely profitable for many multinational corporations based in the United States who are generous campaign contributors.

The trade deficit for the first 3 months of 2003 was a new record: $136.1 billion. If we keep that pace up, we will break last year's trade deficit of $435 billion, and reach a $550 billion trade deficit. That means we are losing $1.5 billion a day in U.S. wealth to overseas. $1 million per minute.

Mr. Speaker, 53,000 manufacturing jobs alone were lost in May of this year, hollowing out the manufacturing base of the United States of America, formally the greatest industrial Nation on Earth. There have been 251,000 lost this year and 34 consecutive months of decline in the manufacturing workforce. These are all record accomplishments of the Bush administration.

They told us if they weakened the dollar, this would all get better. Well, the dollar has plummeted, hurting the purchasing power of all Americans, yet the trade deficit is continuing to grow longer. How can that be? The economists scratch their heads. The theory says your currency goes down, your trade deficit goes. But if you do not manufacture things any more, if you do not export goods, which the United States does precious little of, then it does not matter what the value of the currency is because you are buying overseas.

□ 1815

In fact, if your currency goes down, your trade deficit goes up, which is exactly what happened because you are buying all the manufactured goods overseas. Besides that, the Chinese have illegally under the WTO, which I am not a supporter of, but the U.S. is a signatory to, as is China, and the U.S. fought to get them in, has fixed their currency to the U.S. currency. So no matter how low our dollar goes, we are still going to run record trade deficits with the Chinese who now are the largest holders of U.S. debt overseas.

We are not only enthralled to the Chinese for their manufacturing, they can basically threaten the United States if the United States ever decided to get tough with a lot of the bad things they do over there with the 300-plus billion dollars of our currency that they hold because of the growing trade deficit. This is a looming disaster for this country.

If we look at the record deficit we are setting domestically, again another record for the Bush administration, over a $500 billion deficit this year and the trade deficit, the United States of America is going to have to borrow over $1 trillion this year to finance a failed trade policy and a failed domestic financial policy. Borrow over $1 trillion. A lot of that money is going to come from overseas. It does not come for free, let me tell you that. A good deal of that money is going to come from what was supposed to be the Social Security lock box which has been busted open and spent and is being spent on current consumption, particularly to finance tax cuts for the wealthy.

For instance, yesterday's vote to permanently repeal any estate tax on estates over $6 million, four-tenths of 1 percent of estates in the United States of America, supposedly small family farms, small businesses and small tree and wood lot folks with over $6 million in assets. I tell you what, $6 million is plenty of an exemption for small businesses. But, no, the Bush administration had to go whole hog and go for an exemption of all estates. That will cost another $60 billion a year, which we will borrow from Social Security, from working wage-earning Americans and send to the wealthy. They will, of course, replace the Social Security benefits for those folks. Ha.

So what is the good we see in this? Unfortunately, very little. Record trade deficit, failing trade policy. What has the Bush administration proposed? Tax cuts, tax cuts, tax cuts domestically to help the deficit and then on the international front, well, our trade policy is working so well with a $550 billion looming trade deficit this year, with the loss of 53,000 manufacturing jobs in May, 250,000 lost so far this year, they want to set a new record so they want more of the same. More so-called free trade agreements. They have got two that are already on the way up here to Capitol Hill that they expect will go through like that.

The wheels are greased because these are important people and this is such a successful policy. It is working so well for whom? Not for American workers, not for our industrial infrastructure, but for a few wealthy benefactors who control those companies.

Hopefully we can bring about and restore common sense here and recognize the fact that you cannot run huge and growing deficits forever. Even Alan Greenspan has recognized that. He says this policy is not sustainable.

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER

Mr. PENCE. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Indiana (Mr. BURTON).

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

There was no objection.

GARFIELD'S 25TH ANNIVERSARY: ''I'LL RISE, BUT I WON'T SHINE''

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Mr. Speaker, as the Congressman who represents Muncie, Indiana, and Delaware County, home to the most famous cat in the world, I rise today for the awesome and important duty to pay a happy birthday wish to Garfield. Not President Garfield, but someone probably more famous in this day and age than that, a large, orange, slovenly, lazy cat, born in the mind of an Indiana native by the name of Jim Davis who, along with Garfield and literally dozens of artists and artisans, make their home near Muncie, Indiana, the world headquarters of Paws, Incorporated.

It was, in fact, today in 1978 that the Garfield strip debuted in 41 U.S. newspapers. Several months after its launch, the Chicago Sun-Times abruptly canceled the Cat. Over 1,300 angry readers, it is reported, immediately demanded that Garfield be reinstated. As they say, the rest is history. Today, 263 million readers across the globe read Garfield in 2,570 newspapers every day. Recently, Guinness World Records named this cat, Garfield, the most widely syndicated comic strip in the world. It all comes proudly from east central Indiana.

It is said that people relate to Garfield because Garfield, in many ways, is them. ''He's a human in a cat suit,'' his creator Jim Davis likes to say. Garfield loves TV and he hates Mondays. He would rather pig out than work out. In fact, his passion for food and sleep is matched only by his aversion to diet and exercise, a cat after my own heart. He would like mornings better if they started later, coffee ''strong enough to sit up and bark,'' and, he pledges regularly, ''I'll rise but I won't shine.''

Jim Davis, born in July of 1945 in Marion, Indiana, was raised on a small Black Angus cow farm. He graduated from Ball State University in Muncie, Indiana, where he majored in art and business and he is the founder and president of Paws, Incorporated, a full service licensing studio created and established in eastern Indiana. They have received numerous awards, including four Emmys and the National Cartoonist Society award, just to name a few.

So I rise today in the midst of serious debates and serious discussions to pay tribute to a very large, orange American tradition, here shown bursting out of his birthday cake on this, the 25th anniversary.

I will never forget, Mr. Speaker, as I close, Jim Davis and I first became acquainted 15 years ago. He told me of all the offers he had had through the years to move Garfield, which is internationally syndicated, maybe to Los Angeles or maybe to New York, more recognized as media centers than the cornfields of eastern Indiana, and Jim Davis said to me, ''Mike, I always turn them down, because you have to have a sense of humor to live in Indiana.'' Let us hope Jim Davis and this big orange cat always live in Indiana. They are a source of pride, not only their creativity and their energy, but their philanthropy and their commitment to the quality of life for the families of our region.

We thank you, Jim. Congratulations to you and that big, fat, lazy cat.

MOURNING THE PASSING OF LARRY DOBY, FIRST BLACK PLAYER IN AMERICAN LEAGUE HISTORY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Mrs. JONES) is recognized for 5 minutes.

Mrs. JONES of Ohio. Mr. Speaker, Hall of Famer Larry Doby, the first black baseball player in American League history, died last night at the age of 78 in his home in Montclair, New Jersey. Larry Doby was one of the Cleveland Indians finest centerfielders, a slugger with speed. He was with the Indians in one of their most successful eras, from 1947 to 1955 during which they won two league pennants and a World Series, besides finishing second to the New York Yankees four times. He hit a decisive home run as the Indians won their last World Series in 1948. He led the league in home runs and runs batted in when the Indians romped to the American League pennant in 1954, winning 111 games, the fourth most in baseball history.

Larry survived and endured many racial insults after arriving in the majors only 3 months after the first black player, Jackie Robinson, of the old Brooklyn Dodgers. He never seemed to hold any grudges because of the torment. Doby is quoted as saying, ''Life is too short for that. People who judge others based on the color of their skin have more problems than I do.''

When he first stepped onto a major league field on July 3, 1947, amid a deluge of publicity, he was an uncertain, nervous 22-year-old. He knew that many fans and teammates resented his presence at Municipal Stadium. Doby batted only 32 times that first season and got five hits, a paltry .156 average. He stated, ''It was one of the toughest things I ever had to go through. I had never sat on the bench before and now all I could do was sit and watch.'' He had come up as a second baseman with the Newark Eagles of the Negro League where he was hitting .420. But he was not going to displace Joe Gordon, the team's cleanup hitter who had been the league's most valuable player as a member of the Yankees in 1942.

Doby survived because of the support he received from his late wife Helyn; Indians owner Bill Veeck, who brought him to the majors; teammates Gordon and catcher Jim Hegan, and coach Bill McKechnie. They were the closest to him that first year. He also was friends with the late Arthur Grant, the father of one of my childhood friends, Laureen Grant Beach. On many occasions I had an opportunity to see him and enjoy time with his daughter Kristie.

As a baseball pioneer, Doby also received encouragement from black celebrities of the era. Heavyweight boxing champion Joe Louis, singers Lena Horne, Ella Fitzgerald and Dinah Washington and musicians Duke Ellington and Count Basie were among those who contacted him.

When centerfielder Thurman Tucker was injured in May, Indians manager Lou Boudreau moved Doby into his spot. He stayed there for 10 years, he recalled. ''The Cleveland fans were great. They never booed me, even when I made a mistake.''

Doby hit .301 with 14 homers as the Indians won the 1948 pennant. In the playoff game against Boston for the American League flag, he belted two doubles. His most famous homer came in the fourth game of the 1948 World Series at Municipal Stadium when he connected to give Steve Gromek a 2–1 victory and the Indians a three-games-to-one lead over the Boston Braves. After the game, Doby and Gromek were photographed hugging each other in jubilation. The picture is considered a civil rights milestone. It was the first widely publicized photo of two baseball players of different races embraced in victory.

Doby led the Indians in hitting in the series with an average of .318. Players soon accepted him because of his ability. Doby, 6–1 and 180 pounds, quickly established himself as a first-rate player. In 1950 when he hit three homers in a game, batted .326 and drove in 102 runs, the Sporting News chose him as the best centerfielder in baseball, ahead of Joe DiMaggio and Duke Snider. He topped the league in homers, 32, and runs batted in, 124, in the pennant year of 1954 when the Indians won 111 and lost 43 games for a winning percentage of .721, a league record that still stands.

The Indians traded him subsequently to Chicago on October 25, 1955. He then with the White Sox, had a rebound, he went to Baltimore in a six-player deal in 1958, and then in 1959 he was sent back to Cleveland to play.

Doby was chosen for seven All-Star teams in his career. His lifetime stats show a .283 batting average and 253 home runs.

Mr. Speaker, I would like to give credit to Bob Dolgan, the Plain Dealer reporter from whom I obtained a lot of this information. I hope that all my colleagues will join me in mourning the death of a baseball great, Larry Doby.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 5 minutes.

(Mrs. BLACKBURN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mr. BURGESS. Mr. Speaker, I ask unanimous consent to go out of order to give my special order.

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

There was no objection.

ADDRESSING THE NATION'S HEALTH CARE PROBLEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, according to a poll taken just this month in June 2003 by the Winston Group, nearly 50 percent of Americans believe that the uninsured and the high cost of health insurance are one of the biggest problems facing our country today. With skyrocketing health costs and a recent Census Bureau figure showing that 41.2 million Americans lack health insurance coverage, this information does not come as a surprise.

There are, Mr. Speaker, some free market and tax incentive initiatives that could increase health care coverage for a significant segment of the population, making this health care more available and less expensive. I am confident that there is legislation that has been introduced, and indeed the House passed overwhelmingly just a few hours ago, H.R. 660, that will address some of the root causes of these serious problems.

There is a bill, Mr. Speaker, H.R. 1236, the Securing Access, Value, and Equality Health Care Act, that seeks to end the tax discrimination that makes it difficult for low-income families and individuals to purchase non-employer provided health insurance. H.R. 1236 does away with this discrimination by making prepayable, refundable tax credits available to all Americans for the purchase of health insurance regardless of their employer or their employment status.

□ 1830

Under this bill, an individual could claim up to a $1,000 tax credit, $2,000 per married couple, and $500 per child to a maximum of $3,000 per family. By giving low-income individuals and families the purchasing power to meet their health insurance needs, the number of Americans without health insurance could be dramatically reduced.

Another bill, H.R. 2114, a bill that I introduced, a bill that enjoys bipartisan support, the Health Access and Flexibility Act, would increase access to medical savings accounts to all Americans and grant States the flexibility to provide Medicaid and Children's Health Insurance Program recipients health care coverage under a medical savings account model. The bill removes the cap on medical savings accounts and allows MSA holders to fully fund their accounts.

Additionally, the bill would give States the ability to create medical savings-like accounts for Medicaid or CHIP recipients, and we have called these Medical Freedom Accounts.

By providing Americans with incentives to hold down medical spending through an MSA and giving them more flexibility on how to spend their own money on medical costs, the cost of health care can be contained and individuals will be able to achieve a higher quality of health outcomes.

And, Mr. Speaker, just today just a few hours ago, H.R. 660 passed this House, the Small Business Health Fairness Act of 2003, which allowed the establishment of association health plans. This bill allows businesses to pool their employees with other businesses that are part of the bona fide trade or business association to purchase employer-based health insurance. This gives small businesses this option, and this will be a powerful tool that will drive down the cost of employer-based health insurance making health insurance more affordable for small businesses and coverage more available to employees. With the passage of this bill, Mr. Speaker, we are one step closer to providing much needed relief to the uninsured.

Mr. Speaker, unfortunately there is not a one-size-fits-all solution to address the increasing cost of health insurance and the decreasing access to health insurance; but, Mr. Speaker it is my hope that this House can continue to work to improve the health and well-being of all Americans by taking up these last two measures and provide a robust solution to our Nation's health care problems.

PRAISING AND CELEBRATING JUNETEENTH

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, before I begin my tribute, as a Texan, I would like to join with my good friend from San Antonio and around the State of Texas to be able to congratulate those fantastic San Antonio Spurs. As the Members well know, coming from Houston there is absolutely one basketball team that we all believe is number one, the Houston Rockets. But as Texans, we always rally around our friends and neighbors, and so I am delighted to congratulate the San Antonio Spurs. I am glad I did not make any wrong bets and to particularly appreciate David Robinson for his years of the kind of playing with integrity and character that we can all be proud of, the David Robinson School in San Antonio that he committed to with his own resources, the spirit that he generated for that team, the outstanding work of most valuable player, Tim Duncan, and as well the fact that Steve Kerr came from the wonderful State of Illinois, but we have got him now, came off the bench and propelled the San Antonio Spurs to where they are today. My hat is off and I look forward to working with him and the team as we work to make Texas and the Nation a better place.

Today, I believe, Mr. Speaker, is a very good day and I have the honor of commemorating this day. It is Juneteenth, and we look forward to Juneteenth becoming a national holiday of commemoration to the extent that all of America is aware of the importance of this celebration. It is, in fact, June 19, today, that we are able to stand to pay tribute but also to solemnly acknowledge the importance of this day. I am very proud to have been able to join many of my colleagues, including the gentleman from Illinois (Mr. DAVIS), the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), the gentleman from Missouri (Mr. CLAY), and the gentlewoman from Florida (Ms. CORRINE BROWN), and many others as we stood in the Mansfield Room in the United States Senate, the other body, paying tribute to this important day as well as being with Dr. Myers and others who believe that this is a historic time.

What is Juneteenth? Juneteenth is a statement of freedom. Juneteenth is the unshackling of a body of people. Juneteenth is the freeing of slaves in the State of Texas. Juneteenth is the renewing of one's character, integrity, spirit, and ability to achieve one's greatest opportunities. It was Juneteenth or June 19, 1865, some 2 long hard years after the Emancipation Proclamation, that the people of Texas, the slaves of Texas, I might say, were able to realize their freedom. Dating back to 1865, it was on June 19 that the Union soldiers led by the courageous Major General Gordon Granger landed in Galveston, Texas, with the news that the Civil War ended and that the slaves were now freed, the end slaves were freed. The Emancipation Proclamation became official, however, on January 1, 1863. Nevertheless, aside from that sad fact the people were already in a state of bondage, they did not get the word because there were not enough Union soldiers there to enforce.

So, Mr. Speaker, we heard these words when Major Granger landed on that Galveston shore and freed or removed the bondage from those who were seeking to empower themselves, and he said, ''The people of Texas are informed that in accordance with a Proclamation from the Executive of the United States, all slaves are free. This involves an absolute equality of rights and rights of property between former masters and slaves and the connection heretofore existing between them becomes that between employer and free laborer.'' What important words for today, Mr. Speaker.

And I say that because the Tulia 12 has just been freed in the State of Texas, and I want to announce to this Congress that the Committee on the Judiciary, I hope, will be holding investigatory hearings on what happened to hold those individuals when there was no basis and a sense of a lack of fairness in the judicial system. We want to make sure that the Tulia 12 will be free for all America to know, and we expect to hold those hearings.

In addition, Mr. Speaker, we want to acknowledge that we are still fighting for that relationship of equality and so Juneteenth becomes more important because the Supreme Court will render its decision in the next week on the question of affirmative action, the right of equality and access to opportunity in this country, and I pray that Juneteenth will be commemorated in reality by a decision that upholds the University of Michigan's case.

Mr. Speaker, I close by acknowledging those in my home district tonight as I speak on the floor of the House celebrating Juneteenth, Representative Al Edwards for his great work on making this a holiday; Reverend Greg Patrick of South West Community Church helping to put on this great event celebrating Juneteenth; and Reverend C. Anderson Davis and Mrs. Bertha Davis, our historic and wonderful senior citizens who helped bring the celebration of the Emancipation Proclamation to Texas for all these many years. I thank them and may the celebration live on by the words ''we shall overcome.''

Mr. Speaker, I rise today to speak of the joyous celebration of Juneteenth. For those of you who ask, ''What is Juneteenth,'' I will tell you. Dating back to 1865, it was on June 19 that the Union soldiers, led by the courageous Major General Gordon Granger, landed in Galveston, Texas with news that the Civil War had ended and that the enslaved were now free. The Emancipation Proclamation became official on January 1, 1863. Nevertheless, aside from the sad fact the people were already in a state of bondage, they had to wait two and a half years after President Lincoln's proclamation, to hear the news.

Mr. Speaker, it gives me great pleasure to speak about Juneteenth and I would like to share with you the letter that Major General Gordon Granger read to the emotion filled slaves. It reads as follows:

''The People of Texas are informed that in accordance with a Proclamation from the Executive of the United States, all slaves are free. This involves an absolute equality of rights and rights of property between former masters and slaves, and the connection heretofore existing between them becomes that between employer and free laborer.''

Prior to June 19, 1865, the Emancipation Proclamation had little impact on Texans due to the minimal number of Union troops available to enforce the new Executive order. Thanks to the meritorious Major Granger and the arrival of his troops, there were forces strong enough to overcome the resistance and to free the slaves.

Many stories have been told about the actual reason for why it took so long for the news of the Emancipation to reach Galveston, but it is very difficult to say which one is true. The fact still remains that the news did not come to the enslaved Texans soon enough. The reactions to the profound news ranged from pure shock to immediate jubilation.

Upon hearing the news, many of the newly freed slaves went north and others went to neighboring states, such as Louisiana, Arkansas, and Oklahoma. For those freed men and women, recounting the memories and festivities of that great day in June of 1865 served as motivation as well as a release from the growing pressures encountered in their new territory. The celebration of June 19th was coined ''Juneteenth'' and it grew with more participation from descendants. The Juneteenth celebration was a time for reassuring one another, for praying and for gathering with family members. This still holds true today because African Americans continue to face many challenges that call for prayer and gathering together with one's family and community.

When the celebration of Juneteenth originated, a range of activities were offered to entertain the masses, many of which continue in tradition today. Rodeos, fishing, barbecuing and baseball are just a few of the typical Juneteenth activities that one may witness or participate in today. One of the more popular activities during Juneteenth celebrations is barbecuing, through which Juneteenth celebrants can share in the spirit and aromas that their ancestors would have experienced during these festivities. For this reason, the barbecue pit is often established as the center of attention at Juneteenth celebrations, and you can smell the sweet smells of barbecue in the air in Houston and in many other areas.

The history of Juneteenth celebrations has its ups and downs. The downs came in the early 1900s when classrooms did very little to teach about Juneteenth. However the Civil Rights movement of the 1960s did much to revive the celebrations due to widespread protests and marches for freedom. On January 1, 1980, Juneteenth became an official state holiday in Texas, largely through the efforts of Al Edwards, an African American state legislator. The passage of the bill was especially significant because it marked Juneteenth as the first emancipation celebration granted official state recognition. Texans had been among the last to hear of the Emancipation but we were the first to distinguish it as a state holiday.

Throughout the 1980s, 1990s, and into the new millennium, Juneteenth has continued to enjoy a growing and healthy interest from communities and organizations throughout the county. The future of Juneteenth looks bright as the number of cities and states come on board and form local committees and organizations to coordinate celebratory activities.

Today, Juneteenth celebrates African American freedom while encouraging self-development and respect for all cultures. I appreciate the opportunity to speak about this joyous celebration. I wish a very happy Juneteenth to all.

Further, Mr. Speaker I want to salute Rev. C. Anderson Davis and his wife Bertha Davis for their dedicated determined efforts and honoring and celebrating Juneteenth—and their support of the Houston National Emancipation Association.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

(Mr. GUTKNECHT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

COMMITMENT TO WORLD PEACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to express my commitment to world peace and to stress the importance of establishing dialogue and understanding among all people. It is in recognition of this need that on Tuesday, June 24, at 6:30 p.m. in the Rayburn Room B338–340, the American Leadership Initiative will hold a special awards ceremony to honor great Americans from all 50 States who have demonstrated a commitment to peace. Many of my colleagues will join me and the gentleman from Pennsylvania (Mr. WELDON), co-chair, in giving tribute to some of the outstanding Americans from our districts. Members of the clergy, legislators, educators, business and community leaders will be among those honored with the ''Ambassadors for Peace Award-Excellence in Leadership.'' These committed citizens have been working to renew and strengthen our families and marriages, restore our communities, and rebuild our Nation and indeed our world. We are grateful to the founders of Ambassadors for Peace, the Reverend and Mrs. Sun Myung, for promoting the vision of world peace, and we commend them for their work.

These Ambassadors for Peace have become increasingly effective and relevant in their communities since the tragedy of 9–11. They have been working together to promote understanding among all faiths, particularly with Muslim, Jewish, and Christian leaders. With the realization that many of the tensions currently facing the world cannot be addressed without consideration of the religious implications involved, the Ambassadors for Peace have formed an American Interreligious Council. This council seeks to support and advise our Nation's leaders concerning the issues and challenges of seeking lasting peace. The American Interreligious Council is also part of the effort to create an international council of religious leaders. The members of this council will support the leaders of the United Nations as they work to resolve conflicts throughout the world. This body will provide a direct link between international leaders and the various religious peoples in their constituencies. This will help to ensure that peace agreements are embraced by the diverse communities these leaders represent.

Today, though crisis is at our doorstep, we must maintain an unwavering hope for peace. It has become clear that the establishment of a lasting peace throughout the world will only

come to full fruition through the ongoing dialogue and cooperation of religious and political leaders. The Ambassadors for Peace are working tirelessly to bring about international cooperation and are to be commended for their leadership in this great effort. I again commend them for their efforts because they understand that peace is not necessarily found in covenants, treaties and charters, as was once echoed by President John F. Kennedy, but is indeed found in the hearts of men and women. And as they work throughout the Nation and throughout the world to spread the message of peace, we look forward to seeing them here on Tuesday, June 24, and share with them as they give awards to those who do the work in the field.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

(Mr. SMITH of Michigan addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

COMMEMORATING JUNETEENTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BELL) is recognized for 5 minutes.

Mr. BELL. Mr. Speaker, I rise to join with the gentlewoman from Texas (Ms. JACKSON-LEE), my fellow Houstonian and colleague, to commemorate Juneteenth, a very important day in the State of Texas; for on this day June 19 in 1865, General Gordon Granger rode into Galveston, Texas, and announced the freedom of the last American slaves, nearly 2½ years after Abraham Lincoln signed the Emancipation Proclamation.

Today, Juneteenth remains the oldest known celebration of slavery's demise. It commemorates freedom while emphasizing scholarship and achievement. Juneteenth honors the 400 years of suffering African Americans endured under slavery and celebrates the legacy of perseverance that has become the hallmark of the African American community's struggle for equality. Martin Luther King, Jr. once said, ''Freedom is never free''; and A. Phillip Randolph, an African American labor leader, was fond of saying ''freedom is never given. It is won.''

We should all recognize the power and the ironic truth of those statements, and we should pause to remember the enormous price paid by all Americans in our country's quest to define what the word ''freedom'' truly means.

As a symbol of freedom and of enormous burdens overcome, Juneteenth should almost be as important to my fellow Americans as July 4.

□ 1645

Because it was only after that day in 1865 on the heels of the most devastating conflict in our country's history in the aftermath of a civil war that pitted brother against brother, neighbor against neighbor, and threatened to tear the very fabric of our Union apart forever, it was only after that day in 1865 when General Granger rode into Galveston, Texas, and the last Americans were finally released from the chains of bondage that had held them for generations, it was only on that day that the America we all know and love today was finally born. It was not until June 19, 1865, that America truly became the land of the free and the home of the brave.

As a Texan, I am proud to say that my State is one of only two that observes June teenth as a State holiday. It is my sincere hope that in its future, we will all celebrate this important holiday together.

The SPEAKER pro tempore (Mr. FRANKS of Arizona). Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut (Ms. DELAURO) is recognized for 5 minutes.

(Ms. DELAURO addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Guam (Ms. BORDALLO) is recognized for 5 minutes.

(Ms. BORDALLO addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

PUBLICATION OF THE RULES OF THE COMMITTEE ON SMALL BUSINESS, 108TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. MANZULLO) is recognized for 5 minutes.

Mr. MANZULLO. Mr. Speaker, enclosed are Committee on Small Business Rules for the 108th Congress for submission to the CONGRESSIONAL RECORD in accordance with clause 2(a)(2) of rule XI.

RULES AND PROCEDURES OF THE COMMITTEE ON SMALL BUSINESS

U.S. HOUSE OF REPRESENTATIVES, 108TH CONGRESS

1. GENERAL PROVISIONS

The Rules of the House of Representatives, and in particular the committee rules enumerated in rule XI, are the rules of the Committee on Small Business to the extent applicable and by this reference are incorporated. Each subcommittee on the Committee on Small Business (hereinafter referred to as the ''committee'') is a part of the committee and is subject to the authority and direction of the committee, and to its rules to the extent applicable.

2. REFERRAL OF BILLS BY CHAIRMAN

Unless retained for consideration by the full committee, all legislation and other matters referred to the committee shall be referred by the Chairman to the subcommittee of appropriate jurisdiction within 2 weeks. Where the subject matter of the referral involves the jurisdiction of more than one subcommittee or does not fall within any previously assigned jurisdictions, the Chairman shall refer the matter, as he may deem advisable.

3. DATE OF MEETING

The regular meeting date of the committee shall be the second Thursday of every month when the House is in session. A regular meeting of the committee may be dispensed with if, in the judgment of the Chairman, there is no need for the meeting. Additional meetings may be called by the Chairman as he may deem necessary or at the request of a majority of the members of the committee in accordance with clause 2(c) of rule XI of the House.

At least 3 days notice of such an additional meeting shall be given unless the Chairman determines that there is good cause to call the meeting on less notice.

The determination of the business to be considered at each meeting shall be made by the Chairman subject to clause 2(c) of rule XI of the House.

A regularly scheduled meeting need not be held if there is no business to be considered or, upon at least 3 days notice, it may be set for a different date.

4. ANNOUNCEMENT OF HEARINGS

Unless the Chairman, with the concurrence of the ranking minority member, or the committee by majority vote, determines that there is good cause to begin a hearing at an earlier date, public announcement shall be made of the date, place and subject matter of any hearing to be conducted by the committee at least 1 week before the commencement of that hearing.

After announcement of a hearing, the committee shall make available as soon as practicable to all Members of the Committee a tentative witness list and to the extent practicable a memorandum explaining the subject matter of the hearing (including relevant legislative reports and other necessary material). In addition, the Chairman shall make available as soon as practicable to the Members of the Committee any official reports from departments and agencies on the subject matter as they are received.

MEETINGS AND HEARINGS OPEN TO THE PUBLIC

(A) Meetings

Each meeting of the committee or its subcommittees for the transaction of business, including the markup of legislation, shall be open to the public, including to radio, television and still photography coverage, except as provided by clause 4 of rule XI of the House, except when the committee or subcommittee, in open session and with a majority present, determines by record vote that all or part of the remainder of the meeting on that day shall be closed to the public because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person or otherwise would violate any law or rule of the House: *Provided, however,* that no person other than members of the committee, and such congressional staff and such executive branch representatives as they may authorize, shall be present in any business meeting or markup session which has been closed to the public.

(B) Hearings

Each hearing conducted by the committee or its subcommittees shall be open to the

public, including radio, television and still photography coverage, except when the committee or subcommittee, in open session and with a majority present, determines by record vote that all or part of the remainder of the hearing on that day shall be closed to the public because disclosure of testimony, evidence or other matters to be considered would endanger the national security, would compromise sensitive law enforcement information, or would violate any law or rule of the House; *Provided, however,* that the committee or subcommittee may be the same procedure vote to close one subsequent day of hearings. Notwithstanding the requirements of the preceding sentence, a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony, (i) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security, would compromise sensitive law enforcement information, or violate clause 2(k)(5) of rule XI of the House; or (ii) may vote to close the hearing, as provided in clause 2(k)(5) of rule XI of the House.

No member of the House may be excluded from non-participatory attendance at any hearing of the committee or any subcommittee, unless the House of Representatives shall by majority vote authorize the committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearing to members by the same procedures designated for closing hearings to the public.

6. WITNESSES

(A) Statement of Witnesses

Each witness who is to appear before the committee or subcommittee shall file with the committee at least two business days before the day of his or her appearance, 100 copies of his or her written statement of proposed testimony. At least one copy of the statement of each witness shall be furnished directly to the ranking minority member. In addition, all witnesses shall be required to submit with their testimony a résumé or other statement describing their education, employment, professional affiliations and other background information pertinent to their testimony unless waived by the Chairman.

Each witness shall also submit to the committee a copy of his or her final prepared statement in an electronic format no later than the day of the hearing unless waived by the Chairman.

The committee will provide public access to its printed materials, including the proposed testimony of witnesses, in electronic form.

(B) Interrogation of Witnesses

Whenever any hearing is conducted by the committee or any subcommittee upon any measure or matter, the minority party members on the committee shall be entitled, upon request to the Chairman by a majority of those minority members, to call one witness selected by the minority to testify with respect to that measure or matter. The witness requested by the minority shall furnish at least one copy of his or her statement and any supplementary materials directly to the Chairman within two business days before the day of his or her appearance unless waived by the Chairman.

Except when the committee adopts a motion pursuant to subdivisions (B) and (C) of clause 2(j)(2) of rule XI of the rules of the House, committee members may question witnesses only when they have been recognized by the Chairman for that purpose, and only for a 5-minute period until all members present have had an opportunity to question a witness. The 5-minute period for questioning a witness by any one member can be extended only with the unanimous consent of all members present. The Chairman, followed by the ranking minority member and all other members alternating between the majority and minority, shall initiate the questioning of witnesses in both the full and subcommittee hearings.

In recognizing members to question witnesses, the Chairman may take into consideration the ratio of majority and minority members present in such a manner as not to disadvantage the Members of either party. The Chairman, in consultation with the ranking minority member, may decrease the 5-minute time period in order to accommodate the needs of all the Members present and the schedule of the witnesses.

7. SUBPOENAS

A subpoena may be authorized and issued by the Chairman of the committee in the conduct of any investigation or series of investigations or activities to require the attendance and testimony of such witness and the production of such books, records, correspondence, memoranda, papers and documents, as he deems necessary. The ranking minority member shall be promptly notified of the issuance of such a subpoena.

Such a subpoena may be authorized and issued by the chairman of a subcommittee with the approval of a majority of the members of the subcommittee and the approval of the Chairman of the committee.

8. QUORUM

No measure or recommendation shall be reported unless a majority of the committee was actually present. For purposes of taking testimony or receiving evidence, two members shall constitute a quorum. For all other purposes, one-third of the members (or 12 Members) shall constitute a quorum.

9. AMENDMENTS DURING MARK-UP

Any amendment offered to any pending legislation before the committee must be made available in written form when requested by any member of the committee. If such amendment is not available in written form when requested, the Chairman shall allow an appropriate period for the provision thereof.

10. PROXIES

No vote by any member of the committee or any of its subcommittees with respect to any measure or matter may be cast by proxy.

11. POSTPONEMENT OF PROCEEDINGS

The Chairman in consultation with the Ranking Minority Member may postpone further proceedings when a record vote is ordered on the question of approving any measure or matter or adopting an amendment. The Chairman may resume proceedings on a postponed request at any time. In exercising postponement authority, the Chairman shall take all reasonable steps necessary to notify members on the resumption of proceedings on any postponed recorded vote. When proceedings resume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

12. NUMBER AND JURISDICTION OF SUBCOMMITTEES

There will be four subcommittees as follows:

Workforce, Empowerment and Government Programs (seven Republicans and six Democrats)

Regulatory Reform and Oversight (seven Republicans and six Democrats)

Rural Enterprises, Agriculture and Technology (six Republicans and five Democrats)

Tax, Finance and Exports (eight Republicans and seven Democrats)

During the 108th Congress, the Chairman and ranking minority members shall be ex officio members of all subcommittees, without vote, and the full committee shall have the authority to conduct oversight of all areas of the committee's jurisdiction.

In addition to conducting oversight in the area of their respective jurisdiction, each subcommittee shall have the following jurisdiction:

WORKFORCE, EMPOWERMENT AND GOVERNMENT PROGRAMS

Oversight and investigative authority over problems faced by small businesses in attracting and retaining a high quality workforce, including but not limited to wages and benefits such as health care.

Promotion of business growth and opportunities in economically depressed areas.

Oversight and investigative authority over regulations and other government policies that impact small businesses located in high risk communities.

Opportunities for minority, women, veteran and disabled-owned small businesses, including the SBA's 8(a) program.

General oversight of programs targeted toward urban relief.

Small Business Act, Small Business Investment Act, and related legislation.

Federal Government programs that are designed to assist small business generally.

Participation of small business in Federal procurement and Government contracts.

REGULATORY REFORM AND OVERSIGHT

Oversight and investigative authority over the regulatory and paperwork policies of all Federal departments and agencies.

Regulatory Flexibility Act.

Paperwork Reduction Act.

Competition policy generally.

Oversight and investigative authority generally, including novel issues of special concern to small business.

RURAL ENTERPRISES, AGRICULTURE AND TECHNOLOGY

Promotion of business growth and opportunities in rural areas.

Oversight and investigative authority over agricultural issues that impact small businesses.

General oversight of programs targeted toward farm relief.

Oversight and investigative authority for small business technology issues.

TAX, FINANCE AND EXPORTS

Tax policy and its impact on small business.

Access to capital and finance issues generally.

Export opportunities and oversight over Federal trade policy and promotion programs.

13. COMMITTEE STAFF

(a) Majority Staff

The employees of the committee, except those assigned to the minority as provided below, shall be appointed and assigned, and may be removed by the Chairman. The Chairman shall fix their remuneration, and they shall be under the general supervision and direction of the Chairman.

(B) Minority Staff

The employees of the committee assigned to the minority shall be appointed and assigned, and their remuneration determined, as the ranking minority member of the committee shall determine.

(C) Subcommittee Staff

The Chairman and ranking minority member of the full committee shall endeavor to

ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the committee.

14. POWERS AND DUTIES OF SUBCOMMITTEES

Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full committee on all matters referred to it. Subcommittee chairman shall set meeting and hearing dates after consultation with the Chairman of the full committee. Meetings and hearings of subcommittees shall not be scheduled to occur simultaneously with meetings or hearings of the full committee.

15. SUBCOMMITTEE REPORTS

(A) Investigative Hearings

The report of any subcommittee on a matter which was the topic of a study or investigation shall include a statement concerning the subject of the study or investigation, the findings and conclusions, and recommendations for corrective action, if any, together with such other material as the subcommittee deems appropriate.

Such proposed reports shall first be approved by a majority of the subcommittee members. After such approval has been secured, the proposed report shall be sent to each member of the full committee for his or her supplemental, minority, or additional views.

Any such views shall be in writing and signed by the member and filed with the clerk of the full committee within 5 calendar days (excluding Saturdays, Sundays, and legal holidays) from the date of the transmittal of the proposed report to the members. Transmittal of the proposed report to members shall be by hand delivery to the members' offices.

After the expiration of such 5 calendar days, the report may be filed as a House report.

(B) End of Congress

Each subcommittee shall submit to the full committee, not later than November 15 of each even-numbered year, a report on the activities of the subcommittee during the Congress.

16. RECORDS

The committee shall keep a complete record of all actions, which shall include a record of the votes on any question on which a record vote is demanded. The result of each subcommittee record vote, together with a description of the matter voted upon, shall promptly be made available to the full committee. A record of such votes shall be made available for inspection by the public at reasonable times in the offices of the committee.

The committee shall keep a complete record of all committee and subcommittee activity which, in the case of any meeting or hearing transcript, shall include a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved.

The records of the committee at the National archives and Records Administration shall be made available in accordance with rule VII of the Rules of the House. The Chairman of the full committee shall notify the ranking minority member of the full committee of any decision, pursuant to clause 3(b)(3) or clause 4(b) of rule VII of the House, to withhold a record otherwise available, and the matter shall be presented to the committee for a determination of the written request of any member of the committee.

17. ACCESS TO CLASSIFIED OR SENSITIVE INFORMATION

Access to classified or sensitive information supplied to the committee and attendance at closed sessions of the committee or its subcommittees shall be limited to members and necessary committee staff and stenographic reporters who have appropriate security clearance when the Chairman determines that such access or attendance is essential to the functioning of the committee.

The procedures to be followed in granting access to those hearings, records, data, charts, and files of the committee which involve classified information or information deemed to be sensitive shall be as follows:

(a) Only Members of the House of Representatives and specifically designated committee staff of the Committee on Small Business may have access to such information.

(b) Members who desire to read materials that are in the possession of the committee should notify the clerk of the committee.

(c) The clerk will maintain an accurate access log, which identifies the circumstances surrounding access to the information, without revealing the material examined.

(d) If the material desired to be reviewed is material which the committee or subcommittee deems to be sensitive enough to require special handling, before receiving access to such information, individuals will be required to sign an access information sheet acknowledging such access and that the individual has read and understands the procedures under which access is being granted.

(e) Material provided for review under this rule shall not be removed from a specified room within the committee offices.

(f) Individuals reviewing materials under this rule shall make certain that the materials are returned to the proper custodian.

(g) No reproductions or recordings may be made of any portion of such materials.

(h) The contents of such information shall not be divulged to any person in any way, form, shape, or manner, and shall not be discussed with any person who has not received the information in an authorized manner.

(i) When not being examined in the manner described herein, such information will be kept in secure safes or locked file cabinets in the committee offices.

(j) These procedures only address access to information the committee or a subcommittee deems to be sensitive enough to require special treatment.

(k) If a member of the House of Representatives believes that certain sensitive information should not be restricted as to dissemination or use, the member may petition the committee or subcommittee to so rule. With respect to information and materials provided to the committee by the executive branch, the classification of information and materials as determined by the executive branch shall prevail unless affirmatively changed by the committee or the subcommittee involved, after consultation with the appropriate executive agencies.

(1) Other materials in the possession of the committee are to be handled in accordance with the normal practices and traditions of the committee.

18. OTHER PROCEDURES

The Chairman of the full committee may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the committee.

The committee may not be committed to any expense whatever without the prior approval of the Chairman of the full committee.

19. AMENDMENTS TO COMMITTEE RULES

The rules of the committee may be modified, amended or repealed by a majority of the members, at a meeting specifically called for such purpose, but only if written notice of the proposed change has been provided to each such member at least 3 days before the time of the meeting.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES, COMMITTEE ON SMALL BUSINESS, RAYBURN HOUSE OFFICE BUILDING,
WASHINGTON, DC.

TO: Members, Committee on Small Business
FR: Donald A. Manzullo, Chairman
RE: Policy Regarding the Postponement of Record Votes Pursuant to Rule 11 of the Rules of the Committee on Small Business for the 108th Congress.
DT: February 26, 2003

As you are aware, the Committee plans to adopt a rule authorizing the Chair to postpone record votes on approving a measure or matter, or agreeing to an amendment. The purpose of this memorandum is to formally announce the Chair's policy regarding the application of this rule.

In General

The Chairman has consulted with the ranking minority member in the formulation of this policy and will continue to consult with her regarding its application.

As will be announced at the Committee's organizational meeting, the purpose of this rule is to improve the efficiency of the Committee's meetings, and will not be used to advantage or disadvantage any member seeking to offer an amendment. In order to ensure that the Chair can effectively administer the rule and provide for orderly markups, it is essential that Members inform the Chair of their intention to offer a particular amendment as soon as possible. The Chair cannot protect Members if he does not know of their amendment.

Members are further advised that the Chair intends for this rule to be used sparingly, in cases where the Committee faces a long markup on a series of bills or amendments. It does not substitute for the active attendance and participation of Members in committee meetings.

In Particular

1. In the application of the rule, the Chair will consult regularly with the ranking minority member regarding the postponement of votes, including the decision on whether to postpone a particular vote and on when proceedings will resume.

2. Continuing the historical precedent of the Committee, the Chair expects that bills subject to mark-up will be considered as read and open to amendment at any point and will make every reasonable effort not to prejudice Members from offering amendments.

3. The Chair will make every reasonable effort to group the consideration of amendments and the resumption of proceedings on postponed votes on the same calendar day so as to permit the offering of all known amendments.

4. When proceedings resume on postponed record votes, the first vote in any series (or in the case of a single postponed vote, that vote), will remain open for 15 minutes, or until all members of the Committee or subcommittee are recorded. Subsequent votes in a series will not be held open.

5. The Chair will make every reasonable effort to notify members regarding the resumption of proceedings on postponed record votes, both prior to and at the time that proceedings resume on any postponed record vote, which includes notification through electronic means.

6. Members are strongly encouraged to attend all committee meetings. However, if members cannot attend the Committee

meeting, they are advised to monitor the proceedings through the Committee's audio webcast and to have staff present at the meeting.

The Chair believes that this policy will result in the fair application of the rule, the protection of Members' rights to offer amendments, and an improvement in the efficiency of Committee meetings.

If any member has a question regarding the application of this policy, they may either contact the Chair, or the Committee's Policy Director, Mr. Phil Eskeland, at extension 5–5821.

ALL POLITICS ARE INEXTRICABLY INTERWOVEN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, most of us returning to our districts have had an inordinate amount of inquiries and complaints, I am sure, from constituents about local developments and problems. Local hardships are the first things on the minds of my constituents, and I am sure many of my colleagues have experienced the same problem.

People are concerned about the budget cuts at the city and State level, they are concerned about layoffs of people, they are concerned about the fact that there are property tax increases as a result of trying to make up for shortfalls in the budget of a State or of a city. So local hardships are on folks' minds.

I try to get them to understand that, okay, let us talk about it. You have your city councilman, you have your State officials. I certainly am concerned about the local hardships also. But I think it is important for them to understand that it is all interwoven. All politics inextricably are interwoven, and what is happening down here in Washington has an impact on what is happening at the local level, and the sooner we understand that, the better.

What we do in Washington generates a lot of local hardships and suffering. National and international blunders create pain and suffering in our neighborhoods. That is where the troops come from. That is where the soldiers who are on the frontline come from. They come out of our neighborhoods, and those blunders and things that we do, like the war in Iraq, which I consider a blunder, and the fact that the combat was successful has not made me a believer that that war was necessary. It is a blunder. Every life that was lost was lost unnecessarily, in my opinion. It will suck vitally-needed resources from the war against terrorism. We are in for a much more serious situation developing in Iraq, which I will talk about later.

The poor will bear the burden of the war in Iraq. They will bear the burden. They have already borne the burden of the combat. A study by the New York Times showed that the people who are the soldiers in our military forces now are folks from the neighborhood. Members of working families make up more than 90 percent of the forces.

We are proud of them. When there is a war that is really necessary, we are proud of the fact that they are there to fight the war. We do not want their lives to be lost unnecessarily. We do not want them to find themselves sitting in Iraq for the next 5 years. We do not want the terrible conditions to be foisted upon those who happen to be there, and there is no rotation out because we do not have troops to replace them with.

There are a number of problems which place the burden of the war on Iraq on the backs of the poor. Those are my constituents, and those of many of my colleagues. We want them to understand we are concerned and are working to relieve those burdens here in Washington.

There is a scenario shaping up for bloody guerilla warfare in Iraq. I am not a military expert, I am not on the committee, but I think there is some sophomoric knowledge, some examples of immediate history, not too far in the past, Vietnam, Chechnya, the Russian occupation of Afghanistan, the suicide bombers in Israel. There are a number of items there which should lead us to understand that we are in for serious trouble as things are developing in Iraq, and, if we do not do something quickly in Iraq more decisively, we are going to have many more unnecessary lives lost, we are going to have to spend a tremendous amount of resources. Dollars that ought to be going to make up these budget gaps in the cities and the States, those dollars will be going to fight a guerilla war in Iraq.

There is a way out of this. I was not for the war, but I certainly would like to see a successful occupation. We are there now, and we should pull out all stops and make certain we bring justice to the ordinary people of Iraq. That is the way to avoid guerrilla warfare.

Guerrilla warfare will never succeed unless it has a base in the population which is going to help hide it and nurture it and make it difficult for an occupying force to deal with. We did not have guerilla warfare to any great extent in Germany after the Second World War. We did not have it to a great extent in Japan. Yes, there was some guerilla warfare, and it is not talked about much, some holdouts, et cetera, but their efforts were quickly undercut by the way the population of Germany and Japan was treated by the occupying forces.

The same thing is true here, and we are in the process of failing in our slowness in responding to the needs of the general population in Iraq.

There is a formula for success, and I would like to see that formula carried out, because I do not want more of my constituents stuck in Iraq as an occupying power. It destroys their mental capacity after being there under such tremendous strain for a long time. The weather is 140 degrees. All kinds of things are taking place that impact on a human being, and I do not want a situation where we are stuck there with the poorest of the poor in the Armed Services having to carry out unnecessary duties.

Let us go now into a situation which will correct the situation properly and lead us to a point where we can declare success in Iraq and leave.

The Marshall Plan model is there, the Marshall Plan model we used in Europe. Why was it possible to overcome all the difficulties in Europe? Why did the Soviet Union, who at that time was given an opportunity to participate in the Marshall Plan, why did they refuse? It was because they knew that the general population would benefit in a way which would undercut their communist schemes and their own schemes for world domination, and they did not want the population to be satisfied in any way, a part of a partnership for progress and a partnership which took care of meeting the needs of ordinary people.

So the Marshall Plan model to spend money, to use our resources, our technical know-how, to improve the state of the lives of the people there, is very much necessary. We could rebuild the infrastructure of Iraq in one year. It may cost a great deal, but it will cost far less to go in to rebuild the infrastructure of the water systems and the electricity systems than it will cost us if the population becomes alienated and supportive of guerilla warfare. We have what it takes to do it.

I will come back and talk about the formula for success in the occupation of Iraq in greater detail.

There is a formula for success to relieve the suffering and the hardships in our States and our cities also, but it is all interwoven with the kinds of resources we put into places like Iraq. We do not have the money. We voted to appropriate $79 billion for the war in Iraq and related matters, and there is no money to deal with the problem of economic recession here at home. So we have to stop the blunders internationally in order to be able to deal with our problems closer to home.

All politics are inextricably interwoven. We must understand that clearly ourselves, and we should also make sure that our constituents understand.

In New York, I hear repeatedly complaints about, Congressman, why do you not do something about the fact that we just got an 18 percent property tax increase, an 18 percent property tax increase? On top of that, there is a ticket blitz. The cops are being encouraged to write tickets for everything. You drop a gum wrapper on the sidewalk, a candy wrapper, and they rush to write a ticket because they need the money. The citizens become the victims of the government to raise revenue.

Some of that is happening right here in Washington, D.C. also and some other big cities. The citizens are the targets for the people who are governing them in order to raise more revenue.

It is not funny at all. I had a lady come into my office crying because she was in an intersection and happened to be caught in the intersection when the light changed, and the policeman pulled her over and gave her a ticket for a moving violation. Under normal circumstances, that would not happen.

Layoffs are taking place in New York City and New York State, certainly New York City. People who get laid off are the last hired, so they get laid off, and inevitably they are the poorest people.

They laid off 1,200 paraprofessionals in the schools, the people who are in the classrooms with the teachers and who help to monitor the hallways and the lunchrooms. They are the people living in the neighborhood, they are the people that know the families, they are the people that know the children best. How are we going forward in our education reform and education improvement if we are going to take away that vital part as a result of budget cuts?

Budget cuts are reversing the progress that we were making in education reform. ''No Child Left Behind'' is just an empty slogan now because of the fact that the Federal Government is not following through on its promises.

Even worse, what we had going at the State and local level is being cut. You cannot talk about improving education if the budget cuts force you to lay off teachers. Therefore, the ratio of children to each teacher in the classroom inevitably gets higher.

One of the clear principles of reform that we have established is in the lower grades, you need fewer children per teacher. That reform goes out the window because of the fact you have no money to hire teachers, quality teachers.

There is an acceptance of teachers who are not certified and hiring teachers who are substitute teachers, because in many cases they are cheaper. The budget can take them, but it cannot pay for quality teachers. Quality teachers in some instances are being encouraged to retire because they are at the end of the scale in terms of salary payments and they drain more of the budget. Never mind the fact they are the ones who know how to teach the children, that they must mentor new teachers coming in, they are the ones that hold the system together. No, let us get them out, because we want to lower the cost of personnel.

So, these local hardships and cutbacks and raids on education progress doom any forward motion. We can forget about it.

Then promises, of course, are being broken for education here in Washington.

Local level problems are, in some ways, insoluble in terms of the financing. At the local level, the State level, there are constitutions, State constitutions, city charters, which say you cannot spend more money than you anticipate taking in, in revenue. They are bound by that and must operate within that stricture.

The Federal Government does not have to operate within that stricture. In fact, several speakers today, and one in particular tonight, pointed out the fact we are borrowing money on a wholesale basis. We may be borrowing about $1 trillion over the next few months. We are not bound by the revenue coming in. We are borrowing money, we are using Social Security funds.

The things that are important to the powers, the majority powers in Washington, the Republican majority, the things that are important to them are being funded. They are funding the tax cut, they are funding the war in Iraq, they are funding farm subsidies, which are far too high and unjust, they are funding the things that are important, and education happens to be one of the things not important enough.

□ 1900

I suppose most of our colleagues are like me. They were anticipating that if we follow the usual pattern, the Health and Human Services markup would be taking place after we come back from the July 4th recess and, in some cases, it would be one of the last of the markups. But to my surprise and shock, I have received information which states that we had the markup today, that the Health and Human Services markup has taken place, and it is over, and the education portion of the budget has been gutted in terms of promises made that are not being kept. There has been a broken promise in terms of overall education funding.

The majority party Republicans loudly proclaimed that they would provide a $3 billion increase from the previous year, over the previous year for the Department of Education. That $3 billion was cut down to $2.3 billion, or a 4.3 percent increase in education, which is the smallest dollar increase in 5 years and the smallest percentage increase of money for education in 8 years.

Let us just stop for a moment and think about the fact that education started way behind as a Federal expenditure, and over the last 8 years we have had steady increases, as the American people have made it quite clear to all of us. In every district I think it has been made clear by the constituents that they want the Federal Government to do more for education, even when ideologically, the majority of Republicans, the Republican majority did not care for the Department of Education and they tried to dismantle it, and they had to retreat. Not only did they retreat on the effort to dismantle the Department of Education, but they began to appropriate large amounts of funds for education in response to their own constituency. Everybody sees the commonsense wisdom of more support for education.

To go back to the war in Iraq for a moment, since the President declared victory in Iraq, we have lost more than 50 lives. I think 14 of those lives have been lost as a result of hostile activities, but the others have been lost as a result of accidents. What are accidents? Why are accidents killing so many of our soldiers? What is the problem? The problem is, I think, that we have a high-tech operation with respect to our military, and too few of our soldiers really know how to operate all of the equipment and the weaponry that we have. Helicopters in particular need to be investigated because a large number of accidents happen there. But just the rapid movement of vehicles and collisions on the ground seem to be a major problem. So education in our military to produce a better-equipped military is as important as education anywhere else.

Returning to our education appropriations process, the No Child Left Behind Act, which had great fanfare when the President signed it, he promised America's school would now be on a path of reform and a new path of results. Our schools now would have greater resources to meet those goals. That is what the President promised. He stated that we have accountability from all 50 States now. But the problem is, where are the resources? This bill provides, the markup today provides an increase of only $381 million, or 1.6 percent over the current funding level for the No Child Left Behind Act. That is a freeze in real terms. We can provide $1 trillion in tax cuts but, at the same time, this bill does not even come close to meeting the funding levels authorizing the No Child Left Behind Act, which would require another $8 billion in fiscal year 2004.

In the case of special education, we have made promises and have a $1.2 billion shortfall. I think it is important for all of our colleagues to wake up to the fact that this is on the table right now, it has been done, decided in the markup in the Committee on Appropriations responsible for Health and Human Services; and we should move now if we are going to have any effective counterattack before this appropriations bill hits the floor.

Title I funding, we have a shortfall there. We are $334 million short, since it provides only a $666 million increase requested by the President instead of the overall amount originally contemplated. College education, the increase there is another broken promise.

In the agencies under the Health and Human Services appropriation subcommittee, the Institutes of Health have received a great decrease after having 15 percent annual increases over the last 5 years. We recognize the need to deal with the use of science, the best

science in the world to come to grips with the more rapid-reaching of ways to contain diseases and to provide cures for the incurable items that are still on the agenda, but that 15 percent increase has now been cut to a mere 2.5 percent increase.

The health care safety net is not taken care of. Bioterrorism, a concern that the Department of Homeland Security has talked about quite a bit; bioterrorism preparedness under the Republican bill received $94 million less than they received this year.

The Department of Health and Human Services asked for $100 million to get the Nation better prepared for an influenza pandemic, and the bill provides only half of that amount.

The nursing shortage is not dealt with properly and, of course, when it comes to unemployment insurance to deal with the most important factor in our recession, a the fact that people have no money to spend, that is underfunded too.

Low-income heating assistance was greatly cut also. Promises have been broken. Why? Because when it comes to the domestic budget, we plead bankruptcy. We do not have the money. We have enough money in the domestic budget, of course, to provide the biggest tax cuts in history. We have enough money in the overall budget to provide a $79 billion special allocation for the war in Iraq and related matters. What we want to do, really, we can find the money for.

So the local hardships and the immediate problems faced by education are not unrelated to our blunders at a national and international level. The tax cut is a national blunder. It is a great economic disaster that we are going to suffer for, not only nationally, but it is going to create pain and suffering in our neighborhoods.

The war in Iraq is a blunder because it will suck a large number of vitally needed resources. Human life is sacred, and every human life lost in the war in Iraq is the first problem that I have, the first problem that anybody who believes in the sacredness of human life has. Soldiers have to die; military activities are necessary. But only when they are necessary should they be conducted, only when they are necessary. Only when they are necessary should we place the life of a soldier at risk. Only when it is necessary should soldiers have to die.

I am not a pacifist. I was in favor of immediately going to stop the Taliban in Afghanistan and to extract from them al Qaeda and Osama bin Laden. They were immediate enemies. They made no effort to hide the fact that they were there in Afghanistan. So it is not a pacifist sentiment that drives me; it is a reverence for human life that only when it is necessary, as it was in that case, and as military action is in many other cases, should it happen.

Was it necessary to lose lives in Iraq? And we have lost relatively few, and we like to boast about that; but there will be more lives lost, I assure my colleagues, in Iraq. And it is not necessary.

A lot of focus has been turned in the direction of the weapons of mass destruction. Weapons of mass destruction are thoroughly being analyzed, and the case for that, whether they exist or whether we deliberately oversold the existence of weapons of mass destruction or not, all that is being very well aired in the press. I think in many cases the media got in bed with the war; and ''embeddedness'' had really a double meaning. The media that got in bed with the war and praised it and covered up certain kinds of things are feeling guilty now, and they are going to extremes to examine the whole question of weapons of mass destruction. When did we know what we know, who exaggerated, how incompetent is our military intelligence? Was it the incompetence of our military intelligence, or was it the White House insisting that the facts be twisted?

I am confident that we are going to come out with some real answers there, but we are focusing so much on that, we are losing sight of the fact that there is a situation developing in Iraq which is dangerous and will engulf us in a war that is going to take a lot more lives, a lot more resources.

The war in Iraq already has pinned down, we say 150,000, of our troops; but we never give the correct figure. I am sure we have at least 200,000 there already, but we are going to need more. We cannot occupy a country of 24 million people with 150,000 or 200,000 troops if that population is hostile. We are making that population more hostile because, of course, we are zeroing in now on the neighboring nation of Iran.

Why is activity in Iran going to impact on what happens in Iraq? Because the majority of the people in Iraq are Shiite Muslims. Shiite Muslims are the predominant group in Iran. And one of the alliances that we expected to form was, with our liberating troops, was the Shiite population that had been exploited, oppressed under Saddam Hussein, because Saddam Hussein is Sunni. The Sunnis had oppressed the Shiites. Well, the Shiites, we say, did welcome us in places where there were large Shiite populations. We had the least amount of trouble in the heated combat and even now in the occupation.

But if we are going to go into a situation now where a great deal of pressure is being brought on Iran, and it may be necessary, Iran may be the real problem, and we should not be in Iraq; if we are looking for nuclear weapons, it may be that Iran is far closer to building a nuclear weapon, buying parts maybe from North Korea than is acceptable. But the Shiite population in Iraq will not be an ally. So we are going to have to worry about the guerilla warfare problem even more if we lose the loyalty and the support of the Shiites.

We are neglecting some other things, as I said before, while we pour our resources and our troops into Iraq. We are neglecting Pakistan. I have said many times that I know a little bit more about Pakistan than I do most of the Muslim nations because I have a Pakistan population in my congressional district. They are major allies of the United States. They were in the Cold War; they were in the war against the Soviets in Afghanistan. Pakistan has always been with the U.S.

But in my opinion, we have always given Pakistan very second-class, shabby treatment. The amount of aid presently going to Pakistan from the United States is less than $500 million at this point. Yet Pakistan is a major ally of ours. Pakistan, its government, put itself on the line from the very beginning in the war against terrorism. They allowed our troops in, they have cooperated in many ways, but we still are neglecting Pakistan. We are so preoccupied with focusing on Iraq that we are ignoring a major ally.

What is the danger of this? The danger is that Pakistan's government is on our side, but Pakistan is still a Muslim nation. Pakistan is still the home of the Taliban. The Taliban were created in the religious schools of Pakistan before they marched into Afghanistan and united to take over that country. This is not a great secret. One does not need the CIA to tell us this; it is well-known. So the pressure on the Pakistan Government is enormous, and there were parts of the Pakistan military that helped to train the Taliban, the parts of the Pakistan military that is very sympathetic to al Qaeda and the final situation is Pakistan already has nuclear weapons.

□ 1915

Pakistan has nuclear weapons, and we know that. Everybody knows that. They are right there, available. If al Qaeda, the Taliban, the forces inside Pakistan were to pull a coup and take over the government of Pakistan, I think we would be forced to react militarily immediately. We would be forced into a situation which is very dangerous for a long, long time to come, with the bomb in the hands of terrorists for sure. No speculation.

So why are we so reluctant to maximize our resources in Pakistan? If ever there was a nation that deserved to have a massive Marshall Plan model, it is Pakistan. We should go in to help the economy of Pakistan, to help the education structure of Pakistan. We should see that expenditure as being far more worthwhile and productive in the fight against terrorism than many of the expenditures we are making in Iraq. In Iraq, the poor will bear the burden of the war. As I said before, people from my district, the working families, produce the soldiers.

The winds of war are blowing and we are ignoring them. We do not seem to talk very much about the fact that guerilla warfare is a possibility, because every day there are more incidents taking place of attacks on American soldiers in Iraq. More incidents

take place every day. We have decided to have some counteroperations, to sweep through certain areas and intimidate certain folks, and even round up certain operatives who probably are getting ready to launch guerilla warfare, if they are not already involved.

All of that is necessary, but I do not see any overall plan that says, look, we do not want to have guerilla warfare break out in Iraq; we do not want a guerilla warfare situation. And the worst element in a guerilla warfare situation is a population that is friendly to the guerrillas; the population that hates the liberators. That plan is not there. The understanding is not there.

I think that it is not required that you have a great deal of military experience in order to understand what is going on. A group of sophomores huddled around a table at lunch time could see the unfolding of the situation, it seems to me, and understand where it is going. A group of sophomores could say, look at the situation that took place in Afghanistan, when the Soviets tried to occupy Afghanistan. They won the comeback, then they tried to occupy the territory, and their losses were so great until they finally just gave up and pulled out because the guerilla warfare was unbearable.

Now, I mentioned to an expert 2 weeks ago, I said, do we not have to worry about the escalating guerilla activities? These incidents that are spontaneous right now, but they are probing and they are experimenting and they are finding out certain kinds of weaknesses. Do we not have to worry about something like a Tet offensive that took place in Vietnam in the City of Saigon?

For those of you too long to remember the Vietnam War, the war in Vietnam was declared a success and was moving along at a jolly pace when suddenly there was a big offensive launched by the Viet Cong. The Viet Cong are a guerilla operation, of course. And this primarily took place in the City of Saigon. From the destruction that was wrought on the day of the Tet offensive, from that day on, we know now that our military understood that the war was lost. They would not give up. They would not admit certain things. But that Tet offensive of guerilla warfare sort of sent the signal of how powerful the forces were.

I raised that issue with this expert at a meeting a couple of weeks ago and he said to me, well, the Vietnamese had jungles to hide in. The Iraqis do not have any jungles. It is wide open desert. So we do not have to worry about that kind of guerilla warfare. I did not press the point, but the Tet offensive took place mostly in the City of Saigon. In the city. And it is in the city, in urban warfare, where our high-tech weaponry and equipment has the least advantage. We are at a great disadvantage with high-tech warfare in urban warfare, in house-to-house warfare. You are so close to the enemy that blockbuster bombs do not do you any good because they will kill you as well as the enemy.

We are in a situation where the enemy knows the terrain better than we do. We are in a situation where the enemy will have the support of the local population, unless we take steps to end that. So we ought to fear and we ought to be very worried about a massive, bloody war, a guerilla war, developing in the next 6 months in Iraq. And when that develops, great amounts of human lives are going to be lost. And to restore and get back to where we should be is going to be very costly. We ought to look at it now and look for solutions now.

I believe in peace because I think human life is sacred, but I take off my hat and I salute our men and women in our Armed Forces. I think every soldier is a hero. I take exception to some people who would make these gradations and degrees. This veteran did not see combat, therefore he does not deserve the same benefits as the guy who saw combat. This veteran did not even go overseas or this veteran went overseas but he spent all his time behind the lines, he was in a unit that buried soldiers.

Anybody who puts on a uniform is a hero, because once you put the uniform on and you take the oath, your life does not belong to you. You go where you are sent. And it is only by the grace of God or by accident or whatever that you do not end up in a place where your life is more at risk than another. Nobody chooses where they go once they become a soldier. So every soldier, every person in the military ought to be saluted as a hero from the time they put the uniform on.

Let us not degrade them by saying, you did not see enough combat, or some guys saw a whole year of combat so they deserve more benefits than the guy who saw one week of combat. Everybody is a hero and ought to be treated that way. Certainly the people who see combat deserve to be treated as heroes.

I like the model established by the Vietnam Memorial Wall. For the first time, the Vietnam Memorial Wall made us look at every soldier who got killed as a hero. Their names are on the wall. I think that is a great monument, one of the greatest war monuments ever created, and I think it is a peace monument. Because when you have to look at human beings individually, then you know the horror of war. I have gone to that wall with people looking for their relatives or friends. I went with my young brother, who not so long ago was a sergeant major in the Army, 20-some years. I went with him to look for a friend of his that he went to high school with. And I saw the tears in his eyes when he found the friend's name on the wall. Just a friend.

Think of all the mothers and the fathers and the relatives who go to that wall and cry over lost loved ones, 58,000 now. But I think it is a monument that lets us know that war is hell, war is horrible, and not a single life should be put at risk and lost unnecessarily.

They used to have tombs of unknown soldiers. They still have them. All over the world you will find these tombs of unknown soldiers. Well, I hope that there will be no new tombs of unknown soldiers. Soldiers should be known. The names of all the soldiers who died should be known. All the soldiers who put on a uniform and were available to die should be known.

All human life is sacred, and until we recognize how sacred it is, we will not have the national policies or international policies which are worthy of the people who make up the Nation. The people who make up the Armed Forces, as I said before, 90 percent are from working families. Everybody should realize the importance of working families to America. If you did not realize it before, realize it now. It should have an impact on our policies.

We should look at the minimum wage that is $5.15 an hour for the last 3 or 4 years. Working families are not given an opportunity to earn a decent living. We should look at OSHA, at health and safety requirements in the workplace. There are a number of programs for poor children that we should look at.

We have been struggling this week in the Committee on Education and the Workforce with Head Start. Head Start is a successful program. They have not been able to malign Head Start or discredit Head Start. Despite the great success of Head Start, there are people who still only want to nickel and dime Head Start. They do not want to raise the amount of money we appropriate for Head Start so that Head Start can hire decent teachers and keep them.

One of the biggest problems with Head Start is they cannot keep any teachers. Because the teachers are paid so poorly, they are always moving on to some other school or education arena. So we get only new teachers in Head Start, teachers who cannot teach anywhere else. Same thing is true in poor schools.

We have had two bills in the last 10 days in the Committee on Education and the Workforce where we have tried to raise the amount of forgiveness on student loans so that people who teach in poor areas would have their loans forgiven if they teach for 5 years. We tried to raise the amount of loan forgiveness for Head Start teachers. We tried to have some Federal incentive and this would show that we have placed our priorities in the right place. But we lost. The only budging that we got, the only movement we got from the majority of Republicans was a forgiveness of the loans for math and science teachers, which is a victory still, but not nearly enough.

Math and science teachers have their loans forgiven if they teach for a 5-year period, up to $17,500. That is in the bill that will be coming to the floor, and we

would like to make another try to expand that so that at the very bottom in early childhood and Head Start so that we also try to encourage teachers with that kind of incentive. We do not have the money. Those are poor children. They need a good start in life. We forget that they are going to become the soldiers who go off to fight the wars. They are going to become the heroes whose names are listed on another Vietnam Memorial Wall, or whatever the next wall will be. I hope in the future, all our heroes are honored in a similar fashion; that somewhere their names are known.

We have a scenario for a bloody warfare about to happen in Iraq. We ought to take a hard look at it. I am concerned because I do not want the members of my district telling me that I did not do what is necessary, all that I could do to protect their relatives, their children who are over there. Many went in the National Guard not expecting ever to see combat. National Guard units have been called. Many are in the regular service because they wanted to be all that they could be and come out and get an education using the benefits promised by the services, which is great for a young person who has reached a dead end, who cannot afford to go to college, who cannot afford to pay tuition.

There are many motivations. But once they are in the situation, they certainly should be treated like the heroes that they are.

We had a rotation system in Vietnam. It was not passed by Congress, it was a matter of common sense which was finally figured out by the military in Vietnam so that the system did not leave anybody in combat for more than a year. In the last 2 years of the Vietnam War, you did a year and you were out. There was a rotation. There is no such rotation that has been established in Iraq. So we have 140 degree temperatures over there. No beds for them to sleep in.

My colleague, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), went to visit, and she talked about the horrible situation that both men and women have to live in in Iraq. Those soldiers. And the most terrible thing is that once you have a hostile population, every time you step out on the street, you do not know when a sniper is going to be shooting at you or you will confront a group of people you do not know is friendly or might be a suicide bomber.

Can you imagine how nerve-wracking that is, and how many nervous basket cases we have if people have to stay there and have no idea when they are going to be leaving because we have no rotation system? Why do we not have a rotation system? Because the administration is blundering again. They are determined not to admit we need more forces there.

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We need more troops there. We need more troops, period. We may have to go into a draft to get those troops. That is the last thing that the powers that be in Washington want to admit, that we are in a war now requiring large amounts of personnel, and they may have to draft people. It is better to admit it sooner and have less deaths than to wait until later and be forced into it.

We have scenarios, as I said before. We know what happened in Vietnam. The Tet Offensive showed us how effective guerrilla warfare can be in the city, not just the jungle. And the Russian attempt to occupy Afghanistan is another obvious example of what guerrilla warfare is like and how difficult it is to handle it.

Right now Chechnya, a relatively small province in Russia, will not be subdued. Hatred can reach a level, fanaticism can reach a level which makes it almost impossible to get back to peace. And the suicide bombers in Israel are another example of a level where it is difficult to get back to establishing peace.

But what it says in those situations, great harm can be done and we are placing our personnel at great risk. We need to do whatever is necessary to establish some new security.

First, the formula for success in the occupation of Iraq has to begin with the establishment of proper security. Proper security means if more troops are needed, we need to establish proper security. Before we can do anything else, we need to block the escalation toward guerrilla warfare with the support of the population. Do I sound like a war monger? No. I was against the war in Iraq. I want to save lives. I do not want one blunder to lead to the loss of more lives than the original blunder took.

I would like to see us have more troops in Iraq to secure it. Once we secure it, let us institute a Marshall Plan. What is the element of the Marshall Plan that is the most important? Let us give people electricity. Let us give the populous water. They had electricity and water before; they do not have it now. Is it so difficult to get electricity and water? If the soldiers and the local population cannot do it, we should form a corps of plumbers and electricians. We may need to pay them double for leaving their families and traveling across the ocean and going into an area that is not secure, but pay them whatever is necessary. In less than a year, we could reestablish all of the electricity that existed before with a corps of plumbers and electricians.

It is not a great undoable task. It requires money. Spend the money that way instead of spending it fighting guerrilla warfare that is going to be endless. It is a slow period for the sheet metal workers; let them form a corps. Let us let the iron workers, the people who tore down the wreckage at the World Trade Center, let them go, organize them, and do what has to be done to restore the infrastructure in Iraq and win the hearts and minds of the civilian population. Let the workers go to the aid of their fellow workers. We have the soldiers over there; let the working families send the additional heroes to restore electricity and restore water and other systems.

The problem is the way this administration operates, they would spend a lot of time figuring who is going to get the contract, who is going to profit from it, how much knowledge can you get from your contributors, and a lot of other things that come into play. We need to do this and do it fast.

I remember that the earthquake in Oakland devastated a part of Oakland; and if the freeway and a number of things had been left that way for a year, it would have wrecked the economy of that area of California. We appropriated first $6 billion and later $8 billion, and they marshaled all of the technology, engineering skills, and in less than a year, the damage from that earthquake was restored and its impact on the economy was nil. It can be done. We do not need to have somebody come down from heaven and wave a magic wand. It is American know-how. Let us spend it up front to bring justice to Iraq instead of spending it in a bottomless pit, guerrilla warfare.

Finally, alleviating hardships here in the States does not require heavenly intervention. I want to call Members' attention to an article that appeared in The New York Times, Tuesday, June 10, issue which is very revealing. I find it very inspiring. It is about a colleague of ours, Bob Riley, before he ran for governor in Alabama. As a Republican Congressman, he had a nearly perfect record of opposing any legislation supported by liberal Americans for democratic action, or anything else that was considered liberal.

Why am I going to talk about Bob Riley? Because I think to relieve the hardships in our cities and States, to stop the budget cuts, to stop the cuts in education which force us to increase the size of classrooms, to stop the cuts which force us to push the best teachers into retirement, to stop all this, we need to marshal our revenue in a different way and change our priorities, and in order to do that you need a political base.

One of the big problems with taxes and tax policies in America is that only the majority party, the Republican Party, has ever really showed great concern about tax policy. I mean, the kind of concern that it merits. I think the Democratic Party deserves to be chastised for not really thoroughly exploring what the meaning of tax policy is in the context of American politics.

Bob Riley, forced in a situation where Alabama is starved for revenue, and he is now the governor, put aside any right wing ideology and has come out with common sense that we all should take a hard look at. Governor Riley has stunned many of his conservative supporters and enraged the State's powerful farm and lumber lobbies by pushing a tax reform plan

through the Alabama legislature that shifts a significant amount of the State's tax burden from the poor to wealthy individuals and corporations. And Governor Riley has framed the issue in starkly moral terms arguing that the current Alabama tax system violates biblical teachings because Christians are prohibited from oppressing the poor. That is Governor Bob Riley who used to sit here in this Chamber on the other side. I salute Governor Bob Riley.

If Governor Riley's tax plan becomes law, and it has to be ratified in September by the voters, it will be a major victory for the poor people of Alabama if it becomes law. But win or lose, Alabama's tax reform crusade is posing a pointed question to the Christian Coalition, focus on the family and other groups that seek to import Christian values into national policy. The question has been asked, if Jesus were active in politics today, would he be lobbying for the poor? This is from a New York Times article of Tuesday, June 10.

Alabama's tax system has long been brutally weighted against the less fortunate. The State income tax kicks in for families that earn as little as $4,600. Even Mississippi does not tax income until it is over $19,000. Alabama also relies heavily on sales tax which runs as high as 11 percent, and their sales tax applies to groceries and infant formula as well as everything else.

The upshot is wildly regressive Alabamians with incomes under $13,000 pay 10.9 percent of their incomes in State and local taxes while those who made over $229,000 pay just 4.1 percent.

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I would like to read that again:

Alabamians with incomes under $13,000 pay 10.9 percent of their incomes in State and local taxes, while those who make over $229,000 per year pay just 4.1 percent.

A main reason Alabama's poor pay so much is that large timber companies and megafarms pay so little. The State allows big landowners to value their land using ''current use'' rules, which significantly low-ball its worth.

Governor Riley's plan, which would bring in $1.2 billion in additional desperately needed revenue, takes aim at these inequalities. It would raise the income threshold at which families of four start paying taxes to more than $17,000. Instead of having to pay taxes, those who make $4,600, you would not have to pay State taxes until you get to $17,000. It would scrap the Federal income tax deduction and increase exemptions for dependent children. And it would sharply roll back the current-use exemption, a change that could cost companies in the timber industry a great deal of money.

Alabamians are used to hearing their politicians make religious arguments, and Governor Riley thinks he can convince the voters that Christian theology calls for a fairer tax system.

Let us understand what is happening here. This Governor—he must be some kind of genius—has gotten this tax package through the legislature already, but in Alabama you have to ratify it. The ratification will take place in September, which means that the poor people of Alabama will have a chance to vote to support what this Governor is doing or not. In terms of votes, they certainly outnumber the rich. It is something to watch.

Governor Riley thinks he can convince the voters that Christian theology calls for a fairer tax system.

I repeat: Governor Riley thinks that he can convince the voters that Christian theology calls for a fairer tax system.

Quoting Governor Riley, ''I've spent a lot of time studying the New Testament and it has three philosophies: Love God, love each other, and take care of the least among you,'' he said. ''I don't think anyone can justify putting an income tax on someone who makes $4,600 a year.''

Religious groups could provide the margin of victory in September. Susan Pace Hamill, a University of Alabama tax professor with a theological degree from an evangelical divinity school, caused a stir recently with a law review article called ''An Argument for Tax Reform Based on Judeo-Christian Ethics'' which makes an evangelical case for making the tax system fairer. She plans to train speakers this summer to take the theological argument to the grassroots. Kimble Forrister, the State coordinator of Alabama Arise, a coalition that advocates for poor people, expects the 100 church groups that are part of his organization to hold church-basement workshops this summer to get the word out to their congregations.

Many theologians argue that it is far easier to find support in the Bible for policies that help the poor than for any cut in the dividend taxes. If Governor Riley's crusade succeeds this summer, Alabama may offer the Nation a model for a new kind of tax system, one where the devil is not in the details.

End of quote from the New York Times article.

Mr. Speaker, I would like to submit the New York Times article of Tuesday, June 10, entitled ''What Would Jesus Do? Sock it to Alabama's Corporate Landowners'' for the RECORD in its entirety.

[From the New York Times, June 10, 2003]

WHAT WOULD JESUS DO? SOCK IT TO ALABAMA'S CORPORATE LANDOWNERS

(By Adam Cohen)

MONTGOMERY, AL.—If the religious right had called up Central Casting last year to fill the part of governor, it could hardly have done better than the teetotaling, Bible-quoting businessman from rural central Alabama who now heads up the state. As a Republican congressman, Bob Riley had a nearly perfect record of opposing any legislation supported by the liberal Americans for Democratic Action.

But Governor Riley has stunned many of his conservative supporters, and enraged the state's powerful farm and timber lobbies, by pushing a tax reform plan through the Alabama Legislature that shifts a significant amount of the state's tax burden from the poor to wealthy individuals and corporations. And he has framed the issue in starkly moral terms, arguing that the current Alabama tax system violates biblical teachings because Christians are prohibited from oppressing the poor.

If Governor Riley's tax plan becomes law—the voters still need to ratify it in September—it will be a major victory for poor people, a rare thing in the current political climate. But win or lose, Alabama's tax-reform crusade is posing a pointed question to the Christian Coalition, Focus on the Family and other groups that seek to import Christian values into national policy: If Jesus were active in politics today, wouldn't he be lobbying for the poor?

Alabama's tax system has long been brutally weighted against the least fortunate. The state income tax kicks in for families that earn as little as $4,600, when even Mississippi starts at over $19,000. Alabama also relies heavily on its sales tax, which runs as high as 11 percent and applies even to groceries and infant formula. The upshot is wildly regressive: Alabamians with incomes under $13,000 pay 10.9 percent of their incomes in state and local taxes, while those who make over $229,000 pay just 4.1 percent.

A main reason Alabama's poor pay so much is that large timber companies and megafarms pay so little. The state allows big landowners to value their land using ''current use'' rules, which significantly low-ball its worth. Individuals are allowed to fully deduct the federal income taxes they pay from their state taxes, something few states allow, a boon for those in the top brackets.

Governor Riley's plan, which would bring in $1.2 billion in desperately needed revenue, takes aim at these inequalities. It would raise the income threshold at which families of four start paying taxes to more than $17,000. It would scrap the federal income tax deduction and increase exemptions for dependent children. And it would sharply roll back the current-use exemption, a change that could cost companies like Weyerhaeuser and Boise Cascade, which own hundreds of thousands of acres, millions in taxes. Governor Riley says that money is too tight to lift the sales tax on groceries this time, but that he intends to work for that later.

Church and state are not as separate in Alabama as they are in most places. (The chief justice of the Alabama Supreme Court was in federal court last week defending his decision to install a 2.5-ton rendering of the Ten Commandments in the state's main judicial building.) Alabamians are used to hearing their politicians make religious arguments, and Governor Riley thinks he can convince the voters that Christian theology calls for a fairer tax system. ''I've spent a lot of time studying the New Testament, and it has three philosophies: love God, love each other, and take care of the least among you,'' he said. ''I don't think anyone can justify putting an income tax on someone who makes $4,600 a year.''

The state's progressive voters, including many in the sizable African-American community, have backed tax-law changes like these for years. And reform-minded business leaders, who see such tax changes and improved schools as crucial to the state's economic development, have promised to spend millions of dollars on television ads in support of the September referendum.

But religious groups could provide the margin of victory. Susan Pace Hamill, a University of Alabama tax professor with a theological degree from an evangelical divinity school, caused a stir with a law review

article called ''An Argument for Tax Reform Based on Judeo-Christian Ethics,'' which makes an evangelical case for making the tax system fairer. She plans to train speakers this summer to take the theological argument to the grass roots. Kimble Forrister, the state coordinator of Alabama Arise, a coalition that advocates for poor people, expects the 100 church groups that are part of his organization to hold church-basement workshops this summer to get the word out to their congregations.

The Christian Coalition of Alabama has not yet taken a position on the September vote, but it has been speaking out against the plan's tax increases. In an interview yesterday, John Giles, the group's president, had trouble pointing to a biblical passage that directly supported his opposition to new taxes, but he referred to Jesus' statement about rendering unto Caesar what is Caesar's. The key question, he argued, is, ''How much is Caesar's?''

As the Bush administration and the religious right fight to put theology more squarely into public policy discussions, they are going to have to be ready for arguments like the ones coming out of Alabama. Many theologians argue that it is far easier to find support in the Bible for policies that help the poor than for, say, a cut in the dividend tax. If Governor Riley's crusade succeeds this summer, Alabama may offer the nation a model for a new kind of tax system: one where the Devil is not in the details.

Why have I started my closing remarks with that article? Because I think if ever there was a formula for success in relieving suffering and hardships in the States and cities, it is an adoption of a simple Christian ethic that those who have the least deserve the least amount of taxes and the most amount of help from their government.

I have two pieces of legislation that I have introduced: One is called the Domestic Budget Protection Act, H.R. 1804. I have discussed that previously on the floor. That calls for a situation which would relieve the pressure on the domestic budget by forcing the consideration of all future military actions, like the war in Iraq, to be paid for by corporations. We once had a surcharge. During the war in Vietnam, during World War I, World War II, the Korean War, we had a surcharge on corporate profits to help pay for the war. We should go back to that so that the payment for the war is taken out of the budget as a competing factor for domestic programs like education, health care, a prescription drug benefit, et cetera.

I have a second bill, H.R. 2335, which is called the Emergency Revenue Sharing Act. The money we save should be spent in relieving the burdens that the cities and the States are now forced to deal with during this recession period. If we took the $79 billion, or an equivalent amount of the amount that we appropriated for the war in Iraq and related matters, and sent it to the States and the cities, we would end the layoffs of school teachers and personnel in the schools, we would end the pressure on our civil servants, and we would end the kind of oppression of our taxpayers that has taken place through property tax increases and ticket blitzes.

All politics are inextricably interwoven. What happens at the local level is inseparable from what happens down here. What we do here is inseparable from the hardships that are created at the local level.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. EDDIE BERNICE JOHNSON of Texas (at the request of Ms. PELOSI) for today after 4:30 p.m. on account of official business.

Mr. NADLER (at the request of Ms. PELOSI) for June 18 after 1:00 p.m. on account of personal reasons.

Mr. HASTINGS of Florida (at the request of Ms. PELOSI) for today on account of official business.

Mrs. MILLER of Michigan (at the request of Mr. DELAY) for today on account of official business.

Mr. TIAHRT (at the request of Mr. DELAY) for today after 3:30 p.m. on account of attending his son's graduation.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DAVIS of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mrs. JONES of Ohio, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. BELL, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mr. BORDALLO, for 5 minutes, today.

(The following Members (at the request of Mr. SMITH of Texas) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, June 26.

Mr. OSBORNE, for 5 minutes, June 24.

Mr. PENCE, for 5 minutes, today.

Mr. PAUL, for 5 minutes, today.

Mr. MANZULLO, for 5 minutes, today.

Mr. BURGESS, for 5 minutes, today.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 389. An act to authorize the use of certain grant funds to establish an information clearinghouse that provides information to increase public access to defibrillation in schools.

H.R. 519. An act to authorize the Secretary of the Interior to conduct a study of the San Gabriel River Watershed, and for other purposes.

H.R. 788. An act to revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 703. An act to designate the regional headquarters building for the National Park Service under construction in Omaha, Nebraska, as the ''Carl T. Curtis National Park Service Midwest Regional Headquarters Building''.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 47 minutes p.m.), under its previous order, the House adjourned until Monday, June 23, 2003, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2748. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Department's final rule — Approval and Promulgation of Air Quality Implementation Plans; Rhode Island Update to Materials Incorporated by Reference [RI-38-6985b; FRL-7493-4] received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2749. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Vermont Update to Materials Incorporated by Reference [VT-19-122b; FRL-7493-5] received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2750. A letter from the Ambassador, Republic of Poland, transmitting a letter requesting a change in U.S.-Poland immigration policies; to the Committee on the Judiciary.

2751. A letter from the Under Secretary for Health and Assistant Secretary of Defense, Health Affairs, Departments of Veterans Affairs and Defense, transmitting a letter concerning a joint review of the adequacy of processes and existing authorities for the coordination and sharing of health care resources, pursuant to Public Law 107—314, section 723; jointly to the Committees on Armed Services and Veterans' Affairs.

2752. A letter from the Secretary, Department of Health and Human Services, transmitting a report regarding the progress made in launching the Physician Group Practice demonstration, pursuant to Public Law 106—554, section 412 (114 Stat. 2763A—515); jointly to the Committees on Energy and Commerce and Ways and Means.

2753. A letter from the Chairman, Council on Environmental Quality, transmitting an account of the actions taken by the Administration to implement the President's climate change strategy; jointly to the Committees on Energy and Commerce, Ways and Means, Science, International Relations, and Agriculture.

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. OXLEY: Committee on Financial Services. H.R. 1276. A bill to provide downpayment assistance under the HOME Investment Partnerships Act, and for other purposes; with an amendment (Rept. 108–164). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee on Financial Services. H.R. 1614. A bill to reauthorize the HOPE VI program for revitalization of severely distressed public housing and to provide financial assistance under such program for main street revitalization or redevelopment projects in smaller communities to support the development of affordable housing for low-income families in connection with such projects, and for other purposes; with an amendment (Rept. 108–165). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 272. A bill to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries; with an amendment (Rept. 108–166). Referred to the Committee of the Whole House on the State of the Union.

Mr. TOM DAVIS of Virginia: Committee on Government Reform. H.R. 2086. A bill to reauthorize the Office of National Drug Control Policy, with an amendment (Rept. 108–167 Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILLS PURSUANT TO RULE XII

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 2086. Referral to the Committees on the Judiciary, Energy and Commerce, and Intelligence (Permanent Select) extended for a period ending not later than July 14, 2003.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BALLENGER (for himself, Mr. BURR, and Mr. BOEHNER):

H.R. 2516. A bill to amend the Fair Labor Standards Act of 1938 to clarify that Christmas tree farming is agriculture under that Act; to the Committee on Education and the Workforce.

By Mr. SMITH of Texas (for himself, Mr. BERMAN, and Mr. CONYERS):

H.R. 2517. A bill to enhance criminal enforcement of the copyright laws, educate the public about the application of copyright law to the Internet, and clarify the authority to seize unauthorized copyrighted works; to the Committee on the Judiciary.

By Mr. SMITH of New Jersey:

H.R. 2518. A bill to amend title 38, United States Code, to provide for consolidation and improvement of programs to assist homeless veterans, to provide for management by the Secretary of Veterans Affairs of the Military Personnel Records facility of the National Personnel Records Center in St. Louis, Missouri, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ACKERMAN (for himself, Mr. HOUGHTON, Ms. KAPTUR, Mr. SMITH of New Jersey, Mr. ABERCROMBIE, Mr. ALLEN, Mr. BAIRD, Ms. BALDWIN, Mr. BARTLETT of Maryland, Mr. BASS, Mr. BECERRA, Mr. BERMAN, Mr. BLUMENAUER, Ms. BORDALLO, Mr. BROWN of Ohio, Mrs. CAPPS, Mr. CONYERS, Mr. COSTELLO, Mr. CROWLEY, Mrs. DAVIS of California, Mr. TOM DAVIS of Virginia, Mr. DEFAZIO, Mr. DELAHUNT, Ms. DELAURO, Mr. DEUTSCH, Mr. DICKS, Mr. DOYLE, Mr. ENGEL, Mr. ENGLISH, Mr. FARR, Mr. FRANK of Massachusetts, Mr. GOSS, Mr. GUTIERREZ, Mr. HINCHEY, Mr. HOBSON, Mr. HOEFFEL, Mr. HOLT, Mr. HONDA, Mr. INSLEE, Mr. ISRAEL, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JOHNSON of Connecticut, Mrs. JONES of Ohio, Mr. KILDEE, Ms. KILPATRICK, Mr. KIRK, Mr. KUCINICH, Mrs. KELLY, Mr. LATOURETTE, Mr. LANGEVIN, Mr. LARSON of Connecticut, Ms. LEE, Mr. LEWIS of Georgia, Mr. LOBIONDO, Mrs. LOWEY, Mrs. MALONEY, Mr. MARKEY, Mrs. MCCARTHY of New York, Mr. MCNULTY, Mr. MCGOVERN, Mr. MCDERMOTT, Ms. MCCOLLUM, Mr. MEEHAN, Mr. GEORGE MILLER of California, Mr. MOORE, Mr. MORAN of Virginia, Mr. NADLER, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OLVER, Mr. OWENS, Mr. PALLONE, Mr. PRICE of North Carolina, Mr. RANGEL, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. RYAN of Ohio, Mr. SANDERS, Mr. SAXTON, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SERRANO, Mr. SHAYS, Mr. SHERMAN, Ms. SLAUGHTER, Mr. STARK, Mrs. TAUSCHER, Mr. THOMPSON of Mississippi, Mr. TIBERI, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VAN HOLLEN, Mr. WAXMAN, Mr. WEINER, Mr. WELDON of Pennsylvania, Mr. WOLF, Ms. WOOLSEY, Mr. WU, and Mr. WYNN):

H.R. 2519. A bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of nonambulatory livestock, and for other purposes; to the Committee on Agriculture.

By Mr. ADERHOLT:

H.R. 2520. A bill to authorize the Secretary of the Interior to acquire by donation certain property in Alabama to provide for the protection and preservation of certain rare paleontological resources on that property, and for other purposes; to the Committee on Resources.

By Mr. BAIRD (for himself and Mr. INSLEE):

H.R. 2521. A bill to require the Comptroller General to conduct a study of the business practices, procedures, accountability, and administration of the Internet Corporation for Assigned Names and Numbers and of the Internet domain name system, and for other purposes; to the Committee on Energy and Commerce.

By Ms. BORDALLO (for herself, Mr. GALLEGLY, Mr. RAHALL, Mr. FALEOMAVAEGA, Mr. REHBERG, Mr. ABERCROMBIE, and Mr. CASE):

H.R. 2522. A bill to amend the Organic Act of Guam to authorize the Secretary of the Interior to reduce, release, or waive amounts owed by the Government of Guam to the United States to offset unreimbursed Compact impact expenses; to the Committee on Resources.

By Mr. BURNS:

H.R. 2523. A bill to designate the United States courthouse located at 125 Bull Street in Savannah, Georgia, as the ''Tomochichi United States Courthouse''; to the Committee on Transportation and Infrastructure.

By Mr. BURTON of Indiana (for himself, Mr. SHAYS, Mr. LATOURETTE, Mr. DELAHUNT, Mr. BLUMENAUER, Ms. CORRINE BROWN of Florida, Mr. LEWIS of Georgia, Mr. FRANK of Massachusetts, Mr. WATT, Mr. TIERNEY, Ms. WATSON, and Mr. CONYERS):

H.R. 2524. A bill to redesignate the Federal building located at 935 Pennsylvania Avenue Northwest in the District of Columbia as the ''Federal Bureau of Investigation Building''; to the Committee on Transportation and Infrastructure.

By Mr. FILNER (for himself, Mr. GRIJALVA, Mr. HONDA, Ms. LEE, Ms. LOFGREN, Mrs. NAPOLITANO, Mr. REYES, Ms. LORETTA SANCHEZ of California, Ms. WATSON, and Mr. RODRIGUEZ):

H.R. 2525. A bill to amend the Immigration and Nationality Act to permit certain Mexican children, and accompanying adults, to obtain a waiver of the documentation requirements otherwise required to enter the United States as a temporary visitor; to the Committee on the Judiciary.

By Mr. FRANK of Massachusetts (for himself and Mr. UDALL of New Mexico):

H.R. 2526. A bill to amend the Homeland Security Act of 2002 (Public Law 107-296) to provide for the protection of voluntarily furnished confidential information, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Homeland Security (Select), 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, Mr. ROTHMAN, Mrs. JOHNSON of Connecticut, Ms. DEGETTE, Ms. SLAUGHTER, Mr. PALLONE, Mr. OLVER, Mrs. DAVIS of California, Mr. ABERCROMBIE, Mr. EVANS, Mr. GEORGE MILLER of California, Ms. CORRINE BROWN of Florida, Ms. LEE, Mr. INSLEE, Mr. CASE, Mr. WAXMAN, Mr. TIERNEY, Mr. BACA, Mrs. JONES of Ohio, Mr. BLUMENAUER, Mr. LARSON of Connecticut, Mr. NADLER, Mr. DINGELL, Mr. MCDERMOTT, Mr. BROWN of Ohio, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. HARMAN, Ms. LOFGREN, Mr. MATSUI, Mr. BRADY of Pennsylvania, Ms. DELAURO, Mr. STARK, Mr. FALEOMAVAEGA, Mr. GRIJALVA, Ms. BERKLEY, Ms. CARSON of Indiana, Mr. FARR, Mr. JACKSON of Illinois, Mr. OWENS, Mrs. MALONEY, Mr. SANDERS, Mr. WU, and Ms. WOOLSEY):

H.R. 2527. A bill to provide for the provision by hospitals of emergency contraceptives to women who are survivors of sexual assault; 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. HINCHEY (for himself, Mr. MCHUGH, Mr. ENGEL, Mr. MCNULTY, Mr. WALSH, Mr. SANDERS, Mr. NADLER, and Mr. OWENS):

H.R. 2528. A bill to establish the Hudson-Fulton-Champlain 400th Commemoration Commission, and for other purposes; to the Committee on Government Reform.

By Mr. HOEKSTRA:

H.R. 2529. A bill to amend the Federal Election Campaign Act of 1971 to require not less than 75 percent of the amount of individual contributions accepted by Congressional candidates to come from in-State residents, to increase disclosure requirements, and for other purposes; to the Committee on House Administration.

By Mr. INSLEE (for himself, Mr. DICKS, Mr. LARSEN of Washington, and Mr. BAIRD):

H.R. 2530. A bill to authorize grants for community telecommunications infrastructure planning and market development, and for other purposes; to the Committee on Energy and Commerce.

By Mr. JONES of North Carolina (for himself, Mr. TAUZIN, Mr. BRADY of Texas, Mr. OTTER, Mr. PICKERING, Mr. TAYLOR of Mississippi, and Mr. BAKER):

H.R. 2531. A bill to amend the Federal Water Pollution Control Act relating to wetlands mitigation banking, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. KENNEDY of Rhode Island (for himself, Ms. BALDWIN, and Mr. FRANK of Massachusetts):

H.R. 2532. A bill to amend the Internal Revenue Code of 1986 to restore the applicability of the estate tax to estates over $3,000,000, to restore the 50-percent maximum rate, and to deposit revenues from the estate tax into Social Security Trust Funds; to the Committee on Ways and Means.

By Mr. KINGSTON (for himself and Mr. BURNS):

H.R. 2533. A bill to designate the facility of the United States Postal Service located at 10701 Abercorn Street in Savannah, Georgia, as the ''J.C. Lewis, Jr. Post Office Building''; to the Committee on Government Reform.

By Mr. LANTOS (for himself, Mr. SHAYS, Mr. TOM DAVIS of Virginia, Mr. WAXMAN, Mr. SMITH of New Jersey, Mrs. MALONEY, Mr. LAHOOD, Mr. KUCINICH, Ms. NORTON, Mr. LYNCH, Mr. COOPER, Ms. SCHAKOWSKY, Mr. MCGOVERN, Mr. DEFAZIO, Ms. BALDWIN, Mr. BLUMENAUER, Mr. ABERCROMBIE, Mr. MCNULTY, Mr. LEWIS of Georgia, Mr. SANDLIN, Mr. BROWN of Ohio, Mr. DELAHUNT, Mr. MCDERMOTT, Mr. STARK, Mr. OLVER, and Mr. FILNER):

H.R. 2534. A bill to promote human rights, democracy, and the rule of law by providing a process for executive agencies for declassifying on an expedited basis and disclosing certain documents relating to human rights abuses in countries other than the United States; to the Committee on Government Reform.

By Mr. LATOURETTE (for himself, Ms. NORTON, Mr. YOUNG of Alaska, and Mr. OBERSTAR):

H.R. 2535. A bill to reauthorize and improve the program authorized by the Public Works and Economic Development Act of 1965; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LOWEY (for herself, Mr. BALLENGER, Mr. SHAYS, Mr. LANTOS, Mr. WEXLER, Mr. MCDERMOTT, Mr. BERRY, Ms. LEE, Mr. MEEKS of New York, Ms. SCHAKOWSKY, Mr. BERMAN, Ms. ESHOO, Ms. DELAURO, Ms. CORRINE BROWN of Florida, Mr. PAYNE, Ms. WOOLSEY, Ms. MCCOLLUM, and Mr. OWENS):

H.R. 2536. A bill to make the protection of women and children who are affected by a complex humanitarian emergency a priority of the United States Government, and for other purposes; to the Committee on International Relations.

By Mrs. MALONEY (for herself, Mr. FROST, and Mr. MCINTYRE):

H.R. 2537. A bill to develop and coordinate a national emergency warning system; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MEEK of Florida (for himself, Mr. HASTINGS of Florida, Ms. ROS-LEHTINEN, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. DEUTSCH, and Ms. CORRINE BROWN of Florida):

H.R. 2538. A bill to designate the United States courthouse located at 400 North Miami Avenue in Miami, Florida, as the ''Wilkie D. Ferguson, Jr. United States Courthouse''; to the Committee on Transportation and Infrastructure.

By Ms. MILLENDER-MCDONALD:

H.R. 2539. A bill to provide enhanced Federal enforcement and assistance in preventing and prosecuting crimes of violence against children; to the Committee on the Judiciary, and in addition to the Committees on Education and the Workforce, and 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 Ms. MILLENDER-MCDONALD (for herself and Mr. SIMMONS):

H.R. 2540. A bill to require the Secretary of Defense to report to Congress regarding the requirements applicable to the inscription of veterans' names on the memorial wall of the Vietnam Veterans Memorial; to the Committee on Armed Services.

By Mr. MOORE:

H.R. 2541. A bill to amend the Child Abuse Prevention and Treatment Act to require public disclosure of information about cases of child abuse or neglect which result in child fatality, near fatality, other serious injury, or felony conviction; to the Committee on Education and the Workforce.

By Mr. NEY:

H.R. 2542. A bill to amend chapter 8 of title 5, United States Code, to establish the Joint Committee on Agency Rule Review; to the Committee on Rules, 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 Mr. PEARCE (for himself and Mr. UDALL of New Mexico):

H.R. 2543. A bill to amend section 504(a) of the Higher Education Act of 1965 to eliminate the 2-year wait out period for grant recipients under the Hispanic-Serving Institutions program; to the Committee on Education and the Workforce.

By Mr. ROHRABACHER:

H.R. 2544. A bill to improve the quality, availability, diversity, personal privacy, and innovation of health care in the United States; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and 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 Mr. RYAN of Ohio (for himself and Mrs. JONES of Ohio):

H.R. 2545. A bill to amend the Internal Revenue Code of 1986 to waive the 10-percent additional tax on early distributions from section 401(k) plans in the case of hardship of certain employees due to facility closures or employers in bankruptcy; to the Committee on Ways and Means.

By Mr. SANDERS:

H.R. 2546. A bill to amend the Fair Credit Reporting Act to require consumer reporting agencies to provide any consumer with a free credit report annually upon the request of the consumer, and for other purposes; to the Committee on Financial Services.

By Mr. SAXTON:

H.R. 2547. A bill to mandate price stability as the primary goal of the monetary policy of the Board of Governors of the Federal Reserve System and the Federal Open Market Committee; to the Committee on Financial Services.

By Mr. SESSIONS (for himself, Mr. TOM DAVIS of Virginia, Mr. BURTON of Indiana, Mr. SHAYS, Mr. SOUDER, Mr. OSE, Mrs. JO ANN DAVIS of Virginia, Mr. PLATTS, Mr. PUTNAM, Mr. TURNER of Ohio, Mr. JANKLOW, and Mr. COOPER):

H.R. 2548. A bill to amend chapter 5 of subtitle I of title 40, United States Code, to enhance Federal asset management, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHERMAN (for himself, Mr. MCHUGH, Ms. LEE, Ms. NORTON, Mr. MCGOVERN, and Mrs. MALONEY):

H.R. 2549. A bill to amend the Fair Debt Collection Practices Act to prohibit creditors from taking action that is adverse to the interests of a consumer with respect to certain payments that are due in or shortly after the period of a disruption of the mail resulting from a national emergency declared under the National Emergencies Act; to the Committee on Financial Services.

By Mr. SHIMKUS (for himself, Mr. HUNTER, Mr. SKELTON, and Mr. OBERSTAR):

H.R. 2550. A bill to amend the American Servicemembers' Protection Act of 2002 to provide clarification with respect to the eligibility of certain countries for United States military assistance; to the Committee on International Relations.

By Mr. SIMPSON (for himself and Mr. OTTER):

H.R. 2551. A bill to amend the Federal Land Policy and Management Act of 1976 to provide owners of non-Federal lands with a reliable method of receiving compensation for damages resulting from the spread of wildfire from nearby forested National Forest System lands or Bureau of Land Management lands, when those forested Federal lands are not maintained in the forest health status known as condition class 1; to the Committee on Resources.

By Mr. VAN HOLLEN:

H.R. 2552. A bill to improve the manner in which the Corporation for National and Community Service approves, and records obligations relating to, national service positions; to the Committee on Education and the Workforce.

By Ms. WATERS (for herself, Mr. WAXMAN, Mr. HONDA, Mr. SERRANO, Mr. KILDEE, Mrs. CHRISTENSEN, Mr. CROWLEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TOWNS, Ms. JACKSON-LEE of Texas, Mr. PAYNE, Mr. FROST, Ms. LEE, Mr. DAVIS of Illinois, Ms. CARSON of Indiana, Mr. SCOTT of Virginia, Mr. SANDERS, Mr. MCNULTY, Mr. CONYERS, Ms. KILPATRICK, Mr. UDALL of New Mexico, Mr. RUSH, and Mr. HASTINGS of Florida):

H.R. 2553. A bill to amend the Public Health Service Act to authorize grants to provide treatment for diabetes in minority communities; to the Committee on Energy and Commerce.

By Mr. CONYERS (for himself, Ms. LOFGREN, Mr. DELAHUNT, Mr. FROST,

Mr. MCDERMOTT, Ms. LEE, Mr. WYNN, Ms. MCCARTHY of Missouri, and Mr. CASE):

H. Con. Res. 223. Concurrent resolution recognizing the 40th anniversary of the founding of the Lawyers' Committee for Civil Rights Under Law and supporting the designation of an Equal Justice Day in commemoration of such anniversary; to the Committee on the Judiciary.

By Mr. GOODE (for himself, Mr. JONES of North Carolina, Mr. TAYLOR of North Carolina, Ms. BALDWIN, Mr. PAUL, Mr. NORWOOD, and Mr. MICHAUD):

H. Con. Res. 224. Concurrent resolution expressing the sense of Congress that the President should provide notice of withdrawal of the United States from the North American Free Trade Agreement (NAFTA); to the Committee on Ways and Means.

By Mr. MEEKS of New York:

H. Con. Res. 225. Concurrent resolution expressing the sense of the Congress that the illegal importation of prescription drugs severely undermines the regulatory protections afforded to United States consumers, 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. TERRY:

H. Res. 284. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. DEUTSCH (for himself, Mr. KINGSTON, and Mr. LANTOS):

H. Res. 285. A resolution condemning the recent terrorist attacks in the Middle East by Hamas and other terrorist organizations and urging the European Union to classify the entire entity of Hamas as a terrorist organization, and for other purposes; to the Committee on International Relations.

By Mr. GREEN of Texas (for himself, Mr. GONZALEZ, Mr. FROST, Mr. SANDLIN, Mr. DOGGETT, Mr. ORTIZ, Mr. HINOJOSA, Mr. LAMPSON, Mr. STENHOLM, Mr. BELL, Mr. REYES, Mr. EDWARDS, Ms. JACKSON-LEE of Texas, and Mr. RODRIGUEZ):

H. Res. 286. A resolution directing the Secretary of Homeland Security to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution all physical and electronic records and documents in his possession related to any use of Federal agency resources in any task or action involving or relating to Members of the Texas Legislature in the period beginning May 11, 2003, and ending May 16, 2003, except information the disclosure of which would harm the national security interests of the United States; to the Committee on Homeland Security (Select).

By Mr. GREEN of Texas (for himself, Mr. GONZALEZ, Mr. FROST, Mr. SANDLIN, Mr. DOGGETT, Mr. ORTIZ, Mr. HINOJOSA, Mr. LAMPSON, Mr. STENHOLM, Mr. BELL, Mr. REYES, Mr. EDWARDS, Mr. RODRIGUEZ, and Ms. JACKSON-LEE of Texas):

H. Res. 287. A resolution directing the Attorney General to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution all physical and electronic records and documents in his possession related to any use of Federal agency resources in any task or action involving or relating to Members of the Texas Legislature in the period beginning May 11, 2003, and ending May 16, 2003, except information the disclosure of which would harm the national security interests of the United States; to the Committee on the Judiciary.

By Mr. GREEN of Texas (for himself, Mr. GONZALEZ, Mr. FROST, Mr. SANDLIN, Mr. DOGGETT, Mr. HINOJOSA, Mr. ORTIZ, Mr. LAMPSON, Mr. STENHOLM, Mr. BELL, Mr. REYES, Mr. EDWARDS, Ms. JACKSON-LEE of Texas, and Mr. RODRIGUEZ):

H. Res. 288. A resolution directing the Secretary of Transportation to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution all physical and electronic records and documents in his possession related to any use of Federal agency resources in any task or action involving or relating to Members of the Texas Legislature in the period beginning May 11, 2003, and ending May 16, 2003, except information the disclosure of which would harm the national security interests of the United States; to the Committee on Transportation and Infrastructure.

By Ms. MILLENDER-MCDONALD:

H. Res. 289. A resolution congratulating El Dorado Park South for winning first prize in the Neighborhood of the Year contest; to the Committee on Government Reform.

By Mr. STUPAK (for himself, Mr. NETHERCUTT, Mr. POMEROY, and Mr. QUINN):

H. Res. 290. A resolution expressing appreciation to the people and Government of Canada for their long history of friendship and cooperation with the people and Government of the United States and congratulating Canada as it celebrates ''Canada Day''; to the Committee on International Relations.

By Ms. WOOLSEY (for herself, Ms. LEE, Mr. MCDERMOTT, Mr. OBERSTAR, Mr. GRIJALVA, Mr. FARR, Mr. OLVER, Mr. OWENS, Mr. MARKEY, Mr. STARK, Mr. MCGOVERN, Ms. SCHAKOWSKY, and Mr. KUCINICH):

H. Res. 291. A resolution recognizing the dangers posed by nuclear weapons and calling on the President to engage in nonproliferation strategies designed to eliminate these weapons of mass destruction from United States and worldwide arsenals; to the Committee on International Relations, and in addition to the Committee on 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.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

123. The SPEAKER presented a memorial of aa of Maine, relative to H.P. 1204 Joint Resolution memorializing the Congress of the United States to Issue a waiver of the No Child Left Behind Act for Maine Public Schools; to the Committee on Education and the Workforce.

124. Also, a memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to House Resolution No. 70 memorializing the Congress of the United States to vote for the permanent repeal of the death tax; to the Committee on Ways and Means.

125. Also, a memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to House Resolution No. 98 memorializing the Congress of the United States to restructure the requirement in section 149(d) of the Internal Revenue Code of 1986; to the Committee on Ways and Means.

126. Also, a memorial of the Legislature of the State of Maine, relative to H.P. 1185 Joint Resolution memorializing the Congress of the United States to support the reform of the Social Security Offsets of the Government Pension Offset and the Windfall Elimination Provision; jointly to the Committees on Government Reform and Ways and Means.

127. Also, a memorial of the House of Representatives of the State of Kansas, relative to House Resolution No. 6028 memorializing the United States Congress to consider the provision of information which does not disclose medically sensitive information to be available to inquiring persons; jointly to the Committees on Energy and Commerce, Ways and Means, and Education and the Workforce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. VAN HOLLEN introduced a bill (H.R. 2554) for the relief of Junior Anthony Francis; 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. 33: Mr. SENSENBRENNER.

H.R. 106: Mr. BLUNT.

H.R. 111: Mr. SWEENEY, Mr. SERRANO, and Mr. MARSHALL.

H.R. 169: Mr. GREEN of Texas.

H.R. 189: Mr. FROST.

H.R. 218: Ms. ESHOO and Mr. LAMPSON.

H.R. 223: Mr. REHBERG.

H.R. 227: Ms. MILLENDER-MCDONALD and Mr. RUSH.

H.R. 235: Mr. BONNER, Mr. CULBERSON, Mr. GALLEGLY, Mr. SAXTON, Mr. MCKEON, Mrs. NORTHUP, and Mr. EVERETT.

H.R. 236: Mr. KIND, Mr. UDALL of Colorado, Mr. BELL, and Mr. WU.

H.R. 277: Mr. BRADY of Texas.

H.R. 284: Mr. ABERCROMBIE, Mr. LINDER, Mr. ROTHMAN, Mr. RADANOVICH, Mr. SNYDER, Mr. LARSEN of Washington, and Mr. BERRY.

H.R. 303: Mr. COLLINS.

H.R. 331: Mr. UDALL of New Mexico.

H.R. 333: Ms. ESHOO.

H.R. 384: Mr. STEARNS.

H.R. 391: Mr. CHOCOLA, Mr. CALVERT, Mrs. BLACKBURN, and Mr. STEARNS.

H.R. 401: Mr. GARRETT of New Jersey.

H.R. 476: Mr. FRANK of Massachusetts, Mr. VAN HOLLEN, and Ms. BALDWIN.

H.R. 527: Mr. RENZI.

H.R. 528: Mr. GALLEGLY and Ms. SOLIS.

H.R. 571: Mr. ISSA, Mr. GOODLATTE, Mr. TOOMEY, Mr. BARTLETT of Maryland, and Mr. LUCAS of Oklahoma.

H.R. 585: Mr. VISCLOSKY.

H.R. 586: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CARDOZA, and Mr. BELL.

H.R. 601: Ms. WATSON, Ms. JACKSON-LEE of Texas, Ms. MILLENDER-MCDONALD, Mr. BISHOP of Georgia, Mr. BALLANCE, Ms. CORRINE BROWN of Florida, Ms. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. CLAY, Mr. CLYBURN, Mr. CUMMINGS, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. FATTAH, Mr. HASTINGS of Florida, Mr. JACKSON of Illinois, Mr. JEFFERSON, Mrs. JONES of Ohio, Ms. KILPATRICK, Ms. LEE, Mr. LEWIS of Georgia, Ms. MAJETTE, Mr. MEEK of Florida, Mr. MEEKS of New York, Ms. NORTON, Mr. PAYNE, Mr. RANGEL, Mr. RUSH, Mr. SCOTT of Virginia, Mr. THOMPSON of Mississippi, Mr. TOWNS, Ms. WATERS, Mr. WATT, Mr. WYNN, Ms. BERKLEY, Mr. BRADY of Pennsylvania, Mr. BROWN of Ohio, Mr. ENGEL, Mr. CONYERS, Mr. HINCHEY, Ms. KAPTUR, Mr. KUCINICH,

Mrs. LOWEY, Mrs. MCCARTHY of New York, Mrs. MALONEY, Mr. NADLER, Ms. PELOSI, Ms. VELAZQUEZ, Mr. SERRANO, and Ms. SLAUGHTER.

H.R. 603: Ms. WATSON, Ms. JACKSON-LEE of Texas, Ms. MILLENDER-MCDONALD, Mr. BISHOP of Georgia, Mr. BALLANCE, Ms. CORRINE BROWN of Florida, Ms. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. CLAY, Mr. CLYBURN, Mr. CUMMINGS, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. FATTAH, Mr. HASTINGS of Florida, Mr. JACKSON of Illinois, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Ms. KILPATRICK, Ms. LEE, Mr. LEWIS of Georgia, Ms. MAJETTE, Mr. MEEK of Florida, Mr. MEEKS of New York, Ms. NORTON, Mr. PAYNE, Mr. RANGEL, Mr. RUSH, Mr. SCOTT of Virginia, Mr. THOMPSON of Mississippi, Mr. TOWNS, Ms. WATERS, Mr. WATT, Mr. WYNN, Mr. ACKERMAN, Mr. ENGEL, Mr. CONYERS, Mr. KUCINICH, Mrs. LOWEY, Mrs. MALONEY, Mr. NADLER, Mr. SERRANO, and Ms. SLAUGHTER.

H.R. 648: Mr. CANTOR and Mr. BRADLEY of New Hampshire.

H.R. 687: Mr. MCCOTTER, Mr. SIMPSON, and Mr. BARRETT of South Carolina.

H.R. 714: Mr. SAM JOHNSON of Texas and Mr. HULSHOF.

H.R. 742: Mr. RUPPERSBERGER and Mr. CLYBURN.

H.R. 775: Mr. SULLIVAN.

H.R. 806: Mr. TURNER of Ohio and Mr. CUMMINGS.

H.R. 814: Mr. LEVIN and Ms. ROYBAL-ALLARD.

H.R. 816: Mr. HONDA.

H.R. 817: Mr. BAIRD.

H.R. 819: Mr. FRANKS of Arizona.

H.R. 823: Mrs. NAPOLITANO.

H.R. 833: Mr. REHBERG and Mr. BARRETT of South Carolina.

H.R. 834: Ms. LORETTA SANCHEZ of California, Mr. SKELTON, Ms. ESHOO, and Mr. CHOCOLA.

H.R. 839: Mr. LEACH, Mr. RADANOVICH, Mr. SHERMAN, Mr. PORTER, Mr. ALEXANDER, Mr. CRANE, Mr. PEARCE, Mr. KIRK, Mr. GREEN of Texas , Mr. HAYWORTH, Mr. OLVER, and Mr. FRANK of Massachusetts.

H.R. 854: Mr. LATOURETTE.

H.R. 869: Mr. UDALL of Colorado.

H.R. 876: Mr. OTTER, Mr. ETHERIDGE, Mr. BASS, Mr. BONNER, and Mr. STUPAK.

H.R. 879: Mr. GRIJALVA.

H.R. 890: Ms. JACKSON-LEE of Texas.

H.R. 898: Mr. EDWARDS and Mr. LIPINSKI.

H.R. 931: Mrs. KELLY.

H.R. 934: Mrs. MALONEY and Mr. CLYBURN.

H.R. 970: Mr. MCGOVERN, Mr. WAMP, Mr. BLUMENAUER, Mr. BAKER, Mr. STUPAK, Mr. PRICE of North Carolina, Mr. SHERMAN, Ms. HARMAN, Mr. QUINN, Mr. PUTNAM, Mr. HINCHEY, Mr. DOYLE, Mr. HONDA, Mr. NORWOOD, Mr. OSBORNE, Mr. WALSH, Mr. MARKEY, Ms. MAJETTE, and Mr. PLATTS.

H.R. 992: Mr. WILSON of South Carolina and Mr. BARRETT of South Carolina.

H.R. 993: Mr. WILSON of South Carolina and Mr. BARRETT of South Carolina.

H.R. 994: Mr. WILSON of South Carolina.

H.R. 997: Mr. RAHALL.

H.R. 1008: Mr. SHUSTER.

H.R. 1043: Ms. CARSON of Indiana and Mr. BAIRD.

H.R. 1046: Mr. JOHN.

H.R. 1049: Mr. TERRY.

H.R. 1070: Ms. LEE.

H.R. 1078: Mrs. CUBIN, Ms. KAPTUR, Mr. HOYER, Mr. KENNEDY of Rhode Island, Mr. WYNN, Mr. DAVIS of Alabama, Mr. BALLANCE, Mr. SERRANO, Mr. NEUGEBAUER, Mr. JANKLOW, Mr. WOLF, Mr. KELLER, Mr. KING of Iowa, Mr. HASTINGS of Washington, Mr. LOBIONDO, Mrs. MILLER of Michigan, Mr. DEMINT, Mr. GILLMOR, Mr. LIPINSKI, Mr. CHOCOLA, Mr. VISCLOSKY, Mr. CULBERSON, Mr. BARTON of Texas, Mr. ADERHOLT, Mr. BURGESS, Mr. MCCOTTER, Mr. RUPPERSBERGER, Mr. TOM DAVIS of Virginia, Mr. HOSTETTLER, Ms. GRANGER, Mr. PETERSON of Pennsylvania, Mr. WELDON of Pennsylvania, Mr. PETRI, Mr. SHADEGG, Mr. COLE, Mr. SCOTT of Virginia, Mr. CRENSHAW, Mrs. MUSGRAVE, Mr. SESSIONS, Mr. TIBERI, Mr. MICA, Mr. FOSSELLA, Mr. DOOLITTLE, Mr. MENENDEZ, Ms. FATTAH, Ms. MAJETTE, Mr. PETERSON of Minnesota, Mr. PAYNE, Ms. ROS-LEHTINEN, Mrs. WILSON of New Mexico, Mr. GERLACH, Mr. MURPHY, Mr. SIMPSON, Mr. ENGLISH, Mrs. MYRICK, Mr. BURNS, Mr. BALLENGER, Mr. PLATTS, Mr. BASS, Mr. BURR, Mr. NEY, Mr. WELLER, Mr. GREENWOOD, Mr. ISAKSON, Mr. FORBES, Mr. GARY G. MILLER of California, Mr. STUPAK, Mr. BEAUPREZ, and Mr. CLYBURN.

H.R. 1088: Mr. CONYERS and Mr. PALLONE.

H.R. 1118: Mr. MCGOVERN and Mr. DAVIS of Tennessee.

H.R. 1125: Mr. LOBIONDO, Mr. JEFFERSON, Mrs. NAPOLITANO, Mr. TANNER, Mrs. MUSGRAVE, Mr. JONES of North Carolina, Mr. RAMSTAD, Mr. CUMMINGS, Ms. NORTON, and Mr. RODRIGUEZ.

H.R. 1148: Mr. GARRETT of New Jersey.

H.R. 1157: Mr. SIMPSON.

H.R. 1160: Mr. THOMPSON of California, Mr. BALLENGER, Mr. STRICKLAND, Mr. PENCE, Mr. DUNCAN, Mr. GORDON, and Mr. BOOZMAN.

H.R. 1167: Mr. MILLER of Florida.

H.R. 1205: Mr. HOEFFEL and Mr. UDALL of New Mexico.

H.R. 1206: Mr. BARRETT of South Carolina.

H.R. 1229: Mr. MCCOTTER.

H.R. 1251: Mr. BELL.

H.R. 1267: Mr. MCHUGH.

H.R. 1268: Mr. ABERCROMBIE.

H.R. 1276: Mr. MORAN of Kansas, Mr. PEARCE, and Mr. GREEN of Texas.

H.R. 1288: Mrs. DAVIS of California, Mr. VISCLOSKY, Mr. MCGOVERN, and Mr. CASE.

H.R. 1295: Mr. FORD and Mr. PAYNE.

H.R. 1296: Mr. RUSH, Mr. RYAN of Ohio, Mr. PAUL, and Mr. WELDON of Pennsylvania.

H.R. 1301: Mr. RYAN of Ohio and Mr. SANDERS.

H.R. 1305: Mr. DELAY.

H.R. 1329: Mr. BROWN of South Carolina and Mr. BILIRAKIS.

H.R. 1340: Mr. GEORGE MILLER of California.

H.R. 1372: Mr. ISSA and Mr. CARTER.

H.R. 1385: Mr. HOEFFEL, Mr. COSTELLO, Mr. JONES of North Carolina, and Mr. BOEHLERT.

H.R. 1386: Ms. LEE, Mr. DAVIS of Alabama, and Mr. BELL.

H.R. 1414: Mr. CLAY.

H.R. 1449: Mr. OWENS and Mr. FATTAH.

H.R. 1470: Mr. SANDERS, Mr. DAVIS of Illinois, and Mr. CLYBURN.

H.R. 1516: Mr. DOYLE, Mr. WELDON of Pennsylvania, Mr. SHUSTER, Mr. PETERSON of Pennsylvania, Mr. SHERWOOD, and Mr. TOOMEY.

H.R. 1519: Mr. FRANK of Massachusetts and Mr. ETHERIDGE.

H.R. 1565: Mr. DAVIS of Illinois.

H.R. 1580: Mr. SANDERS, Mr. LARSON of Connecticut, and Mr. WELDON of Pennsylvania.

H.R. 1581: Mr. LINCOLN DIAZ-BALART of Florida, Mr. ETHERIDGE, Mr. BURTON of Indiana, Mr. KILDEE, and Mrs. JONES of Ohio.

H.R. 1606: Mr. WAMP.

H.R. 1622: Mr. ISAKSON, Mr. SCHIFF, Ms. CORRINE BROWN of Florida, Ms. DEGETTE, Ms. MCCARTHY of Missouri, Mr. GINGREY, Mr. TERRY, Mr. MILLER of Florida, Mr. NETHERCUTT, and Ms. GINNY BROWN-WAITE of Florida.

H.R. 1626: Mr. HINOJOSA.

H.R. 1639: Mr. RAHALL and Mr. MCNULTY.

H.R. 1689: Mr. WEXLER and Mr. FRANK of Massachusetts.

H.R. 1707: Ms. CORRINE BROWN of Florida, Ms. LEE, Mr. PITTS, and Mr. WEINER.

H.R. 1710: Mrs. DAVIS of California, Mr. MOORE, Mr. WELDON of Pennsylvania, and Mr. CARDOZA.

H.R. 1725: Mr. HUNTER, Mr. SAXTON, Mr. BILIRAKIS, Mr. CRANE, Mr. HYDE, Mr. COBLE, Mr. STEARNS, Mr. MCKEON, Mr. GINGREY, and Mr. BONILLA.

H.R. 1736: Mr. FATTAH and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1738: Mr. GUTIERREZ.

H.R. 1746: Mr. OSBORNE and Ms. HOOLEY of Oregon.

H.R. 1764: Mr. GREEN of Texas, Mr. TIAHRT, Mr. LAMPSON, Mr. CRAMER, Mr. REHBERG, Mr. SKELTON, Mr. DEUTSCH, Mr. BOUCHER, and Mr. RYUN of Kansas.

H.R. 1767: Mr. EMANUEL, Mr. NEUGEBAUER, Mr. DEMINT, Mr. FRANKS of Arizona, Mr. COX, Mr. GIBBONS, Mr. SHADEGG, and Mr. BAIRD.

H.R. 1769: Mr. SHUSTER, Mr. SNYDER, and Mr. CROWLEY.

H.R. 1775: Mr. MORAN of Virginia, Mr. CALVERT, Mr. HYDE, Mr. CRANE, Mrs. EMERSON, Mr. BARTLETT of Maryland, and Mr. TERRY.

H.R. 1776: Mr. SIMMONS, Mr. ISAKSON, and Mr. LAHOOD.

H.R. 1784: Mr. SCOTT of Virginia.

H.R. 1813: Mr. NADLER and Mr. CROWLEY.

H.R. 1815: Mr. BALLANCE and Mr. FROST.

H.R. 1828: Mr. LARSEN of Washington, Ms. ESHOO, Mr. HONDA, Mr. LUCAS of Kentucky, Mr. MCINTYRE, Ms. LORETTA SANCHEZ of California, Mr. DICKS, Mr. FORD, Mr. ROGERS of Kentucky, Mr. TOOMEY, Mr. SIMPSON, Mr. HAYES, Mr. WELDON of Pennsylvania, Mr. HENSARLING, Mr. PICKERING, Mr. WICKER, and Mr. LIPINSKI.

H.R. 1829: Mr. WELDON of Florida, Ms. LINDA T. SANCHEZ of California, Mr. RAHALL, and Ms. ESHOO.

H.R. 1839: Mr. BACHUS.

H.R. 1871: Ms. MILLENDER-MCDONALD and Mr. RUSH.

H.R. 1902: Mr. SAXTON, Mr. DAVIS of Illinois, and Mr. SANDERS.

H.R. 1914: Mr. SOUDER, Mr. MILLER of Florida, Mr. MARSHALL, and Ms. LEE.

H.R. 1933: Mr. MICHAUD.

H.R. 1943: Mr. PAUL.

H.R. 1963: Mr. MCINTYRE.

H.R. 2045: Mr. UPTON.

H.R. 2047: Mr. SCOTT of Georgia, Mr. JEFFERSON, Mr. KINGSTON, Mr. FOLEY, Mr. CAMP, Mr. CUMMINGS, and Mr. BLUNT.

H.R. 2052: Mr. HONDA, Ms. LEE, Mr. RYAN of Ohio, Mr. VAN HOLLEN, Mr. THOMPSON of California, Mr. HOLDEN, Mr. TOWNS, Ms. KILPATRICK, Mr. PASCRELL, Mr. ROSS, Mr. BISHOP of New York, Mr. MOLLOHAN, Ms. WATERS, Mr. EMANUEL, Mr. VISCLOSKY, Mr. RUSH, Mr. NADLER, Mr. LARSON of Connecticut, Mr. PAYNE, Mr. UDALL of Colorado, Mr. BUYER, and Mr. NORWOOD.

H.R. 2057: Mr. UDALL of Colorado.

H.R. 2066: Mr. BISHOP of Georgia.

H.R. 2110: Mr. FEENEY, Mr. BAKER, Mr. FORBES, and Mr. OBERSTAR.

H.R. 2112: Mr. BERMAN.

H.R. 2114: Mr. TERRY.

H.R. 2154: Mr. SIMMONS.

H.R. 2157: Ms. PRYCE of Ohio.

H.R. 2193: Mr. MARKEY, Mr. HOEFFEL, and Mr. STUPAK.

H.R. 2198: Ms. SLAUGHTER and Mr. SANDERS.

H.R. 2203: Mrs. MALONEY.

H.R. 2205: Mr. NADLER, Ms. MILLENDER-MCDONALD, and Mr. CASE.

H.R. 2214: Mrs. CUBIN, Mr. WALDEN of Oregon, Mr. BARTON of Texas, Mr. BILIRAKIS, and Mr. BRADY of Texas.

H.R. 2250: Mr. DEUTSCH and Ms. LINDA T. SANCHEZ of California.

H.R. 2256: Mr. DAVIS of Illinois.

H.R. 2286: Mr. WEINER.

H.R. 2287: Mr. SANDERS.

H.R. 2291: Mr. ROTHMAN.

H.R. 2295: Mr. SANDERS and Mr. MCGOVERN.

H.R. 2309: Mrs. TAUSCHER, Mr. HONDA, Mrs. NAPOLITANO, Mr. BECERRA, Mr. SHERMAN, Ms.

WATSON, Ms. HARMAN, Mr. LANTOS, Mr. BERMAN, Mr. SIMMONS, Mr. SCHIFF, Mr. FILNER, and Mrs. BIGGERT.

H.R. 2313: Mr. CLYBURN, Mr. BROWN of South Carolina, Mr. WILSON of South Carolina, Mr. DEMINT, and Mr. BARRETT of South Carolina.

H.R. 2318: Mr. RAHALL, Ms. LINDA T. SANCHEZ of California, and Mr. TAYLOR of Mississippi.

H.R. 2337: Mr. FROST, Mr. CALVERT, Mr. NEY, and Mr. RANGEL.

H.R. 2338: Mr. WILSON of South Carolina and Mr. PAUL.

H.R. 2340: Mr. WILSON of South Carolina.

H.R. 2344: Mr. CONYERS.

H.R. 2346: Mr. BARRETT of South Carolina.

H.R. 2351: Mrs. KELLY.

H.R. 2366: Mr. MCINTYRE, Mr. MATSUI, Mr. STRICKLAND, Mr. MOORE, Mr. GREEN of Texas, and Mr. CASE.

H.R. 2377: Ms. WOOLSEY.

H.R. 2379: Mr. TOWNS and Mr. PETERSON of Pennsylvania.

H.R. 2383: Mr. SHAW.

H.R. 2385: Mr. RAHALL.

H.R. 2391: Mr. FORBES.

H.R. 2392: Mr. BOSWELL.

H.R. 2394: Mrs. JONES of Ohio, Mr. HASTINGS of Florida, Mr. ISRAEL, Mr. FROST, Mr. BERRY Mr. RUSH, and Mr. STUPAK.

H.R. 2404: Mr. GUTKNECHT.

H.R. 2416: Ms. NORTON and Mr. MARKEY.

H.R. 2424: Mr. SPRATT and Mr. CASE.

H.R. 2426: Mr. CROWLEY, Ms. DELAURO, Mr. DAVIS of Illinois, Ms. LINDA T. SANCHEZ of California, Mr. MARKEY, Mr. LEWIS of Georgia, Mr. UDALL of New Mexico, and Mr. CASE.

H.R. 2427: Mr. FLAKE, Mr. TANCREDO, Mr. FRANK of Arizona, Mr. SHADEGG, Mr. BRADY of Texas, and Mr. CULBERSON.

H.R. 2437: Mr. ABERCROMBIE and Mr. LEVIN.

H.R. 2458: Mrs. JOHNSON of Connecticut.

H.R. 2462: Mr. UDALL of Colorado and Mr. CARDOZA.

H.R. 2464: Mr. CARSON of Oklahoma and Mr. SMITH of New Jersey.

H.R. 2466: Mr. ROHRABACHER, Mr. DOYLE, and Mr. BISHOP of Georgia.

H.R. 2475: Mr. GERLACH.

H.R. 2485: Ms. PELOSI.

H.R. 2490: Mr. BISHOP of Georgia.

H.R. 2491: Mr. NADLER, Mr. MOLLOHAN, Ms. DELAURO, and Mr. SANDERS.

H.R. 2497: Mr. PETERSON of Minnesota and Mr. RANGEL.

H.R. 2498: Mr. OWENS.

H.R. 2505: Mr. GRIJALVA, Mr. ETHERIDGE, Ms. MILLENDER-MCDONALD, Mr. HINCHEY, Mr. CLAY, and Mr. MCNULTY.

H.R. 2508: Mr. BAIRD.

H.R. 2515: Mr. NORWOOD, Mr. WICKER, Mr. KINGSTON, Mrs. MYRICK, Mr. REHBERG, Mr. BROWN of Ohio, Mr. ENGEL, Mr. FROST, Mr. SIMMONS, and Mr. MCHUGH.

H.J. Res. 36: Mr. CUMMINGS.

H.J. Res. 44: Mr. BRADY of Texas.

H.J. Res. 50: Mr. STEARNS and Mr. LAHOOD.

H. Con. Res. 99: Mr. OBERSTAR.

H. Con. Res. 164: Mr. NETHERCUTT.

H. Con. Res. 173: Mr. BERMAN.

H. Con. Res. 217: Ms. ROS-LEHTINEN, Mr. ACKERMAN, Mr. CROWLEY, Mr. DEUTSCH, Mr. HOLT, Mr. HOEFFEL, and Mr. BERMAN.

H. Res. 60: Mr. VAN HOLLEN and Mr. OBERSTAR.

H. Res. 103: Mr. MCGOVERN.

H. Res. 140: Mr. PITTS.

H. Res. 144: Mr. RUSH, Mr. STUPAK, and Ms. MILLENDER-MCDONALD.

H. Res. 194: Mr. HOLT.

H. Res. 198: Mr. WILSON of South Carolina, Mr. DAVIS of Tennessee, Mr. LEACH.

H. Res. 240: Mr. OWENS, Mr. SANDERS, Mr. MCNULTY, Mr. CASE, and Mr. TOWNS.

H. Res. 242: Mr. FOSSELLA and Ms. ESHOO.

H. Res. 250: Mr. BERMAN.

H. Res. 259: Mr. SOUDER and Mr. HOLT.

H. Res. 260: Mrs. CHRISTENSEN and Mr. DAVIS of Illinois.

H. Res. 273: Mrs. MCCARTHY of New York.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

18. The SPEAKER presented a petition of the Hennepin County Board of Commissioners, Minnesota, relative to Resolution No. 03–4–232S1R2 petitioning the United States Congress that the Board urges federal, state, and local government agencies, religious institutions, employers, schools, charitable organizations, and all of our citizens to do all that is humanly possible to assist the families and loved ones of our Armed Forces; to the Committee on Education and the Workforce.

19. Also, a petition of The Common Council of the City of Green Bay, relative to A Resolution petitioning the United States Congress that The City of Green Bay declares April 6, 2003, as ''Support our Troops Day'' and citizens are encouraged to wear red, white, and blue that day; to the Committee on Government Reform.

20. Also, a petition of The City and County of San Francisco, California, relative to Resolution No. 199–03 petitioning Congress to endorse H.R. 40, African-American Reparations Act; to the Committee on the Judiciary.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 2 by Mr. JIM MARSHALL on House Resolution 251: Denise L. Majette, Brad Miller, Alcee L. Hastings, Ed Case, Jerry F. Costello, Ted Strickland, John F. Tierney, Major R. Owens, Bart Stupak, Gene Green, Tim Holden, Paul E. Kanjorski, Steven R. Rothman, John Conyers, Jr., Dennis J. Kucinich, Rush D. Holt, Lloyd Doggett, Gary L. Ackerman, Carolyn B. Maloney, Robert A. Brady, Ike Skelton, C.A. Dutch Ruppersberger, Robert T. Matsui, Peter Deutsch, Anthony D. Weiner, Marion Berry, Louise McIntosh Slaughter, Edward J. Markey, Silvestre Reyes, Jim Davis, Neil Abercrombie, Nita M. Lowey, Nick Lampson, Martin T. Meehan, Jesse L. Jackson, Jr., Robert C. Scott, Max Sandlin, Grace F. Napolitano, Frank Pallone, Jr., Robert E. (Bud) Cramer, Jr., Jim Turner, Soloman P. Ortiz, Joseph M. Hoeffel, Michael M. Honda, Dennis A. Cardoza, Ruben Hinojosa, Ron Kind, Earl Blumenauer, George Miller, Ralph M. Hall, Howard L. Berman, John D. Dingell, Ed Pastor, Sam Farr, David Wu, Fortney Pete Stark, Jerrold Nadler, Jane Harman, Melvin L. Watt, Donald M. Payne, Benjamin L. Cardin, Sherrod Brown, Harold E. Ford, Jr., Brian Baird, Anna G. Eshoo, Brad Sherman, James L. Oberstar, Collin C. Peterson, Calvin M. Dooley, Elliot L. Engel, and Chaka Fattah.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, THURSDAY, JUNE 19, 2003 No. 91

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. The Reverend Charles V. Antonicelli, of St. Joseph's Roman Catholic Church in Washington, DC, is, once again, our guest Chaplain.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Almighty God, we give You thanks and praise at the start of this day. Help us to know Your will. In the words of the Psalmist we pray, ''Lord, make me know Your ways. Lord, teach me Your paths. Make me walk in Your truth, and teach me: for You are God my Savior.''

Help us Lord, to be as generous with each other as You are with us. Help us to respect and care for all people, even those who are different from us.

Bless and protect Your humble servants in this Senate. Watch over them, their families and their staffs. Keep them from harm and guide them in the ways of Your peace.

We ask this in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore 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.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, the Senate will resume consideration of S. 1, the prescription drug benefits bill first thing this morning. There are two amendments currently pending to the bill: an Enzi amendment relating to pharmacies and mail-order prescriptions, and a Bingaman amendment regarding asset tests. These amendments are being reviewed, and we will have one of those votes some time early today. The other we will be voting on over the course of today. In addition, of course, we will be considering other amendments both today and tomorrow.

The chairman and ranking member will continue to work together to try to get Senators to come forth and offer their amendments, or to let them know what those amendments will be so we can establish a queue for those amendments to be considered today, tomorrow, and, indeed, into next week.

I do encourage, as I did yesterday morning, all Members to come forward and let the managers know what amendments they are considering offering. It is important to do so. For example, today we are waiting on one of the amendments to get an official scoring back from the Congressional Budget Office, so even after we hear about the amendments, it takes some time to process them. So it is absolutely critical that we hear from our colleagues in terms of what amendments they intend to offer.

We will have rollcall votes throughout today's session. We will be voting tomorrow as well.

(Ms. MURKOWSKI assumed the Chair.)

JUNETEENTH OBSERVANCE

Mr. FRIST. Madam President, I will comment very briefly on two issues, the first is on the Juneteenth observance.

Madam President, Juneteenth, which is also known as Freedom Day, is the date on which 250,000 slaves living in Texas finally learned of their emancipation. And that occurred nearly 3 years after President Lincoln's historic Emancipation Proclamation.

It was in 1865, on June 19, that Union General Gordon Granger led 2,000 troops into Galveston, TX, with news that the war had ended and that slavery had been abolished. He told the people of Texas:

[T]hat in accordance with a Proclamation from the Executive of the United States, all slaves are free. This involves an absolute equality of rights and rights of property between former masters and slaves, and the connection heretofore existing between them becomes that between employer and free laborer.

The celebrations that followed began a 140-year tradition. Today, all across the country, Americans of all races will celebrate with prayer, and picnics, food, family, and friends.

We join them, here on the Senate floor, to celebrate the struggle for freedom and to honor the profound contributions of African Americans to our Nation's culture and history.

MEDICARE REFORM

Mr. FRIST. Madam President, one last issue I wish to speak about now is one we will be talking about today and tomorrow on the floor of this Senate, and that is this whole issue of strengthening and improving Medicare.

Over the last several days, we have used terms such as ''actuarial value,'' and ''asset tests.'' We hear those terms again and again. We use acronyms so often. We talk about PPOs and HMOs and waiting on CBO for scoring. All these are important issues and vital issues, technical issues that are critical to our decisions that must be made, that we are obligated to make and should make to serve seniors in a better way with regard to their health care.

But I do want to step back, just for a second, to set the stage for today's debate, to talk to seniors who might be either watching on C–SPAN or listening on the radio, and try to describe

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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what, from a big picture, from sort of 30,000 feet, what this bill is all about.

When I am back in Tennessee, traveling through the State talking to seniors, the questions that I receive are not about reform or private competition or a market-based approach, and how all that is going to work in the bill. It is not how many stand-alone drug provider plans will be on the table. It is not what we have to think about here, what the 10-year cost is, or even the 20-year cost of the benefits we are discussing. Those are critical issues, issues that we must address as we address this historic legislation at this very important time, given the demographics, given the fact that we are talking about a health care system that has not kept up with the great advances in the delivery system and the technology and the medical science that have occurred over the last 30 years.

What they ask in these town meetings or in drugstores or when I am walking along on a sidewalk is: How is this going to affect me? I am a senior. I am concerned about my future. I am concerned about if I get sick. I am concerned about the fact that if I have an illness now, how is it going to affect me?

Very quickly, the first thing that will happen is in about 6 months, maybe 7 months after the President signs this legislation and makes it law of the land, every senior and individual with a disability on Medicare—every senior—will have the opportunity to get a little card, a Medicare prescription drug card. Every senior will be able to benefit from this little Medicare prescription drug card.

When I am talking to a senior, I tell them: You will be able to use this card similar to the way you might have a card for discounts at the grocery store, which is becoming increasingly popular today. We estimate that by using that little card—a card you do not have today; you cannot have today because the law does not allow it, but in 6 or 7 months after this bill is signed into law, you will have a card that will give you a discount of somewhere between 10 and 20 percent, by using that card, compared to the way you are getting your drugs today.

That is important to the senior because the senior knows that, yes, this will benefit me. Yes, Government, in a bipartisan way, has addressed the fact that the burden before me is huge.

Why can we do that? Because by using the combined purchasing power of up to 40 million people—instead of an individual senior going into a retail store and paying retail dollars for that—all of a sudden that senior, by having that card, becomes part of a huge purchasing group of as many as 40 million people.

If you are living alone and your income is less than $12,000 or if you are married and you and your spouse bring in less than $16,000, on that little card will be $600 of value you can use each year right off the top. In other words, you not only get a drug discount, but you will get an additional subsidy to help offset the cost of those medicines.

A senior asks me, How am I going to benefit? You take care of the details up in Washington, and do it right. But how is it going to benefit me?

Second, beginning in the year 2006, all seniors and individuals with disabilities covered by Medicare will be offered comprehensive prescription drug coverage. They will have access to a plan that offers more comprehensive coverage, when they ask how it is going to benefit them in the future.

Third—and this is what I am most excited about in the entire bill—we have also taken steps to offer seniors and that next generation of seniors a strengthened and improved overall Medicare Program. Seniors will have new choices they don't have now to get better coverage that meets their individual needs. They will be able to choose the type of coverage that best suits their needs.

They get immediate help, and we do it in a way with a benefit they don't have access to today, and, in addition to that, we expand choice. They will have an opportunity to choose a plan that better meets their needs. This is an exciting improvement in the Medicare Program which really brings it up to a modern type of health care delivery similar to—not exactly but similar to—the options we have as Federal employees and that I have as a Member of the Congress.

It used to be ''Mediscare.'' The last time we tried, 2 or 3 years ago, it was ''Mediscare.'' They said, ''Don't change.'' People will try to force you into HMOs. Do not trust Government. They are going to strip things away from you.

Actually the President mentioned this in a bipartisan meeting with Senators yesterday. It is no longer ''Mediscare,'' thank goodness. It is Medicare. That is really what we are trying to do in a bipartisan way.

People say, You want to have your choice of doctors and not be forced into HMOs. That is simply not true. In this bill, if you want to—for seniors listening to me—you can keep exactly what you have today in terms of your traditional Medicare coverage. You don't have to do anything to take advantage of the best choices. You can keep exactly what you have today. If you stick with what you have, you can get the prescription drug benefit along with everybody else, if you want to. In other words, keep what you have but take advantage of only prescription drugs. But if you are dissatisfied with your coverage today—and you realize that Medicare really doesn't cover preventive care, it covers very little in the way of chronic disease and management, it does not today, except Medicare+Choice, an organized, coordinated way of getting your health care—you don't have to, but you will be able to choose the expanded, the more flexible, and the more coordinated kind of coverage that today we clearly have as Federal employees and which also most working people have today, that sort of coordinated care plan.

But in Medicare today, you don't have that option. You will have the option to get things that are not currently covered by Medicare, such as preventive care.

I mentioned the programs of chronic disease management. There are also programs that promote wellness. Annual physical exams we know are so important. Again, whether it is annual or every 18 months, it probably doesn't matter that much. But right now, it is not covered under Medicare. That would be covered in the new program. You will be able to have a nurse call you or stay in touch with chronic disease management to remind you in case you have forgotten about who it is taking your weight or checking your blood pressure or looking for fluid retention and blood pressure, all of which are important. If you pick those up early, it keeps you from being hospitalized or getting sick. That heart is beating. If fluid is building up in your lungs, the heart beats harder and harder. You will have to be admitted to the hospital, and you will be trying to catch up. If they pick it up earlier and you stay healthy through appropriate management, you will not have to be hospitalized.

These are the kinds of coordinated benefits most working people have today and, as I mentioned, which Federal employees have today. It is the sort of benefit we want to make available—not forcing people but making it available to seniors as well.

Our goal in this bill is to allow you to have options so you can choose the kind of coverage and the kinds of doctors and hospitals that are most consistent with your needs. That is our goal, to make sure those choices are available for you.

In the days to come, we will have a lot of discussion and amendments as to how this plan will evolve. That is the whole purpose of having the debate and amendments.

As all of us know, the House of Representatives is going full steam ahead doing exactly the same thing we are doing and developing a plan, after which we will go to conference.

This bill represents the largest expansion of the Medicare Program in its history. We are going to be spending an additional $400 billion, which is a hefty sum, in providing this new benefit and strengthening the Medicare Program, and $400 billion is a lot. But the fact is that seniors over the next 10 years are going to be spending about $2 trillion on medicines and prescription drugs.

We are trying to target the resources of $400 billion in a way that makes the most sense so we can have appropriate benefits for seniors who are less well off and seniors who have very high drug costs so they get the most help.

I am looking forward to the debate. I want America's seniors to be able to come back to this picture I have just painted, and I want them to understand really these three things.

No. 1, if you want to, you can stick with what you have.

No. 2, you can, if you want to, stick with what you have but also get help with your prescription drugs.

And, No. 3, you will have for the first time in our Medicare Program the option, the opportunity of choosing a comprehensive, coordinated health care plan that keeps up with medical advances, with advances in technology and with advances in health care delivery systems.

When we finish this bill, and when we are successful, you will have a plan that offers real health security.

Madam President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1) to amend title XVIII of the Social Security Act to make improvements in the Medicare Program, to provide prescription drug coverage under the Medicare Program, and for other purposes.

Pending:

Enzi/Reed Amendment No. 932, to improve disclosure requirements and to increase beneficiary choices.

Bingaman Amendment No. 933, to eliminate the application of an asset test for purposes of eligibility for premium and cost-sharing subsidies for low-income beneficiaries.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 933

Ms. SNOWE. Madam President, I rise to address the pending Bingaman amendment because I believe it is important to provide some of the background as to how we arrived at the asset test that is included in the pending bill before the Senate regarding prescription drug coverage and the overall Medicare Program.

We learned a lot, as I said initially, from the debate and the tripartisan plan we had offered last year. We had included an asset test. That asset test did present a number of problems to colleagues on the other side of the political aisle. We attempted to work it out, but obviously it was not to their satisfaction. We had a number of meetings during the course of the debate last fall on the pending legislation, but we were not able to resolve the differences.

One of the key contentious issues was the fact that we had an asset test they believed was too encompassing, that it would deny many low-income individuals the ability to have access to the overall drug coverage and the type of subsidy we had included. So we learned from that debate, we learned from the discussions, and we took a far different approach this time in this legislation to incorporate the lessons that had been learned in developing an asset test.

We understand Senator BINGAMAN's desire to do more for low-income beneficiaries, but we have to keep in mind that we have crafted the legislation within the $400 billion parameter included in the budget resolution. We have come a long way in terms of how much we are providing for a prescription drug benefit. Can we do more? Absolutely. But obviously we have to live within the confines of our ability to finance this and so many other obligations.

Just 5 years ago we started at $28 billion with then-President Clinton's proposal. We increased it to $40 billion, to $300 billion, to $370 billion. Now we are up to $400 billion as proposed by President Bush. That is almost $200 billion more than he had originally proposed last year. We have come a long way in this debate.

How do we design the best, most effective, fairest low-income subsidy assistance? We decided it would be important to provide a universal benefit in the Medicare Program when it came to prescription drug coverage. But also we wanted to ensure that we targeted those who were most in need. That was one of the other principles that was so essential in developing the program. That is why we decided to use various low-income Medicare and Medicaid beneficiary programs that are already enacted and have been part of law, consistent across the board with respect to formulas, and have been used by senior citizens so it is something familiar to them.

We used the qualified Medicare beneficiaries program, otherwise known as QMBs, the select low-income immediate beneficiaries, SLIMBs, and qualified individuals, the QI–1 program, to send the highest level of assistance with cost premiums, deductibles, and copayments to those most in need. As it exists in current law, we target the assistance to beneficiaries based on both their income and asset level to make sure we are capturing those who truly have the most need.

We drop the asset test that was included in the previous tripartisan legislation that would have prevented 40 percent of low-income beneficiaries from receiving coverage. We really address some of the inequities and the problems with our previous asset test by including, this time, in this legislation, programs that have already worked for seniors who have a very limited asset test.

For those in the lowest income categories, we are talking $2,000 for individuals, $3,000 for couples. For those from 73 percent to 100 percent, we are talking about asset tests between $4,000 for individuals and $6,000 for couples. The same is true for those between 100 and 135 percent of the poverty level; then for those between 135 percent and 160 percent of poverty level, assets again at $4,000 and $6,000 for a couple.

We think that by establishing consistency with other programs that have worked, we are able to design a fairer approach to the issue in terms of eligibility for the low-income subsidy. Also, we are utilizing existing government infrastructure so that we do not divert scarce dollars away from beneficiaries to create new Federal or State bureaucracies.

In developing S. 1, we did look to the lessons we learned from last summer's debate and the negotiations that progressed into the fall. We realized that in constructing the tripartisan plan, we were excluding millions of seniors and disabled Americans from eligibility for the low-income assistance subsidy because their income or assets did not meet the strict guidelines. Obviously, we did that because we were then living within the confines of $370 billion.

So we created the new categories for low-income assistance. It goes up to 160 percent of poverty level. Again, that is also a change from the tripartisan plan where we put the maximum subsidies up to 150 percent of poverty level. So we increased it from 150 to 160 percent of poverty level. For an individual that means $15,472 and for a couple that is $20,881, regardless of an individual's assets. We are not even using an asset test for another category below 160 percent of poverty level so that we are ensured we are capturing everybody who comes within those poverty guidelines in order to ensure they get the maximum subsidy possible.

This new category that we are capturing under the 160 percent and not requiring an asset test will include 8.5 million additional Medicare beneficiaries in 2006 and provide them with very generous assistance. They will not be subject as well to the gap in coverage where they are responsible for 100 percent of the cost of the prescription drugs.

This new benefit only requires a $15 deductible compared to the $275 for those above 160 percent of poverty. They have a much more generous cost sharing starting at 10 percent, from $51 to the benefit cap of $4,500; and from $4,500 until they spend $3,700, they pay a 20 percent copayment. Once they reach the catastrophic cap, the Government will pay 90 percent of the cost.

We clearly did design a program that provides the most assistance to those in most need. I know we always could do more, but obviously we had to stay within the parameters of the $400 billion in designing this program. There are those on my side of the political aisle who believe we have gone too far in providing the types of subsidies we do. But we have copayments that obviously do help to reduce utilization and

overutilization of the benefit. At the same time, we also understand if these individuals don't have access to any type of prescription drug coverage, then they are going to be denied the ability to have access to the most innovative therapies and medications now available to treat so many illnesses. If they don't have access to these types of therapy, they can become sicker, which then results in hospitalization, and then, of course, we have a more expensive form of care that does impose additional and exorbitant costs on the Medicare system.

So I think in the final analysis we are going to see, by the type of benefit we have provided to the low-income, that they have the ability to have access to a prescription drug benefit so that ultimately we can realize savings to the Medicare Program. It is absolutely vital that this benefit be available to those individuals most in need.

It is also vital that we have a universal drug benefit, and that is why we designed the program from that standpoint, embracing the universal tenet of the Medicare Program. It is important that we do all we can to maintain consistency with the basic tenets and principles of the Medicare Program.

Madam President, I believe we have designed a very fair, effective, generous assistance to those in the low-income category. As I said, we even increased it from the tripartisan bill of last year, from 150 percent up to 160 percent of poverty level. We essentially removed the asset test for those in the categories from 160 percent of income levels and below. We have created consistency by using other low-income programs in the Medicaid and Medicare areas that will not result in any confusion or contradictions among different eligibility standards. So we have really made considerable progress in designing, I think, the best, most effective type of program.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, I see the Senator from Missouri in the Chamber. He wants to speak next. For the information of all Senators, I think we are going to get an amendment offered on the floor shortly. But the sponsor of the amendment has only a very short time that he can be in the Chamber. I urge my friend from Missouri to remember that brevity is the soul of not only wit but sometimes persuasion.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. TALENT. Madam President, I appreciate the Senator's comments. I remind him that I have only recently come over from the House and am used to speaking in 3-, 4-, and 5-minute bites where necessary. I will try to adhere to the old standard. I know many people want to speak on this important bill. Many have important amendments they want to offer. I will not delay the Senate very long.

I wanted to come down and speak about this, in part, because this is a problem which has existed for a long time and has hurt a lot of people, and which I am just very encouraged and pleased to say I believe this Congress will finally solve.

I went into the House of Representatives in 1992 and, as many Members do, I often went to parades in the communities I represented. I enjoyed walking in them and shaking hands with folks. There was one couple with whom I got to shake hands virtually every parade in the city of Hazelwood. They would sit in the garage watching the parade. I would run up the driveway and visit with them. Every year, we would visit about this issue. They would take a minute—not too long because the parade was going by—and tell me of the struggles they were going through because there was no prescription drug feature to their Medicare coverage. They were making the choice that many senior citizens in the State of Missouri have to make every day between the cost of their prescription drugs and the cost of other necessities of life.

That choice hurts all of us. It hurts them, hurts their families who worry about them, and it hurts all of us because they often resolve that dilemma against buying the prescription drugs. Those drugs are often medicine they need to stay healthy. It is one of the things that is so self-defeating about our current policy because if folks cannot take the drugs they need, they get sick, and then Medicare covers the treatment and it costs a lot more than if we had simply helped them stay healthy in the first place.

We should not interpret any of this as a slap at Medicare. Medicare is a program which has provided important medical care for tens of millions of people for a generation. But it was devised in 1965 when nobody had prescription drug coverage. Prescription drugs were not a major feature of ongoing medical care in those days. Since then, it has become a very common feature of health insurance to have some kind of prescription drug coverage. But we have not updated Medicare to keep pace with those changes. We have not strengthened and improved Medicare as we should have. But now we are going to. That is the good news.

That is really the message I wanted to come down here and deliver. To me, the legislation is all about the principles and, yes, of course, it is about the details, but first you have to try to do the right thing, and then you have to check the details to make certain you are trying to do the right thing.

We need coverage that goes into effect, at least partially, right away. Seniors have waited long enough. We have been promising long enough, and now we need to deliver. We need coverage that is permanent, not one that sunsets a few years from now. We need voluntary coverage in the sense that you don't have to change your coverage if you have another method you like better. This bill qualifies on that count. We need coverage that targets the bulk of its relief for the people who need it the most. This is something that in townhall meetings all over Missouri seniors have said this to me. The folks with the lowest income and the highest prescription drug costs should get the most relief. This bill makes efforts to achieve that, and I think it largely does.

We need legislation that has a reasonable system of copays and deductibles for those who can afford them because that is the way we control overutilization, and overutilization can be bad for everybody. If too much money that we don't need to spend has to be spent in the prescription drug area, that is less money for care for heart patients or kidney patients or maintaining the standards at our teaching hospitals, which is so important to the quality of Medicare.

We need a bill that provides choices for people, one that competes for the business of these seniors, to make certain they are getting the highest quality at the lowest cost that we are capable of providing.

There are going to be many amendments offered to this bill. I am going to vote for some of them. There is one I believe we will see today that will help make certain that local pharmacies are able to participate. I think that is a great idea. I will vote for that amendment. I will vote against some. Some will undoubtedly carry and some will fail.

It is my intention to vote for this bill on final passage—almost no matter what. I don't want to sign a complete blank check here, but I cannot imagine changes that would be made to the bill that would keep me from voting to send this bill on, to move this process forward, to begin keeping the promise we have made over and over and over again in the last few years to that generation of Americans who won the Second World War, who set up the architecture of containment that won the cold war, and built this country by their work, faith, sweat and, effort. That is what this bill represents to me.

I congratulate the Finance Committee, the chairman, and the ranking member for producing this bill. It is, at minimum, a noble effort, a good first step. I think it is probably better than that, but, at minimum, it is that. We cannot get to the end if we don't take the first step. That is what this bill represents. I am pleased to be here supporting it. I hope we can strengthen and improve the bill as we strengthen and improve Medicare, and I am grateful for the opportunity to say a few words on the floor.

I yield the floor at this time.

Mr. BAUCUS. Madam President, I apologize to my good friend from Missouri. It turns out that the Senator who is going to offer the amendment is not able to do so at this time.

Mr. TALENT. Perhaps I should want to do another 30 minutes or so. I am

kidding. I had all the time I needed, and I appreciate the suggestion.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I thank the Chair. Madam President, I wish to take a few minutes to speak about a feature of this prescription drug bill which I believe is particularly noteworthy, and that is help for low-income seniors.

The subsidies provided for low-income seniors and disabled people are far more generous and much more humanitarian than many of the proposals the Senate has considered in the past. We know that most seniors who signed up for this new drug program will benefit from assistance with their prescription drug costs.

Many seniors today pay thousands of dollars a year for drugs. That is common knowledge, and that is a substantial expense to them. It is to everybody, but particularly seniors and particularly low-income seniors.

For 40 percent of our seniors who make less than $15,000 per year, the prescription drug coverage provided by this bill will be truly lifesaving. That is, 40 percent of our seniors make less than $15,000 a year.

We have all heard stories about poor seniors who eat less so they can pay for their prescription drugs or who take only half the dosage the doctor recommends. I have seen that. I worked at a drugstore one day. I was really quite taken aback by the number of times the elderly would walk up to the pharmacist and quietly ask the pharmacist whether they could cut back on their prescription because they could not pay for it all, and they and the pharmacist would go into a little huddle as to which drugs to take and which ones not to take. I have seen it firsthand. A lot of us have heard a lot about this. We have heard about patients with disabling illnesses who cannot afford the expensive drugs that might slow the progression of a dangerous and unpredictable disease. It is clear, 40 percent of our seniors are making less than $15,000. That has to tell us it is a huge problem we have to address.

This bill will give some hope to those folks. The bill is an improvement, as I mentioned, over last year's bill. Last year, that bill gave seniors generous assistance with cost sharing but up to a point. Once the low-income senior hit the so-called benefit gap—that is the donut we are talking about—the bottom fell out of the low-income safety net.

Seniors who could hardly afford food and rent would have to be responsible under that bill for half the cost of their drugs, a cost that most obviously could not be assumed. By some estimates, 30 percent of low-income seniors would fall into this gap.

In the bill before us, low-income seniors remain much better protected in this so-called gap. They pay higher cost sharing in the benefit gap, but their out-of-pocket expense would never go more than 20 percent above the cost of drugs, and for the lowest income seniors who are not eligible for full Medicaid benefits, cost sharing would not go above 10 percent. I think this is a good improvement.

I am also proud the chairman of the committee, Senator GRASSLEY, and I have been able to increase the number of low-income seniors who will benefit from the extra subsidies. Our bill will provide assistance for Medicaid beneficiaries up to 160 percent of the Federal poverty level. An amendment was offered in committee to raise the poverty level to 160 percent. I wish it could go higher, but we are somewhat limited by the $400 billion we are working with in the entire bill. But at least we are up to 160 percent of the Federal poverty level. That means beneficiaries with an annual income of barely over $14,000—that is because they are not within 160 percent, just slightly over—are still struggling to provide for life's basics.

Perhaps one of the most important improvements in this bill is the assistance it provides for low-income seniors without subjecting them to assets tests.

Asset levels for elderly Medicaid beneficiaries and so-called QMBs and SLMBs are very low. Those are categories depending upon the percentage of poverty, so that if an individual has accountable assets of over $4,000, they are not eligible for assistance. A couple with assets over $6,000 is not eligible for assistance. These asset levels, which are based on SSI eligibility standards, have not been adjusted since 1989.

Asset tests exclude millions of poor Americans from Medicaid, and they would have excluded millions of poor seniors from many of last year's prescription drug subsidies. Think of it, an 80-year-old man with $800 a month in income might not be eligible for any assistance if his brother left him, say, a $10,000 car in his will. If he is married and he has paid life insurance premiums his whole life, the policy could prevent him from getting help with prescription drug benefits.

This proposal includes a subsidy category that is based only on income, not on assets. It is not as generous as the asset-tested categories, and I wish we could improve that, but it takes an important step toward covering more needy seniors and allowing them the dignity of keeping a car or a single precious heirloom.

We could do more if we had more money, but we do not have more money. We could eliminate the asset test altogether. We could provide better subsidies in the donut. We could provide more help to people who are still in need but who make $15,000 or $18,000 per year and have high drug costs.

Nevertheless, I am proud of the progress we have made over last year's low-income proposals, and I suspect with each new chapter in this prescription drug/Medicare book, we are going to be able to make improvements along the way.

This bill is a major improvement over current law. It is a major improvement over the low-income provisions in last year's bill. I urge this body to adopt this proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Madam President, the ranking member, Senator BAUCUS, raised a number of valid issues as to how we were able to improve upon the lessons we learned last year from our debate on this most important issue regarding asset tests. That was, obviously, one of the areas we had difficulties addressing in a way that would satisfy most of our colleagues in the Senate.

This year, having drawn upon those lessons, we did craft a proposal that ultimately maximizes the ability of those low-income individuals of participating in this program in the fairest way possible, and that is not to exclude those who certainly are in need of this type of benefit and certainly are in need of some type of assistance because they do have low incomes. Therefore, I think the asset test is a much more fairer approach, much more equitable, without excluding those who certainly have the need for this type of program.

We have come a long way in designing a system that, for the most part, will satisfy those who had concerns with the previous provision in the tripartisan plan.

In fact, Families USA supported our legislation with respect to this provision. I quote from it:

> We congratulate the U.S. Senate for making major improvements in the prescription drug coverage for America's 14 million Medicare beneficiaries below 160 percent of poverty.

They felt it was essential to assist the most vulnerable Medicare beneficiaries, and they, obviously, supported our efforts and thought we should not take any steps to minimize the improvements that have been made in this legislation with respect to the subsidies included in the pending legislation.

I raise another issue I was unable to address yesterday, and that is with respect to the Government fallback provision that is included in the pending legislation. I know there was an amendment that was offered by the Senator from Michigan that would provide for a permanent fallback because those who argue we should have a permanent option to Government fallback so seniors can choose under the standalone prescription drug benefit say it will offer more stability and more choices to seniors.

As we worked last year, again drawing upon the lessons with respect to a Government fallback, we learned two things. Obviously the provision and the way we addressed it in the tripartisan plan was not satisfactory. We did have

language that ensured it guaranteed a seamless approach so seniors would not lose their coverage in the event the private delivery mechanism did not work to provide the prescription drug benefit, but that did not satisfy many of the critics with respect to our legislation last fall.

On the other hand, we saw how much a Government-run program can cost. CBO estimated a Government-run program could cost at least $600 billion, at least based on the bill that had been introduced in the Senate, and that we debated with several versions, up to a trillion dollars or more. It also sunset in order to mask the true costs because again a Government-run system that has no competition, has no choices, does not do anything to maximize the efficiency or increase the innovative ways in which the private sector could provide those plans.

When one is competing against a Government-run program that has no risk, then the cost goes up. That is at least the way the Congressional Budget Office assigned the score to that program. So we had a $600 billion to $1 trillion cost with a Government-run program, because there were no risks involved in that program in implementing that type of an approach. It was all performance based, and so therefore it was going to be much more costly. Then again, it was sunset. After 7 years, the prescription drug benefit under that approach would have been sunsetted.

It also statutorily limited the number of drugs a senior could purchase to two in any therapeutic class. So, again, not only did the benefit sunset but it also limited the choices available to seniors with respect to the types of medications that would be covered under that approach because it was too costly, because it was a Government-run program.

On the other hand, we understood it was absolutely essential that seniors, regardless of where they lived in America, whether it was in a rural area or in an urban area, should have the ability to have a prescription drug benefit that was of equal value, that was in the bill that became law. So we did include a Government fallback provision.

There were those who felt it did not go far enough or was not sufficient to prevent a seamless, uninterrupted approach in terms of coverage.

This year, having drawn upon that experience, we designed a different approach, and we included a Government fallback. We think the Government fallback should be the last resort, not the first resort. So, therefore, there have to be two participating in the program with a drug benefit. If that fails, then the Government would step in. If only one plan participated, the Government would step in and provide a fallback. We think this maximizes the approaches in terms of enhancing competition and choices but at the same time ensuring seniors that no matter what happens, if private plans do not participate in some part of the country, they will always have the assurance and the guarantee that they will have access to a prescription drug benefit in the coverage without interruption. So therefore we designed a system that incorporated the risk management so we can encourage competition among the private sector plans. We think that is important.

We also help give the Secretary the flexibility to dial down the risk even to nothing in order to encourage private plans to participate. But in the event that does not happen, that we do not get two plans at a minimum participating and providing choices to seniors in any part of the country in any one of the 10 regions, then certainly the Government would step in and provide the fallback plan. Even if there is only one private plan that is available, the Government will step in. Again, to address concerns on this side of the aisle with respect to the fact that we are not doing enough to encourage seniors to go into the private delivery model, we do only allow for a 1-year contract for the Government fallback, again trying to encourage private plans to participate in the process.

We obviously think if seniors have private plans participating, they will have competition and choices that will maximize the number of choices for seniors across the board similar to what is available to Members of Congress and to Federal employees under the Federal Employee Health Benefits Program. There are a maximum number of choices, an array of plans, different types of approaches tailored to the needs of seniors either in that particular region or in terms of their medical and health care needs.

For example, a private plan could design a generic-only plan or it could design a plan that includes the most commonly used drugs for medications. So we have hopes that we not only encourage competition but at the same time provide a fallback for prescription drug benefits.

The Secretary has the authority to design that program and negotiate the risks for the plans to make the market as appealing as possible and is required to make choices among a number of plans, at least three plans for each region. However, if at least two plans are not willing to provide services in the region, as I said earlier, the Government fallback will be triggered. Once triggered, the Government will enter into a 1-year contract with a fallback company.

Further, that leaves one plan that is willing to participate in a fallback region. The Secretary may allow that plan to provide coverage alongside the Government fallback plan.

So we think we have maximized the assurances and the security for seniors that, irrespective of where they live in America, they will have access to a prescription drug benefit. The structure of this provision was vital in securing the type of bipartisan support we received in the Senate Finance Committee, and tripartisan support with the support of Senator JEFFORDS we were able to achieve in the final analysis. It was a 16-to-5 vote in the Senate Finance Committee because we were able to incorporate the lessons of the past.

That is why we designed this type of permanent fallback so that it does not undermine the costs of the programs. It invites competition but it also provides the assurances to seniors that they will have prescription drug benefit regardless of where they live in America, regardless of what happens in the private sector. If the private sector does not play a role, Government most assuredly will. I think we have designed the maximum amount of security and the least amount of risk to seniors in terms of the type of coverage they will receive.

I did want to address some of those issues because I do think it is a fundamental component of this legislation before us. There has been a lot of confusion about what this legislation is and is not, and I assure my colleagues that we do have Government protection but at the same time we also do not want to diminish the ability of the private sector to play a competitive role. In the event that does not transpire, then we obviously will have the availability of a fallback provided by Government and the maximum amount of authority vested in the Secretary to design that program so it does not jeopardize seniors' access to coverage at any point, especially those seniors who live in rural areas.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, if we can get consent, which I will offer in a moment, I intend to offer an amendment which would address one of the concerns I have with the current bill; that is, the uncertainty with regard to the premium itself.

Under the bill, it is anticipated the monthly premium paid for by beneficiaries, the beneficiary obligation, would be $35, but there is no guarantee that beneficiary figure of $35 is going to be what our beneficiaries are going to pay; it is only an average. The Congressional Budget Office that gave the $35 figure cannot state what the range will be that will be charged to beneficiaries. It could be lower. Most likely, it could be higher. I am told last year the Medicare+Choice plans increased by 15.5 percent. That was just last year alone. If Medicare+Choice premiums increased by 15.5 percent, there is no telling what the figure could be. It could be $40 or $50, and I will get into that in a moment.

Even the so-called Medicare fallback, available when private plans choose not to serve a community, provides no guarantee. So you do not have any guarantee in the private sector options that will be made available. And if those cannot be made available in a region, the Medicare fallback does not

offer any guarantee with regard to what the premium will be either.

Initially, we were told by the bill's authors that the fallback plan would have a uniform premium, but in fact it does not have even a uniform premium. So not only do we anticipate that it will not be $35, we do not know what it will be. We also know it could be different in different areas. We know that Alaska or South Dakota could be forced to pay a much higher premium than someplace where price and utilization figures could be different; say, Florida. We actually see that right now with Medicare+Choice. Medicare+Choice HMOs offer prescription drug coverage today. According to a report provided to the Congress recently, the premiums in Connecticut, under a Medicare+Choice plan, today are $99 per month. That same premium is $16 in Florida.

So with the experience we have already had in the private sector, the Medicare+Choice option, we have seen a dramatic variation in the price of the premium for beneficiaries. I fear we are going to see exactly the same thing with the private plans offered through this bill as soon as the legislation is implemented.

We have two issues: First, we do not know what the premium will cost because we just have an estimated national average; second, even if there is a national average, we are concerned that there could be a dramatic variation from one part of the country to the other. It is that variation, as well as that uncertainty with regard to the premium itself, that we are trying to address with the amendment we are offering.

The way the bill is written, I will state what will likely happen. There are two terms with which I hope people will become more familiar. The first term is the national weighted average premium. That is the overall premium cost that must be achieved in order to pay for the private sector coverage as well as the Medicare backup when the bill is implemented. In other words, the prescription drug companies will determine, given what the benefit package is, given the utilization rates, given the actuarial tables, it will take so much money, divided up per person, to pay for the plan once it is implemented.

There will be two payments. One will be from the Government and the other is from the beneficiary. The second part of this term, the beneficiary obligation, is what the senior citizen is going to pay. That is the so-called $35. But the overall premium could be $100. In fact, we think it might be in the $100 range. So, under that example, $65 would be paid by Government, $35 would be paid for in the premium by the beneficiary, the beneficiary obligation.

Assume the average is $100 and assume, then, the payment is over by $10. Assume the premium is not $100 but it is $110. Under this bill, that $10 extra in the premium is paid all by the beneficiary. That will be added to the beneficiary obligation. So instead of a $35 payment, it could be $45, a 30 percent increase in the premium the Medicare beneficiary will have to pay. That is why there could be a significant variation.

So we have these two calculations: The national weighted average premium, which we estimate could be around $100; the beneficiary obligation, which is $35, roughly, give or take. And of course, as I said, we do not know what it will be like in some parts of the country. It could be dramatically different, as we have seen with Medicare+Choice right now.

AMENDMENT NO. 939

Mr. DASCHLE. I ask unanimous consent that the pending amendments be set aside and that this amendment be considered at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 939.

Mr. DASCHLE. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ensure that an affordable plan is available in all areas)

On page 103, strike lines 10 through 13 and insert the following:

''(B) the lesser of—

''(i) the amount by which the monthly plan premium approved by the Administrator for the plan exceeds the amount of the monthly national average premium; or

''(ii) in the case of an eligible beneficiary who is enrolled in a Medicare Prescription Drug plan that provides standard prescription drug coverage or an actuarially equivalent prescription drug coverage and does not provide additional prescription drug coverage pursuant to section 1860D–6(a)(2), an amount equal to 10 percent of the amount of the monthly national average premium.

On page 77, strike lines 10 through 22 and insert the following:

''(A) IN GENERAL.—In the case of an eligible beneficiary receiving access to qualified prescription drug coverage through enrollment with an entity with a contract under paragraph (1)(B), the monthly beneficiary obligation of such beneficiary for such enrollment shall be an amount equal to the lesser of—

''(i) the applicable percent (for the area in which the beneficiary resides, as determined under section 1860D–17(c)) of the monthly national average premium (as computed under section 1860D–15) for the year as adjusted using the geographic adjuster under subparagraph (B); or

''(ii) 110 percent of an amount equal to the applicable percent (as determined under section 1860D–17(c) before any adjustment under paragraph (2) of such section) of the monthly national average premium (as computed under section 1860D–15 before any adjustment under subsection (b) of such section) for the year.

Mr. DASCHLE. Madam President, basically what our amendment does is simply say: We understand there will be variance. We understand we cannot pinpoint with any precision exactly what the cost to the beneficiary is going to be. Why don't we put a cap on what that senior citizen is going to be required to pay, within some reason. If we say the beneficiary obligation is going to be $35 a month, put a 10 percent cap on that premium. It can be below to whatever extent. If it comes down to $15, we all ought to celebrate. But if it is going to be more than $35, say that it cannot exceed 10 percent of the average beneficiary obligation.

This would give some assurance to senior citizens that they are not going to be facing dramatically varied costs or facing this extraordinary uncertainty with regard to what the premium will be. But within a 10 percent range, give or take, they will know what their premium obligation will be as they make their decision from one year to the next as to what that premium will cost them.

This is exactly what we do with Medicare Part B. Right now with Medicare Part B, beneficiaries pay $58.70 a month for their physician and outpatient care. I might add, that is a consistent figure. It is the same in Alaska and South Dakota as it is in New York and California. That has worked. No one has complained.

I don't know that any amendment has ever been offered to suggest South Dakota ought to pay a different Medicare Part B premium than someone else. No one has said that having an actual figure every year that seniors can know will be a given cost is something that does not work for physicians. If it works for Medicare Part B, if it works for physicians and outpatient costs, why wouldn't it work for prescription drugs?

We are actually giving more latitude. We are not saying it has to be $35. What we are saying, simply, is let's make sure there is some certainty. Even if it cannot be with the same precision—which, frankly, I think it could be—but if it cannot be the same precision as we expect with Medicare Part B, let's at least say: Give or take 10 percent, it has to be in that $35 range. I don't think that is too much to ask, with all the uncertainty people are facing today as they consider this.

I was just talking on a radio station a few minutes ago, trying to explain what a senior would have to pay. The question was, What does this mean for a senior?

Here is what I had to say. I said we think the premium is going to be $35. We think the deductible is going to be $275. We think the copay is going to be 50/50 between the program and the beneficiary with all the charges up to $4,500, and after that we know the benefits are cut off until you reach about $5,800, and then it kicks on at a 90-percent reimbursement rate at $5,800.

If I was a 87-year-old citizen listening to the radio, I would say: Holy cow, call my accountant. And this is for a drug benefit.

But that is what we are doing. We are asking the senior citizen somehow to make sense of all this, and then we have to say we don't even know if two companies are going to come into your region to provide the benefits in the first place. If they do not, there will be a Medicare backup and we will give you the details on that later.

This just provides a modicum of additional certainty, some degree of confidence that they have some idea, with one of those calculations, of the premium itself, that it is not going to be $45, $55, $65 a month; that it is going to be $35 a month, give or take 10 percent. I do not think that is too much to ask.

We had a debate about this legislation in the committee. I was disappointed the amendment was not adopted in committee. I feel so strongly about it I think it is important for the Senate to have an opportunity to reconsider the amendment.

We got a letter from the National Committee to Preserve Social Security and Medicare. Let me read this letter:

On behalf of the millions of members and supporters of the National Committee . . . I am writing in support of your ''Guaranteed Premium'' amendment to S. 1. The current Senate prescription drug bill, S. 1, does not limit the premium increases, which could potentially subject seniors to dramatic fluctuations in premium costs. Seniors want assurance that their costs will not suddenly skyrocket. Over the past year, premiums for Medicare Plus Choice plans increased 15.5 percent. Seniors need to know what costs they can expect in order to receive a drug benefit. Most seniors are on fixed incomes and even the slightest increase could impose a huge burden on their ability to afford a drug benefit or other necessities, such as food and shelter.

We understand your amendment would limit premium increases . . . preventing dramatic changes in price. We agree that seniors have the right to know what they will be paying today and in the future for a drug benefit. . . .

I will just add one other thought. The letter notes that a slight increase could impose a huge burden on their ability to afford a drug benefit. I have talked literally to hundreds of seniors—maybe even thousands by now. I know it is hard for a United States Senator to be fully appreciative of what it means to live on Social Security but many seniors do. That is their only source of income.

We are now telling them in addition to the $58.70 they pay for Medicare Part B, there is going to be added to that at least $35, probably more, for a prescription drug benefit. So now we are talking about, not $58, but probably $100, out of whatever Social Security check they get each month.

I have talked to many seniors who have said: For me, it is a choice between drugs and rent, drugs and groceries.

I think we overlook that. I think people minimize the extraordinary financial impact these charges, these costs have in their daily lives. What they want is a little more certainty. What they want is a little more assurance that they can make ends meet with these extraordinarily limited budgets within which they live.

That is what our amendment does. I am hopeful the Senate will consider it. My hope is that, on a bipartisan basis, we can adopt it later today.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I worked with Senator BAUCUS all morning, getting people to come and offer amendments.

For the information of all Senators and other interested parties, we have a number of very important committees going on—Judiciary, Commerce, to name but two. We have people on this side who really want to offer amendments, but they are simply unable to do so because of their other Senate responsibilities today.

There will be amendments offered, but we have to get these committees out of the way first.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 939, AS MODIFIED

Mr. DASCHLE. Madam President, yesterday the committee offered a modified version of the bill before us. My amendment does not conform to the modified version in terms of page and line numbers. I ask unanimous consent that a modified amendment be offered and substituted for the amendment I offered earlier this morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 939), as modified, is as follows:

On page 106, strike lines 11 through 14 and insert the following:

''(B) the lesser of—

''(i) the amount by which the monthly plan premium approved by the Administrator for the plan exceeds the amount of the monthly national average premium; or

''(ii) in the case of an eligible beneficiary who is enrolled in a Medicare Prescription Drug plan that provides standard prescription drug coverage or an actuarially equivalent prescription drug coverage and does not provide additional prescription drug coverage pursuant to section 1860D–6(a)(2), an amount equal to 10 percent of the amount of the monthly national average premium.

On page 80, strike lines 1 through 12 and insert the following:

''(A) IN GENERAL.—In the case of an eligible beneficiary receiving access to qualified prescription drug coverage through enrollment with an entity with a contract under paragraph (1)(B), the monthly beneficiary obligation of such beneficiary for such enrollment shall be an amount equal to the lesser of—

''(i) the applicable percent (for the area in which the beneficiary resides, as determined under section 1860D–17(c)) of the monthly national average premium (as computed under section 1860D–15) for the year as adjusted using the geographic adjuster under subparagraph (B); or

''(ii) 110 percent of an amount equal to the applicable percent (as determined under section 1860D–17(c) before any adjustment under paragraph (2) of such section) of the monthly national average premium (as computed under section 1860D–15 before any adjustment under subsection (b) of such section) for the year.

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBERTS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

Mr. SANTORUM. Mr. President, I am going to make an opening statement on this legislation. I understand there are amendments being worked on.

First, I commend the President for his leadership. But for his leadership on this issue, we would not be here today. The President a few months ago laid out a framework for the reform and improvement and strengthening of the Medicare system which we are using in this underlying bill today. The President said he would be willing to move forward with an expansion—a rather expensive expansion, $400 billion over the next 10 years of taxpayer dollars—to provide prescription drug benefits for our senior population, outpatient prescription drug benefits. Obviously inpatient prescription drugs are covered but outpatient prescription drugs are not. The President said he would be willing to move forward with that. He believes, as I believe everyone in this Chamber does, that this is a necessary part of the continuum of care with which seniors, as well as all Americans, should be provided.

The question is how do you move forward with a huge dollar expansion of a program, Medicare, which is already $14 trillion short in revenues over the next 50-plus years? How do you move forward with a bill or an idea that is going to expand this program and create another unfunded liability of $3 to $4 trillion?

What does that mean? That means the money coming into the Medicare system is going to be insufficient to cover the additional expenditures we are going to put on the system with this bill to the tune of $3 or $4 trillion over the next 50 years. How do you justify adding this expense to a program that is already $14 trillion short in revenues?

The President said, I justify this because, No. 1, we need to do it. It makes no sense to have seniors receive care

that is not the best quality or not necessarily recommended from the standpoint of what a physician would recommend but is done because the alternative pharmaceutical product is not covered under Medicare. They will do things that may not be the best quality care or may not be called for, just because it is covered, as opposed to something that is not covered. This is an important benefit that needs to be provided. But how do you justify that to the American public and future taxpayers?

The President said we need to balance that future expenditure with an improvement to the system, an improvement in terms of efficiency in the system to make the system work better from two perspectives: No. 1, from the perspective of efficiency so the money we are putting in to the system is used more efficiently and, No. 2, that we provide better quality, that the quality of care improves under the changes we hope to make in the Medicare system.

The President set out with those two goals, provide a prescription drug benefit but improve the efficiency and the quality of the Medicare system going forward. He had other goals, but I would argue those are the two big, overriding ones. So he put forward a model.

He understood the way you improve efficiency in this country is not to have the Government run the operation. The way you improve the efficiency is to marry what Government does well with what the private sector does well. What Government does well is guarantee a stream of funding and provide oversight, regulation—or refereeing, if you will—to the private sector. What the private sector does well is compete to drive down costs. Competition drives down costs. And it responds to the consumer in front of you, responds to the person with whom you have to deal. Because if you do not treat your patient well or your insured well, then you will lose their business.

Under Medicare today, Medicare cannot lose the senior's business. You have one Medicare plan. It is what it is. If you don't like it, tough. That is it. People cannot walk, by and large. In a few communities they have Medicare+Choice but just in some urban areas in this country. By and large, Medicare has a monopoly and they treat beneficiaries just like all monopolies treat beneficiaries—not well.

What we want is to have a system in place where we have private sector insurance plans that have to treat you well, have to design benefit packages you want; otherwise, they are not going to get your business. If they do not get your business, they do not survive. We believe that will improve the quality of the medicine that is going to be practiced. But it will also improve the efficiency of the health care system.

The tradeoff, and an important one, to adding benefits to this already cash-starved program was to put some things in place that over the long term will result in more efficiency and better quality care for our seniors. So the President put up a model which is doing that right now. The model is the Federal Employees Health Benefits Plan that the Presiding Officer from South Carolina and myself are under—with the exception of the pages. I don't know for sure whether they have coverage under the Federal Employees Health Benefits Plan. I don't know. I don't think they do. Maybe they do. All the other people in this Chamber who are employees of the Senate have health coverage through their Federal Employees Health Benefits Plan. It is a system that marries what the Government does well, which is a steady stream of funding, and an oversight board to make sure the private sector is doing things properly—and with competition. They let each region in which the Federal employees health benefit system offers plans contract. People come and bid for business. The companies that participate in the Federal employees health benefit system go out and market to Federal employees in the region to get them to sign up to their plan. If they don't do a good job, people do not sign up for their plan. If they don't offer a good benefit package, if they don't service the beneficiaries well, then they lose business and move on. And someone else comes and picks up the slack. It is a good combination of public-private partnership to get quality benefits and efficiency of taxpayer dollars and a reliable benefit for Federal employees.

The President saw this as a good model to move Medicare—which is right now a one-size-fits-all Government program run out of Baltimore, MD, and here in Washington, DC. Prices are set here for all of the country—what is going to be reimbursed, what is not going to be reimbursed, what technology is going to be available, what medical technology will not be available, what drugs will be available, and what drugs will not be available. Everything is run out of central planning here.

The average time it takes for Medicare to have a new technology approved is roughly 18 months at the earliest and 3 or 5 years at the latest. The turnover rate for a change in medical technology is 18 months to 2 years. Just about the time Medicare has the approval of a new technology, it is replaced.

We are always behind. Why? Because it is a bureaucracy. Guess what. They don't have to compete for your business. If you do not like it, tough. You have no choice. If you want health care coverage as a senior, this is what you get. It is not consumer friendly. It is not patient friendly because there is no incentive to be.

We want to marry these two concepts—public and private, the good parts of both.

When the President put this plan out, some complained that what we put out wasn't detailed enough. I know many of us in the Senate urged the President not to be very detailed. His job is to provide the vision and the overall goal and structure by which we can accomplish it in very broad-brush terms. What we have been doing for the last few weeks is figuring out how precisely we get that done. It is very complicated. It is very difficult. We are working through a lot of those issues right now.

I think we took a very good step and a big step in the right direction in the Senate Finance Committee. That is the next group which I would like to congratulate—the chairman, Senator GRASSLEY, and the ranking member, Senator BAUCUS—for working together in a bipartisan way.

The President put forth a plan that he argued—and I think it has been proven out—is the basis for a bipartisan compromise.

''Mediscare'' has been used in this Chamber and across this country for far too long. It is time to get down to solving the problem. That means we have to try to put something together that brings the two parties together. The President put out a plan that lays the foundation. Now it is our job to continue that work.

I think with the vote in the Senate Finance Committee of 16 to 5, you saw that there is a foundation which has now been flushed out considerably on the Senate floor as a solid one on which to build this service. There are still a lot of problems.

I don't want to paint this as a rosy scenario and that we are going to walk arm in arm down the aisle for a bill signing in the next day or two. There are a lot of issues we have to go through. The ones that concern many on this side of the aisle and yet to be resolved are issues that go to the underlying premise of what the President is trying to accomplish.

I talked about the President wanting to add this very expensive and needed benefit onto this program but at the same time providing some improvements to the system—marrying the private and public sector so we would have long-term stability in this program.

There are concerns on this side of the aisle that while we have accomplished the first—that is, we have added $402 billion worth of new drug benefits—we may not have done enough to make sure this new system that mirrors the Federal Employees Health Benefits Plan, a combination of the public-private, as opposed to just the solely public. But this new system was written in a way for it to succeed.

We are working through that process right now to make sure we don't go forward with a plan which simply adds a drug benefit to a monopolistic, publicly run, bureaucratically run health care system—Medicare—and simply add more costs to it without the improvements in efficiency and quality that, frankly, beneficiaries deserve and that the public should demand.

We have some work to do. A lot of Members on our side are very concerned about that balance because it is important. The big stumbling block on this side of the aisle has always been of adding a new benefit that has never existed. Universally, people here believe we need to extend outpatient prescription drug benefits to seniors. But the real question is, How do we deliver that benefit? Candidly, how do we improve the Medicare system that was designed in the mid-1960s? It was designed after a 1965 Blue Cross plan that exists nowhere in the ''wild,'' if you will—only in the zoo here in the U.S. Capitol—which is Medicare. But it does not exist in the ''wild'' anymore because it couldn't survive. It became extinct because it could not compete with all the other species out there that were offering better benefits at higher quality and at lower costs.

This dinosaur—this 1965 Blue Cross plan—became extinct in the ''wild.'' But only in the laboratory of the Government here in Washington, DC, has this dinosaur been able to survive. Does it survive and thrive? No, it does not. Is it reproducing? No. It will be reproduced nowhere. The only place this will ever survive is in this environment of the Federal Government.

What we need to do is understand that there are better species out there. There are better models out there. There are improvements as to how we deliver quality care and better responses that beneficiaries need through the insurance process. We need to implement those. I would argue that we need to implement them quickly. We need to get as many people as possible into those better models. I don't see too many people driving around in a 1965 Plymouth Fury. People do not drive them anymore. They are driving newer models and technologically innovative automobiles that have responded to consumer demands and they have improved as a result.

That has not happened in Medicare. We need to get people into a much more efficient, quality-oriented model for them to ''drive'' through their senior years. That is what we are attempting to do. But if we do not do that—and in the past, when we looked at all these bills, whether it was in the last session of Congress or in previous sessions of Congress, we were never willing to get out of the 1965 ''car.'' We always wanted to keep more and more people, with more and more demands, and with there being more and more complexity, ''driving'' in this old vehicle that does not work well.

It is on its last leg. As I said before, using the animal analogy, it does not survive in the ''wild.'' We want something that can survive in the ''wild.'' Why? Because the private sector has evolved to be responsive to the needs of our people. So as new technologies come into play—where it takes 2 or 3 or 4 or 5 years for Medicare to figure out it is a good idea—the private sector, because they have the pressure of knowing people can leave their plans, can look at it and say, yes, we will reimburse this right away because it is better quality, probably better value, and it may lead to lower costs somewhere else. Medicare does not do that. It is not that they can't do it; they don't do it.

So we will have plans in place that change as medicine changes. And that quality is what seniors deserve. But we have to make sure the bill is structured to make sure these plans have the resources and don't have the regulatory ropes to constrain them to where they can't survive.

So it is a major issue. It is one that is being debated as we speak in a lot of places around this Capitol as to how we structure this system. I know there are many people on the other side of the aisle who would not like to see this system exist. They have been very clear about that. They want a continuation of the ''extinct dinosaur'' that can survive nowhere in the ''wild'' as being a model by which we can model this plan after to deliver this benefit.

Or the 1965 Plymouth, you don't see very many of them around. Why? The consumer wants something different, better, higher quality, more efficient. That is what we are trying to accomplish here. I understand there is opposition over there. I understand people want to stay with what they are comfortable with. Unfortunately, for lots of years, seniors have been scared into believing that any change is bad, that we are going to destroy Medicare or have Medicare go away. Candidly, models of cars change, animals evolve, we change based on technology, innovation, improvement, and Medicare needs to do the same. It needs to have the ability to do the same. That should not scare the American public. It should be that we give seniors the kind of quality health care system they deserve, that every other American has in the private sector who has private-sector insurance, which is available to them. So we are making a good start. We have a little ways to go.

We have to make sure that what is the highest priority on this side of the aisle—which is to have a balance between a drug benefit and improvements to the system—is maintained in this bill. I know that isn't the highest priority for many on the other side of the aisle. Thank goodness there are more than a handful of Members on the other side of the aisle who understand the need to accomplish both these goals. That is what bipartisan consensus is formed on.

I hope we can continue down that road and keep this bill centered, by accomplishing both missions, not just what one party really wants or what the other party is really seeking but both missions. If we can do that, if we can have a balanced bill, then we will pass this bill by an overwhelming margin. If we have a bill that ultimately is going to rely on a ''1965 Plymouth'' or a ''dinosaur'' to deliver benefits, then it is not going to be a bipartisan bill and there will not be any bill at all.

We need to have both. Seniors deserve both. Taxpayers deserve both. Future generations, who are going to be dealing with this unfunded liability, deserve both. And we have a responsibility to deliver that.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, while we have been in the quorum call, there are a lot of negotiations underway in terms of various amendments being brought to the floor and the ones that are currently here. While I have an opportunity, I want to spend a few moments on a couple of charts I know have helped me and I believe will help my colleagues and others who are paying attention to the debate as to why we are looking at real changes in Medicare and why such changes will result in strengthening and improving Medicare in a way that we just did not do 5, 10, or 15 years ago and why the time is now for us to act.

Yesterday, I talked a little bit about the history and the advances that have taken place since 1965, when Medicare was enacted. The advances have been huge. The point I had begun to make was that the advances in health care, health care delivery, medical technology, and science have been huge and dramatic, but at the same time the structure, the system, has been almost frozen in a 1965 model.

I will use three consecutive charts. The X axis here will be time, 1965, when Medicare was first enacted, and the present date here, 2003 or 2005. Then on this vertical axis—this is subjective—is change. It is modernization. It is advances. It is differences from 1965 to where we are today. With the third chart, I will put this together.

Referring to the first chart—this is change; this is time—Medicare was enacted in 1965. Things didn't change very much in the system until 1972, when coverage was expanded for individuals with disabilities and for a subpopulation that had been missed but was growing, and that is people with kidney failure, called ESRD, end stage renal disease. That was a pretty dramatic change in the system because we changed the entitlement nature and we expanded coverage. We are doing a little bit of that on the floor this week and next week. I will come back to that.

It was a reasonable change. In terms of overall change, it wasn't a big change. Then things went for another 13 years, to 1985, until we had the next big structural change in the way health care is delivered to our seniors.

That change—we ratchet it up a little bit here in 1985—we had what is called prospective payment for hospitals, inpatient hospitalization. So if you had a patient in a hospital, instead of just reimbursing whatever cost went through, we sat back and said: What should a patient with a certain diagnosis—say, heart disease, or it could be ischemic heart disease—if you took all the patients coming through, what is a reasonable price, looking at everything we knew at that point in time, to reimburse the hospital.

That is called the prospective payment system, PPS, for inpatient hospitals. That was an innovative change that was important to overall health care delivery in the system.

Then we had several references to what happened in 1988 and 1989. In fact, a lot of people have said to me: We will have to be very careful with what we do; otherwise, we will repeat what happened in 1988 and 1989. Here we had enactment. We passed a bill and then repealed catastrophic coverage, meaning high out-of-pocket expenditures if there was a tragic, unexpected event or an automobile accident where health care costs were just huge, that there would be some limit there. It was nobody's fault. You would have some insurance there to cap how much you take out of your pocket to pay for that catastrophic event in one's life.

Here I have a line coming up. And since we repealed it, I have a line going back down. So we attempted a pretty big change at the time, but for all sorts of reasons the system was not quite ready for it and, therefore, it was enacted and then shortly thereafter, in 1989, repealed.

Then things didn't change very much until the late 1980s and we had added a prospective payment system for physicians. I mentioned that we did it for hospitals in 1985. So again, we ratcheted up, and the system changed. It was modernized; it was improved in the late 1980s.

Since then, we had some other types of changes that didn't dramatically change the system in terms of the way health care is delivered to our seniors but did affect it dramatically. We had the Balanced Budget Act of 1997. We had what is called Medicare+Choice which is predominantly an HMO. What we are talking about in the bill on the floor is not health maintenance organizations. We are talking about a newer, more up-to-date way than HMOs of delivering care called PPOs, which is a preferred provider way of delivering care. It is very different.

This is Medicare+Choice, HMO delivery, in 1997. Today, there are about 5 million people in HMOs and Medicare, and although those numbers are falling over time, it is because there are fewer HMOs offering it because of the regulations, the way we reimburse. But the people who are in the HMOs, those 5 million seniors, are very pleased with those plans in the aggregate. We did some other prospective payment changes here but not much change.

The point of this graph is that since 1965, the Medicare system, a great system that has served people very well, has not changed very much at a time—and this is what is on the next chart—when technology, medical science, medical advances have all been really quite dramatic over this same period. Indeed, if you look, again, from 1965 to 2003, you see there has been huge growth in health care advances, both science and technology, what we know, the human genome project, delivery of care directly.

For example, in 1967, there was the first successful heart transplant and the first liver transplant. I put that on there because that is what I did before coming to the Senate. In 1969, we developed a genetically engineered vaccine. We are trying to go back and pass new legislation called BioShield. As soon as we get finished with Medicare, we have to come back to that legislation because it looks at the importance of vaccines to fight bioterrorism, SARS, and other illnesses.

In 1974, this body passed the HMO Act, a new type of delivery system. It hasn't worked out quite as well as anybody would have liked, but it was important to try to deliver health care more efficiently. In 1977, coronary angioplasty developed, where you put these stints in the heart. Before then, it had never been done.

In 1984, we talked about HIV/AIDS on the floor. I was a resident at that time, working up in Boston, MA. We didn't even know what that virus was, HIV/AIDS. Since 1981, 23 million people have died from this virus we identified not that long ago. We responded on this floor in a very admirable, bipartisan way, following the leadership of the President. We passed a public health bill that targets this HIV/AIDS virus throughout the world.

The first successful single lung transplant was in 1983.

In 1985 came preferred provider organizations, a new type of health care delivery system. Over a million people were enrolled.

I will jump up to 1998. Now 90 million people are enrolled in this entity that was invented in 1985. Remember, Medicare hadn't changed at all. Medicare doesn't have PPOs in it today, except in a few demonstration projects.

Prozac, in 1988, had a revolutionary effect on people when appropriately prescribed for certain disorders.

In 1987, there was the first cloned adult animal, Dolly. We remember that. It brings up all sorts of issues we will be coming back to eventually here, including the appropriate role of the cloning, stem cells, and all of the issues that are before us.

In 1997, 85 percent were enrolled in managed care. It did not exist in 1965 or 1970. Yet there was 85 percent enrollment in 1997.

The human genome project—the Senator from New Mexico just walked in and he is, in my mind, the father of this project. It finished 2 years ahead of schedule, under budget. It really started as an idea here, or was captured as an idea on the floor of the Senate by the distinguished Senator from New Mexico and others as well. Since that point in time, over a 10-year period, there are 3 billion bits of information we now know that we didn't know 10 years ago. There have been tremendous advances, and it opens up a whole new spectrum of innovation, creativity, and technology to benefit untreatable diseases today. This human genome project is exciting.

The challenge we have today is to have a Medicare system that can capture that innovation, that technology, and what we learned in better health care delivery, and right now Medicare doesn't do that. Medicare is not designed to do that. Thus, as we look ahead, we need to strengthen and improve Medicare. Now we have the opportunity.

If you put these two charts together, it explains why we are on this bill and why we are working hard to negotiate this bill in a way that is bipartisan and looks at health care security for seniors. That is what we want on both sides of the aisle. Shown in red on this chart, Medicare has not changed very much over the last 35 years. Yet we have health care delivery, and science and technology, pharmaceutical research, and heart surgery, lung surgery, and coronary artery bypass surgery wasn't done in 1965, period. Medicare has not changed at all. Health care advances have changed dramatically and will change even more, and it is this gap—for our seniors we are talking about—that we are addressing.

How can we sufficiently change Medicare so the line will come up and we can be more in sync with health care advances and health delivery advances with a system that is flexible enough to capture them—whether it is treatment for mental illnesses or whether it is preventive care. There is no preventive care in Medicare today. There is no protection for catastrophic coverage. There is no chronic disease management. Yet our health care delivery system knows that is the most effective way to treat seniors and, indeed, everybody in terms of health care.

So what is the response? The gap is what conceptually has changed. I don't have numbers over on this side of the chart because it is concepts. But at least what we are trying to do is bring that forward. What are we going to do? I will go through this quickly. We have seniors today—this is Medicare today—who have two choices. There is traditional Medicare, with 35 million in the program. These are seniors and individuals with disabilities, those two groups. Five million people are in Medicare+Choice. We brought that forward about 5 years ago. Those 5 million are pretty satisfied. They are mainly HMOs, that 5 million. So 35 million are in traditional Medicare, what we call fee for service. It is this traditional Medicare that really has not changed

much since 1965. There have been some changes but not many.

The next question is, if this legislation is passed, after we amend it and pull things together, what are we going to have in 8 months or a year from now? That will be this chart. It is going to be the same format for the next two charts. We will have, again, traditional Medicare, with 35 million people, and 5 million people in Medicare+Choice. This will alter a little bit. The addition to this will be the prescription drug card. Maybe 6 to 9 months from the time the bill is signed, every senior will have access to a prescription drug card that will allow that senior to go into a pharmacy, a retail outlet, or a mail order house and, with that card being used, will be given a discount of maybe 10, 15, 20 percent. That will be within—I don't know—6 to 8 months when that will take place, while the rest of the system is being modernized. That is in 2004.

People need help now. We can give them help now. I mentioned some figures earlier. If you are low income, this prescription drug card can be used just straight right off the top as a benefit. Then the last chart——

Mr. DOMENICI. Mr. Leader, every time you pointed to this group, the most important fact about it is they don't have any prescription drugs. When you talk about the other groups, they may have. But this group doesn't have any today.

Mr. FRIST. That is correct. In response to the distinguished Senator from New Mexico, he is exactly right. We are talking about health care security for individuals, and 35 million seniors who are choosing this particular plan today do not have access. They have no choice. Even if they wanted it through Medicare, they cannot get it. That is the benefit—the prescription drug card—that we are initially going to reach out with to help every single senior.

People with low incomes will get a lot more help than wealthy people. Every senior will have access to the prescription drug card. On the last chart, we will show what happens 2½ years from now. This will be Medicare in 2006. This is exciting. Seniors, after using the prescription drug card about 2 years, will stop using that because, by then, we will have designed a system that does the following:

Those people, just as the distinguished Senator from New Mexico said, who chose traditional Medicare can keep it. They can keep exactly what they had, but they will have access to a new prescription drug insurance plan. They don't have this now. We are going to add that. Some people say they don't want all these choices. ''I am fine, Dr. Frist, Senator FRIST. Let me keep what I have. I am 80 years old and I just want exactly what I have. I am doing fine.''

We are going to be able to tell them they can keep what they have, but if they would like, they can have access to prescription drugs. The green here represents prescription drugs. Medicare+Choice, which is mainly HMOs, already has prescription drugs—almost all of them. The value is about $600 today, if you choose this. Only 5 million people chose this, and 35 million are in that. We will really double the value. If you want to stay in Medicare+Choice, the actuarial value—I really hate using these words—you are going to get this much benefit, and you are going to have this much benefit.

Or—this is the exciting part—we have the entities that build upon all the rapid advances of the last 20 to 30 years that is state of the art. That is why it is so important to get the best Democrats have to offer, the best Republicans have to offer, the best of the private sector, the best of the administration to make sure this is designed well with state-of-the-art technology, the most modern, the fairest, the most equitable—this is where a lot of the debate is going to be.

People can stay in traditional Medicare, choose Medicare+Choice, or choose these new PPOs. The PPOs will have prescription drug insurance as part of integrated health care and coordinated care where they have teams of doctors and chronic disease management, with nurses who are integrated into a team who may call a patient once a week to make sure they have not picked up too much weight. When you pick up weight, that means you are retaining water, and you could develop congestive heart failure.

They actually will have chronic disease management and preventive care. Remember, there is no preventive care in Medicare. There is no coordination in Medicare. If you have chest pain, it may be esophagitis or indigestion, and you might go see BILL FRIST, the heart surgeon, because it is in your chest. That is what you do in Medicare. You go to BILL FRIST, the heart surgeon. I know a lot about heart surgery and fixing a heart, but I do not know that much, to be honest with you, about indigestion. Yet people will come see me when I practice. That coordination is fragmented, it is disjointed, and that is what we will give away by giving this option of the PPOs. That is pretty much it.

The debate is how many people will move from traditional Medicare to Medicare+Choice or PPOs. Should there be incentives for people to move since we know PPOs are a higher quality of care in terms of objective management?

It only makes sense, if you coordinate people's care, you have preventive medicine built into it and chronic disease management. It is going to be hard to argue that the care is not there. But what sort of incentives? That is where much of the debate will be.

Initially, the debate was maybe the prescription drug package over here should be more available than this one and people will gravitate. The underlying bill does not have that happen. This Medicare benefit for drugs is the same as the Medicare+Choice benefit and the same as the PPO benefit.

That is the way I look at this issue. It keeps it simple, which I need as we go through this debate. Now we are down to filling in the details to make this system work.

I am very optimistic that this will be what seniors have access to in 2006, but it will not happen unless we do our work over the next 10 days.

Mr. DOMENICI. Will the Senator yield?

Mr. FRIST. Mr. President, I will be happy to yield to my distinguished colleague.

Mr. DOMENICI. Mr. President, first, I was watching the majority leader's discussion in my Senate office. I was so pleased that he chose to give the history of Medicare and his personal understanding of where we are that I thought I should come down and be present, at least as he finished.

I congratulate Senator FRIST. I am going to say something that is perhaps outrageous. I do not think it is possible that previous Senates, as they passed great health care programs—Medicaid, Medicare—or when they passed Social Security in the Franklin Roosevelt days, I do not believe there can possibly be a CONGRESSIONAL RECORD that has an explanation of something as complicated as this that is as competent, as good, as understandable as this, and I commend Senator FRIST for that.

First of all, Senator FRIST understands the issue. Second, we are very fortunate that he happens to be a great doctor who decided to be a Senator. That does not happen very often either in history. Combine the two, and then we were pretty fortunate—we Republicans, and then the Senate—that we elected him as leader.

Frankly, as his good friend, the truth is, Senator FRIST had not been around here long enough to be the leader. But we picked him anyway. How lucky we are. Frankly, he has not missed a step. This year will end, as it started, with one success after another because of his leadership.

This bill will pass. Seniors will know more about this program than any comparable program because of Senator FRIST, because of the way he has handled it. As a matter of fact, those who talk to America on all the talk shows, whether they are for this or against it, whether they call it too liberal, too generous, whether they call it wrongheaded, whether they call it a Kennedy program that Republicans have been suckered into—whatever they are saying out there, the truth is, it is very bipartisan, and there is nothing wrong with that.

I was telling Senator FRIST the other day that Social Security and Medicare heretofore in our history were not passed with equanimity of support.

However, once they were passed, regardless of what has been said partisan-wise out there, the support has been just about the same by Democrats and Republicans for Medicare funding and Social Security funding. We have all agreed to save Medicare and save Social Security. It is just about Democrats and Republicans doing the same thing because it seems that somehow the seniors of the country bring us together. We end up being one, and that is happening here.

The Senator would admit, would he not, that we are taking a chance because we are drafting something enormous, and a huge portion of it is going to have to be administered by both private companies and by the Government. It would seem that we are trying in these models to give our seniors choice, to build into a model something we have left out of medical practice, and that is preventive medicine and group practice.

The majority leader gave an example of where perhaps somebody who is sick will actually be treated by a team if they are in a PPO. That does not happen today unless it is an extraordinary fee-for-service doctor who has a lot more than just a doctor's office but has all the equipment and two nurses who are treating people. We also are hoping people will say they are comfortable, but maybe they ought to move over and try this broader scope of coverage.

I will tell all of my colleagues that my good friend, the leader, knows a lot about my ailments. I have been pretty sick for the last few years; in fact, for 4½ years. I have something wrong with my hand that causes unabated pain and the leader has been very helpful to me. The other day he was explaining the PPO system to me. He slipped and talked to me as one of America's senior citizens. He started laughing as he said it. He said: Well, you are, aren't you?

I said: That's true, I am. I'm 71.

He laughed and said: It would not be too easy to tell you, Senator, just move on over and get into a PPO. I said to him it would not be easy. I want to be honest, it is not going to be easy for a lot of senior citizens.

The point is, they are going to find out from their neighbors, their friends, through their relatives, and, if it is done right, from their doctors, that moving from traditional Medicare to the PPOs, the group coverage which will also have the same prescription coverage, is a better way for more Americans.

That is our hope. As a matter of fact, I think I am correct that is the hope of the system. That has to happen if this new system is going to work properly. I ask the Senator, is that a fair assumption?

Mr. FRIST. Mr. President, in response, I believe it is. Some people would say, no, we can make everything work and improve on everything. In terms of the demographic shift, the fact is, we have doubled the number of seniors. It is unprecedented. It never has happened in the history of this country, or indeed in the world, where a country has doubled the number of seniors over a 30-year period, going from 40 million seniors to approximately 78—really about 37 million to 77 million. At the same time, we have not half but a diminishing number of workers paying into the system.

I argue that this is done on quality of care. I just know if one gets into a system where they have a doctor talking to a nurse, a doctor talking to a specialist, that they have preventive care, they have a nurse who specializes in chronic disease management—which is the whole purpose of this coordinated care, that they are getting a higher quality of care.

In addition to that, it is a more efficient system. Choice is going to allow people to go to the systems that give the best care, and with that it is sustainable over time because it allows an element of the marketplace to work.

The marketplace is nothing more than rational people making rational decisions, and it might be to stay in traditional Medicare. But the argument would be if someone is getting better care over here and better value over time, the PPO model will attract people.

The other point I should at least mention, and the reason why I know it can work, is that people who are near seniors say they are 64 years of age and they become 65 years of age about 80 percent of them have similar type plans, although not exactly. They have employer-sponsored plans. So when they get to be 65—not the Senator from New Mexico because he is in the Federal Government and he is already in a plan like this. We have that advantage. We want to give it to our seniors. But for the person who is 64, soon to be 65, when they make it to 65 they give up their employer-sponsored plan and have to take this traditional Medicare. So what we are going to say is when someone hits 65——

Mr. DOMENICI. They can stay there.

Mr. FRIST. They can keep that sort of plan. That is why I am so confident that over the next 30 years this will work because that is what the Senator has, and what I have, and what most employer-sponsored plans are. But that is what we are denying seniors and those with disabilities. That is why underneath I am so confident this can work.

We have to make this work. We have to improve it and that is what we can do over the next 8, 9, 10 days.

Mr. DOMENICI. Does the Senator remember—well, he was not in the Senate yet.

Mr. FRIST. I was probably in the operating room.

Mr. DOMENICI. He probably was. The Senator was making those flying trips back and carrying the hearts so he actually could transplant them in a timely manner. But when we first started talking about HMOs, there was a big battle going on between whom? The doctors of America and the legislators because the doctors were not accustomed to HMOs. The doctors were all accustomed to what was called traditional care; that is, they themselves ran it. They did not have any kind of group practice. They did not have any kind of clinical practice. As a matter of fact, we used to have to go home as legislators and meet with doctors and try to convince them that the goal was not to destroy the medical practice but rather to give them an opportunity to practice in a different way.

Mr. FRIST. Yes.

Mr. DOMENICI. Frankly, what was being said in this Chamber—not as well as the Senator from Tennessee says it and not with as much knowledge—but what was being said was everyone would benefit if we went to the HMOs. The patients will get better care. Prevention has a better chance of inserting itself into the system than the traditional way. We have now—and not because we are great thinkers and because America plans things very well, but we have moved in the direction of PPOs that is professional units—and HMOs, which are privately managed delivery groups, they are no longer a surprise to the doctors. Some still sit home, like in my State, and wonder what is happening to the world. It is passing them by and it is no good.

The truth is, millions are trying managed care and hundreds of thousands of doctors are practicing that way.

Mr. FRIST. Mr. President, if I could just briefly respond, and that is where this Medicare+Choice is really the HMO model, although not for everybody.

Mr. DOMENICI. Correct.

Mr. FRIST. We have learned a lot from it since 1974. The point is Medicare has not changed.

Mr. DOMENICI. Right.

Mr. FRIST. We can preserve the good of that model but, based on what we know in 2003, add state-of-the-art, quality, partnering-type, coordinated, integrated delivery of health care. That is a great example of traditional Medicare in 1965. We opened up the Medicare+Choice and 5 million people went with it. That is one type of plan. It is not for everybody now because, to be honest, a lot of patients want more choice, and therefore we give them a system that has more choice. That is really what this legislation is all about.

Mr. DOMENICI. The other thing I wanted to close with, and it seems to be quite obvious, is there is no question but that some of our best Senators have already, or will speak about this plan, and they are worried. They will speak with trepidation and principally they will talk about two things, but the big one will be it is going to cost more than we think. Can we afford it? There is another question that is asked around, and that is: Are we giving benefits to the right groups of people in the right quantities?

I served on the Budget Committee for 28 or 30 years. I was chairman 14 times. When I left the Committee, I could have given a little speech and said, here is what is going to happen over the next 10 years, and here is what is going to happen over the next 15 years. Of course, I could have predicted cycles, that we are going to have big deficits, and we are going to come out of them and we are going to get bigger ones. I probably could have talked about the fear of the baby boomers and our ability to pay what we have said we are going to pay them when their day comes. That is lingering and that is kind of washing its way through this debate.

The question is not, will we, because we will pay. The question is, When we get there and we have to make all of those payments, how are we going to pay for it? Frankly, I do not think that is a reason to say we should not do this. We do not know whether in 15 or 20 years we will be able to have a balanced budget. In fact, if someone were to ask me—and the Senator is not asking me—I would say in 15 years we probably cannot, regardless of the economy.

The choice is to do something for the seniors on medication, which we know we have to do. Or we can choose to do nothing because we are worried about how we are going to handle this. Or we can say when that day comes there will be another great confrontation, and it will very simply be a confrontation about how do we change this, for it is not written in stone like the Ten Commandments? How do we change them if we have to? Or, God forbid, how do we change the fiscal plan of the country, whatever that is, in terms of putting a tax to pay for what?

Now, it is not embarrassing to admit that. It seems to me that I ought to say that. I know that. I am very lucky to know that, and it cannot be that I am wrong. People cannot say I should not tell Americans that, because it is true.

I was fortunate. I have heard every economist. I probably deserve a degree in economics. I did not take economics. I took chemistry and physics.

I have heard Alan Greenspan 20 times in my life. I called him up on the Energy bill. When I need somebody to tell the world there is a shortage of natural gas, I call an expert. I say Alan Greenspan will find out if it is true. And sure enough, he will tell the world. When he does, they listen.

He tells Members the same thing I am talking about here. But it does not mean we should not do this. How can we leave a system that has seniors without prescription drugs because we have questions about what will happen in 20 years? We don't. We move on ahead.

The Senator mentioned in passing the mentally ill coverage. I don't intend to inject that here. But we cannot forget about the mentally ill in our country and the fact they are not covered by insurance because we have problems. We cannot say, well, we have problems, so forget about them. Because the system made a mistake and did not include them, we cannot run around and say we made a mistake. Half the people that are in the gutters of America are there because they are homeless, because they are mentally ill, because there was no insurance when they were little kids and they end up from about 15 years of age onward doing nothing. We cannot say there is no solution.

To that end, I thank the Senator for his assistance with reference to that group of people.

Last, your eloquent speech about the greatest wellness research program in the history of mankind, that is what I call the program the Senator described when we mapped the human genome. There is no greater scientific wellness research program. It delivered to the hands and minds of the scientists of the world the chromosome makeup of every serious disease known to mankind. They said, as if to challenge the scientists, Here it is, here is where they are located within the chromosome system; solve it, scientists. What a fantastic thing to have been a part of.

I thank the Senator for commenting on my involvement.

Mr. FRIST. I take 1 minute. I know we have other Senators on the floor and we will turn to those Senators.

The human genome project which I mentioned a few minutes ago really happened. Completion really took 10 years. There are great advances that will come out of this mapping of the human genome. It is like a phone book we did not used to have, but now we have all that information. There will be tremendous advances out of that.

The problem with the Medicare system, which has not changed very much, is those new advances and what we learned cannot be rapidly incorporated into Medicare. I talked earlier about heart disease. Most people know cholesterol is important to heart disease. The cholesterol screening test is not covered by traditional Medicare today. Before seniors could benefit from heart transplants, the private sector was doing heart transplants. It took 6 years before seniors had access to that lifesaving operation.

The micromanagement out of Washington, DC, means new technology is slow to come into the system because it is so rigid. If we are going to capture the great advances, we need a system that is receptive, that is flexible. That is what the PPO model does. The demographic shift is critical.

The Senator from New Mexico is the expert in this body, having chaired the Budget Committee in such an admirable way, a distinguished way for so many years. Whatever we do on this floor, we have to look 10 years out, 20 years out, 30 years out because of the demographic shift. This plan does that.

In terms of the delivery program, it can be sustained over time. Traditional Medicare right now, because of its rigidity, means a doubling in the taxes. Maybe we can do that as we go forward. By giving traditional Medicare improving benefits, and allowing prescription drugs, allowing flexibility, allowing choice to be part of that, it can be sustained long term.

I appreciate the comments of my distinguished colleague from New Mexico. I appreciate the patience of the other Senators on the floor. This is an important issue. Every now and then it pays to walk back and look from 30,000 feet at what is going on below. What goes on below determines ultimately what goes on at 30,000 feet. I have enjoyed the opportunity to do that.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Michigan.

Ms. STABENOW. Mr. President, before my esteemed colleague from New Mexico leaves the floor, I commend him for his leadership on the issues related to mental health and mental health parity. No one has been more of a champion than the Senator from New Mexico on these issues related to mental health. I have been pleased since being in the Senate to cosponsor those efforts. I congratulate the Senator and urge him on as we work to provide mental health parity which is another very important health care issue we need to address in the Senate.

I will speak in general as it relates to this debate regarding prescription drug coverage and Medicare. Seeing my friend from Wyoming, I commend the Senator from Wyoming, Senator ENZI, who spoke on an amendment dealing with community pharmacies which is important to pass. I am supportive of it.

I did not have a chance to say that yesterday and wanted to take a moment today to commend him for his work. Part of providing choice for seniors is to make sure they can have the same choice from their community pharmacy as mail order and a number of other issues dealing with the importance of community pharmacies. Congratulations for his work in this area.

I take a moment to speak about my perspective relating to where we are and the issues of Medicare and many of the comments I have been hearing this morning that I respectfully share a difference on. I believe millions of Americans who have benefitted from Medicare have a different perspective about the choice of traditional Medicare—dependability, reliability, ability to choose your own doctor, the fact it has been there for our seniors and people with disabilities since 1965—have a different view versus wading through the insurance bureaucracies. There are lots of bureaucracies we can talk about, but certainly Medicare is not alone in having a bureaucracy. Anyone who has had to wade through insurance forms or attempted to wade through questions from our insurance companies certainly would not say that is less bureaucratic or less paperwork. I find it interesting to hear comments lauding

the process of working through insurance companies. If you ask anyone when they have a claim of any kind whether or not that is a streamlined, easy process, usually it is not.

When I hear about how traditional Medicare does not cover preventive services or has not been updated to cover other services, it is very important to note that it could. Traditional Medicare can cover preventive services. Since arriving in the House of Representatives in 1997, we have gone from paying for mammograms every other year to paying for mammograms every year. We have added other screenings. We can continue to do that. There is nothing about prevention that cannot be done through traditional Medicare. There is nothing relating to coordination that cannot be done through traditional Medicare.

I am in a fee-for-service health plan myself through Blue Cross/Blue Shield, an integrated plan. I am able in a fee-for-service plan to have integration. We can do that, if we want to do that, if we want to strengthen Medicare. The question is where we want to go with health care. If we want to strengthen traditional Medicare, we add preventive measures. We do prescription drug benefit within Medicare so it is coordinated. We are certainly not adding to the coordinated nature of Medicare by saying you can receive an integrated health care approach through an HMO or PPO or other plans, but we are going to, instead, offer only private insurance if it is available in your community. You can't have an integrated approach through traditional Medicare.

That is a conscious policy choice. It is not that you can't.

What we are really debating here is the very same debate that we had before Medicare came into being. I urge colleagues to go back and look at the CONGRESSIONAL RECORD and read the debate about what occurred before 1965. There were two different philosophies. So many years later it is interesting to me the very same two philosophies exist.

One philosophy, at that time, that of my Republican colleagues, is we should not have Medicare. It is a big Government program. What we should have is private insurance. People should buy from private insurance. At that time about half the seniors in the country could not find private insurance. Much like today, in many parts of the country it was not available to them. Certainly, prescription-only policies are difficult to find. Certainly, in Michigan an HMO is hard to find. If you live anywhere but metro Detroit, you don't have an option such as that. So, much like today, it was not available or not affordable. So the decision was made. It was championed by the Democrats in the Congress. I am proud of that. They were joined by, I believe, 12 Republican Members at the time who voted to make the decision, as an American value, that we were going to make sure older Americans and people with disabilities had access to health care they could afford, quality health care, and they would have access to it regardless of where they lived in the United States.

That was an important value statement made in 1965. I think it is fair to say it has radically changed and improved the quality of life for millions, tens of millions of American citizens, that decision in 1965.

Since that time, it is absolutely true that health care has changed. Boy, has it changed. There are exciting new things that have happened. There are new treatments. There are new miracle drugs. You can take a pill instead of having heart surgery. Our esteemed leader of the Senate talked about those changes and certainly we all agree with those changes.

The question is, Do we change and improve and strengthen Medicare to reflect that, or do we move to a different system? That is a conscious choice. We can absolutely do everything that is being talked about here through traditional Medicare if we choose to do that.

Mr. President, 89 percent of the seniors are under traditional Medicare; 11 percent have chosen to go into managed care available in their area. I share the desire to make sure options are available to seniors at their choice.

But to somehow say we have to abandon the insurance system called Medicare that has worked because it is outdated is not accurate. The accurate statement is we choose not to update Medicare. We choose not to strengthen and modernize Medicare because we want to go back to the private sector, private for-profit insurance and managed care. That is a conscious choice. I find it interesting that is the very same debate that took place when Medicare started.

Again, there is a difference in philosophy of different parties. I believe we have seen the philosophy at work back since the mid-1990s to weaken Medicare, so it is easier to criticize. What do I mean by that?

We had a Speaker of the House, a well-known Speaker back in the mid-1990s, say we cannot eliminate Medicare directly—I am paraphrasing—but, instead, we will let it wither on the vine.

At that time, there was a lot of strong support for going to managed care, HMOs, under Medicare. At that time the person who now leads the Center for Medicare and Medicaid said there would be a California gold rush into managed care. People would be leaving in droves, going to managed care because it was so much better than traditional Medicare.

In fact, that did not happen. In the areas where it did happen, such as Michigan—which I have talked about many times on the Senate floor—we have had over 35,000 seniors dropped because the private HMO made the business decision to pull out of the market and not to cover Medicare beneficiaries anymore. Those individuals went back into traditional Medicare.

But what happened in the 1990s? We had a balanced budget agreement. I believed it was important. I supported that in 1997. But since that time, we have seen cuts, very deep cuts, deeper than we were told would happen, to providers who cover Medicare beneficiaries, people who provide critical home health services, people who provide critical nursing home coverage; our hospitals, our teaching hospitals, our doctors, nurses, physical therapists—all of those who provide health care. We have seen deep, deep cuts.

We have seen rural hospitals and urban hospitals closing. We have seen tremendous cutbacks, more paperwork, less funding. We have seen a crisis. Again, this was due to policy decisions to pull money away from Medicare, to underfund Medicare. My concern is that essentially Medicare has been set up by underfunding it, and then those who do not support Medicare saying: See, it doesn't work; not funding preventive care and saying: See, we don't fund preventive care. See, it is too bureaucratic. All those things could be fixed if there was a commitment to Medicare, if there was a commitment to a program that is a great American success story.

Let me just say in conclusion—I see colleagues on the Senate floor I know wish to speak—I think it is important in this debate that we be very honest with the American people about what the real debate is. It is not that Medicare has failed. It is not that Medicare cannot be improved upon and modernized. The debate is a philosophical one, an ideological one. There is a difference in view where those now in the majority believed, before Medicare, and believe now, that we are better off with a private for-profit insurance company model.

I am also deeply concerned when I continue to hear that somehow we cannot afford to continue with Medicare anymore because of the demographics. I have two points about that. I said this before, but the evidence is overwhelming. Medicare's administrative costs are less, and they are growing at a slower rate. Its costs are less right now than those of managed care HMOs. Every independent study shows there is no evidence that when you bring in a private for-profit insurance company that needs to make a profit because they are in the private sector, the for-profit side of the world, that somehow that brings more money for health care—when they have to take a piece of that for administrative costs and for profit, and so on. In fact, it is just the opposite. The majority of health care in this country, the majority of hospitals, the majority of home health agencies and nursing homes are non-profit so that every dollar goes into health care because health care is not an option. It is a critical necessity for our people. That is really the debate.

The other piece of the debate is another question of values and priorities. We continue to see trillions of dollars

being given in tax cuts as a priority to a privileged few in this country, instead of focusing on shoring up and modernizing health care with a real, comprehensive prescription drug benefit, and instead of investing in education and innovation in our country to grow the economy through greater productivity. These are conscious choices. The fact that this is not a very good benefit and the fact we are limited in scope is a conscious choice by this body, by this Congress, and by this President, which says Medicare and health care is not as important as another round, and what will be coming, another round and another round of tax cuts for the privileged few of this country.

I will just say in conclusion that as we speak I believe we need to talk about the fact that these are conscious choices being made. I for one believe all the evidence shows we can strengthen and modernize and update Medicare in a way that our seniors want, need, and deserve.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. DOLE. Mr. President, I rise in favor of a Medicare prescription drug benefit. We live in different times now. Thirty-eight years ago when the Medicare Program was created, most people were treated in hospitals. Many illnesses were untreatable, and the average lifespan was shorter than it is today. But we have made great strides since then. Today people are living longer, better, and healthier lives. My own mother turned 102 years old last month—something perhaps she never even imagined. But new medical technologies and advanced drugs have made it possible for many of our elderly to live productive lives for many years.

Unfortunately, the high cost of these life-sustaining medications is preventing many of our seniors from reaping the benefits of these advancements.

The elderly in my State of North Carolina have been hit particularly hard. The State's Division of Aging estimates that one-half of North Carolina's residents aged 65 and older have no prescription drug coverage.

As I traveled our 100 counties, I have heard their stories. They are cutting their pills in half to make them last longer—a dangerous practice that can lead to unanticipated drug reactions. They are sacrificing groceries so they have money to buy the drugs they need. Even worse, far too many of them are simply going without needed drugs.

Many of North Carolina's seniors have even been forced to go back into the workplace from retirement—often with an ailing condition—just to earn some income because of prescription drugs.

I talked last night to a woman in Clayton, NC named Kathy Roberts. She retired after 13 years of working at Wal-Mart with dreams of spending time with her grandchildren, but a heart condition ran up medical costs. Kathy had soon lost $29,000 in savings. She recently returned to her job at Wal-Mart for the extra money. But because she is only working part time in order to keep her $700 a month Social Security check, she is ineligible for the health insurance benefits Wal-Mart gives to its full-time employees. Her prescription drugs cost $170 each month.

In Mecklenburg County, officials recently completed a report on the status of seniors there. The study found that 45 percent of older adults said the high cost of prescription drugs made them decide not to take a medicine as frequently as prescribed. Forty percent had not purchased a prescription because of costs, and more than 15 percent said they put off paying for food, rent, or utilities to buy medicine.

This is simply not right. Our elderly deserve better treatment. This Government made a promise to our seniors when the Medicare program was created, and we should keep our promise.

This year we have our best chance yet to get a prescription drug benefit signed into law. It is an opportunity that should not be allowed to slip away.

I have been reviewing the prescription drug plan passed by the Finance Committee as well as proposals put forth by other Senators. The Finance Committee legislation commits $400 billion over the next 10 years for a benefit. It is a voluntary program, something I have long advocated. But I have concerns. While the legislation adds a drug benefit to Medicare, it does not make sufficient changes to strengthen and improve an outdated program. None of us want to add a benefit that is simply going to send Medicare's bills through the roof as soon as the baby boomers retire.

Just 3 months ago, Government trustees reported Medicare was 4 years closer to insolvency than expected. It is projected to start paying out more money than it brings in in the year 2013. With Medicare so close to the brink of insolvency, shouldn't we look more closely at ways to improve this aging program?

This bill provides a prescription drug initiative—an enormous change. But in terms of improving and strengthening Medicare, it simply does not go far enough.

For instance, the bill does not do enough to eliminate the mountains of paperwork and red tape that discourage doctors from participating in Medicare—100,000 pages of regulations, according to the Mayo Clinic. Where is the regulatory reform Medicare so desperately needs?

There is also a need to provide for more disclosure among our pharmacy benefit managers and plans. The Senate should consider amendments such as that offered by Senators ENZI and REED which promote greater transparency and require plans to disclose how much of the rebates from drug manufacturers are being passed on to consumers. We must seek to provide a prescription drug benefit that maintains fiscal responsibility, too.

There are also concerns that this drug benefit will cause private insurers to drop coverage. The Congressional Budget Office estimates that 37 percent of employers would be inclined to terminate prescription drug coverage for retirees. This would shift those retirees into the Government-sponsored system and further drive up costs of the program. Our Nation cannot afford that. The budget is already being stretched because of national security concerns.

The Senate must ensure this program stays within the cap of $400 billion over 10 years we agreed to in the budget resolution.

I intend to spend the next several days listening to the debate and further examining proposals. I hope we can find ways to address these issues so we can pass a benefit for our seniors this year without creating a system that will balloon into a tremendous burden for future generations.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I call for regular order.

The PRESIDING OFFICER. The Senator's amendment is the regular order.

Mr. ENZI. Thank you, Mr. President.

AMENDMENT NO. 932, AS MODIFIED

Mr. ENZI. I send a modification to my amendment to the desk.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment (No. 932), as modified, is as follows:

(Purpose: To improve disclosure requirements and increase beneficiary choices)

On page 57, between lines 21 and 22, insert the following:

''(3) DISCLOSURE.—The eligible entity offering a Medicare Prescription Drug plan and the MedicareAdvantage organization offering a MedicareAdvantage plan shall disclose to the Administrator (in a manner specified by the Administrator) the extent to which discounts, direct or indirect subsidies, rebates, or other price concessions or direct or indirect remunerations made available to the entity or organization by a manufacturer are passed through to enrollees through pharmacies and other dispensers or otherwise. The provisions of section 1927(b)(3)(D) shall apply to information disclosed to the Administrator under this paragraph in the same manner as such provisions apply to information disclosed under such section.

''(4) AUDITS AND REPORTS.—To protect against fraud and abuse and to ensure proper disclosures and accounting under this part, in addition to any protections against fraud and abuse provided under section 1860D–7(f)(1), the Administrator may periodically audit the financial statements and records of an eligible entity offering a Medicare Prescription Drug plan and a MedicareAdvantage organization offering a MedicareAdvantage plan.

On page 37, between lines 20 and 21, insert the following:

''(C) LEVEL PLAYING FIELD.—An eligible entity offering a Medicare Prescription Drug plan shall permit enrollees to receive benefits (which may include a 90-day supply of

drugs or biologicals) through a community pharmacy, rather than through mail order, and may permit a differential amount to be paid by such enrollees.

Mr. ENZI. Thank you, Mr. President.

I thank the Senator from North Carolina for her comments about the amendment and appreciate her support. I am going to try to convince everybody else that support is also warranted.

I have offered a modified version of amendment 932 to the original one yesterday on behalf of myself and my distinguished colleague from Rhode Island, Senator REED. Senators PRYOR, COCHRAN, and CHAMBLISS also join us on offering this modified amendment. I welcome their cosponsorship and support.

These modifications ensure the amendment will not add to the cost of this Medicare bill, which is a concern I share with Chairman GRASSLEY and a great many of my colleagues.

I thank the Senator from Iowa for his willingness to work with me to address the concerns of our seniors and pharmacists.

The heart of this amendment remains the provisions that would ensure fair prices for consumers and fair treatment for local pharmacists under a new Medicare prescription drug benefit.

To ensure reasonable drug prices for seniors, the amendment would hold Medicare drug plans and Medicare Advantage organizations accountable for passing on to their consumers a fair portion of the rebates, discounts, and other incentives the plans may receive from drug manufacturers and other sources.

The amendment would require disclosure of these incentives to the Federal Government. It would also clarify that the Government may audit the records of these plans and organizations to ensure compliance with this disclosure requirement. The amendment would not, however, make these disclosures part of the public record. This is certainly not our intent. The amendment simply ensures that our corporate partners are held accountable for sharing with our seniors the savings they generate.

To ensure fair treatment for the pharmacists in our communities, the amendment we are offering would prohibit Medicare drug plans from implementing restrictions that would steer consumers to only mail-order pharmacies. It would require Medicare drug plans to allow local community pharmacists to fill long-term prescriptions—long-term prescriptions; not just 30-day ones but 90 days as well—and offer other services they are equipped and licensed to provide.

Seniors trust their local pharmacist, and they should be allowed to keep that relationship in place under this bill. This drug benefit should not force them to choose a mail-order house when a pharmacist who could provide the same or better service is right down the street, and they are used to dealing with them.

This amendment would permit a Medicare drug plan or Medicare Advantage organization to charge a different cost for a mail-order prescription versus a prescription filled by a community pharmacist. This happens today in many health plans. As an example, one health plan for Federal employees charges a $10 copay for a 30-day prescription filled at a local pharmacy but charges a $20 copay for a 90-day prescription filled through a mail order. That is a $10 savings. This would allow the local pharmacist to offer the 90-day prescription so the consumer could take advantage of the same reduction in copay.

Under this amendment, Medicare drug plans could still charge different copays, but the plans could not prohibit a local pharmacy from filling 90-day prescriptions.

I know some of my colleagues are concerned that seniors may get confused. Actually, if they can get through the rest of the bill without being confused, they will not be confused by this. But some people are concerned that may happen or that they may pay more than they should for their drugs. In response, I would say the Finance Committee's bill clearly states that seniors cannot be charged more than the negotiated price of a covered drug.

The bill is also very direct in its expectations of Medicare drug plans. The bill would require plans to provide clear information about copayments and deductibles. This information would have to include details on the differences in cost between mail-order and retail prescriptions.

I think seniors and their families are very smart about drug costs, and they will take factors, such as different copays, into account when they make a health care decision.

I am sure Medicare drug plans will encourage seniors to use mail order, just as health plans encourage us to use mail order. What this amendment would do is give seniors the option—the option—to use their local pharmacists.

The bill already requires health plans to give seniors accurate information on the costs of their options. From that point, I think we should trust seniors and their families to make the decisions that are best for them, without arbitrary limitations on services that steer seniors in one direction or the other.

Again, I thank Senators REED, PRYOR, COCHRAN, and CHAMBLISS for joining me in offering this modified amendment. The sponsors of this bill appreciate the role local pharmacists play in helping all Americans manage their medications, especially the elderly and the sick, who need the most advice.

As I mentioned yesterday, Senator REED and I worked last week to pass a bill to address the pharmacist shortage through the Committee on Health, Education, Labor and Pensions. We agreed to work together on that bill to ensure our aging population has access to the knowledge of pharmacists on how to use a new Medicare drug benefit appropriately and safely.

As highly educated professionals, our pharmacists know how important drug therapy is in helping seniors live longer and better lives, and they want to support this bill. In fact, many pharmacies and pharmacists are supporting, and will support, the bill, in part because of this amendment.

The National Association of Chain Drug Stores and the Food Marketing Institute support this amendment. I ask unanimous consent to have letters of support printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOOD MARKETING INSTITUTE,
Washington, DC, June 11, 2003.

Hon. CHARLES GRASSLEY,
Chairman, Senate Finance Committee, Washington, DC.

DEAR CHAIRMAN GRASSLEY: The Food Marketing Institute (FMI), on behalf of our supermarket members who operate more than 12,000 in-store pharmacy departments throughout the United States, wishes to express our industry's strong support for legislation that you are developing along with Senator Baucus and other members of the Finance Committee that will reform the Medicare program and provide our nation's seniors with a meaningful outpatient drug benefit.

This bi-partisan initiative embraces a number of very important principles that will promote greater competition in the marketplace and provide more choices for seniors in the delivery of medications through alliances with retail pharmacies, pharmaceutical manufacturers and other entities. Moreover, it is our understanding that the bi-partisan legislation includes provisions that will generate information so that seniors can make informed decisions in terms of selecting a plan that best meets their individual needs for medications.

FMI is further encouraged that the legislation seeks to ensure that seniors have convenient access to prescription drugs through pharmacy networks and that pharmacies are not placed at risk under this new benefit. Additionally, our industry is hopeful that the bi-partisan bill will clarify that retail pharmacy will be permitted to offer Medicare beneficiaries the option to receive long-term 90-day prescriptions which means seniors will have both convenience and the opportunity to consult with their pharmacist about taking their medications safely and effectively.

In closing, FMI wishes to commend you on your leadership regarding Medicare reform, and we look forward to working with you throughout the legislative process as Congress moves toward providing seniors with outpatient drug coverage.

Sincerely,

JOHN J. MOTLEY III,
Senior Vice President, Government and Public Affairs.

AHOLD USA, INC.,
Chantilly, VA, June 13, 2003.

Hon. CHARLES GRASSLEY,
Chairman, Senate Finance Committee, Senate Hart Office Building, Washington, DC.

DEAR CHAIRMAN GRASSLEY: Ahold USA, which operates retail food stores and over 800 pharmacies along the Eastern seaboard under the names of BI–LO, Bruno's, Giant of Carlisle, Giant of Maryland, Stop & Shop and

Tops, wishes to express our strong support for legislation that you are developing, along with Senator Baucus and other members of the Finance Committee, that will reform the Medicare program and provide our nation's seniors with a meaningful outpatient drug benefit.

The bi-partisan initiative embraces a number of very important principles that will promote greater competition in the marketplace and provide more choices for seniors in the delivery of medications through alliances with retail pharmacies, pharmaceutical manufacturers, and other entities. It is our understanding that the bi-partisan legislation includes provisions that will generate information so that seniors can make informed decisions in terms of selecting a plan that best meets their individual needs for medications.

As a retailer in the marketplace, we are further encouraged that the legislation seeks to ensure that seniors have convenient access to prescription drugs through pharmacy networks and that pharmacies are not placed at risk under this new benefit. We are also hopeful that the bi-partisan bill will clarify that retail pharmacies will be permitted to offer Medicare beneficiaries the option to receive long-term, 90-day prescriptions which means seniors will have both convenience and the opportunity to consult with their pharmacist in a timely manner about taking their medications safely and effectively.

Ahold USA wishes to commend you on your leadership regarding Medicare reform. We look forward to working with you throughout the legislative process as Congress moves toward providing seniors with outpatient drug coverage.

Sincerely,

BARRY F. SCHER,
Vice President, Public Affairs/Communications.

JOHN J. FEGAN,
Vice President, Pharmacies.

WINN DIXIE,
Jacksonville, FL, June 11, 2003.

Hon. CHARLES E. GRASSLEY,
U.S. Senate, Senate Finance Committee, Chairman, Washington, DC.

DEAR MR. CHAIRMAN: Winn-Dixie Stores, Inc., operates more than 680 in-store pharmacies throughout the Sunbelt. We are writing to express our support for legislation that you are developing along with Senator Baucus and the Finance Committee Members to reform Medicare and the development of an outpatient drug benefit for our nation's seniors.

The bill, which has bi-partisan support, will promote competition and provide seniors with more choices of delivery of their prescription medication. Additionally, seniors will be more informed in terms of selecting a plan that will work best for their particular needs.

Other positive points of significance include:

Risk is eliminated for pharmacies under the new benefit.

Convenient access for seniors through pharmacy networks.

Clarification of retail pharmacy providing 90-day supplies of prescription needs.

Continued of retail pharmacy providing 90-day supplies of prescription needs.

Continued pharmacist's consultation with seniors ensuring medication safety and effectiveness.

In closing, Winn-Dixie salutes your hard work on this most important issue and we look forward to working with you as this most important issue continues to develop.

Sincerely,

RANDY HUTTON,
Vice President, Director of Government Relations.

THE KROGER CO.,
Cincinnati, OH, June 17, 2003.

Hon. CHARLES E. GRASSLEY,
Chairman, Senate Finance Committee, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN GRASSLEY: The Kroger Co., appreciates your leadership and the efforts of Senator Baucus in developing with your colleagues in the U.S. Senate legislation that will reform the Medicare program.

Kroger is the nation's 7th largest pharmacy provider. We support the Medicare reform legislation because we believe it improves Medicare in several important ways.

First, we believe having a range of entities that can offer a pharmacy benefit or drug discount card will benefit seniors and all taxpayers.

Second, it is our understanding the legislation ensures that senior will have access to nonconfidential, summary information gathered from plan sponsors. We believe this transparency will facilitate informed consumer choice.

Seniors also will benefit from the option of having their 90-day, long-term prescriptions filled by their neighborhood pharmacy. The value-added services pharmacists provide are important to the health and well being of our seniors.

And finally, we appreciate the clarification we understand the legislation contains that pharmacists should not be held responsible for risks they do not manage or control.

Again, we appreciate your leadership and look forward to working with you and the Senate Finance Committee.

Sincerely,

JOSEPH A. PIOHLER,
Chairman of the Board and Chief Executive Officer.

Mr. ENZI. Mr. President, by ensuring fair prices for seniors and fair treatment for pharmacists, we will ensure this new Medicare drug benefit does right by seniors and values the trusted relationship that pharmacists and their senior patients share.

This is just a small step to helping community pharmacists. I would like to do more, but we are matching that constraint with the requirement that there can be no amendment that adds dollars to the cost of this bill. So we are staying in that constraint but still giving that option for the local pharmacists.

I ask my colleagues to support this amendment, as modified, and I am gratified by all the people who are doing that.

AMENDMENT NO. 944 TO AMENDMENT NO. 932, AS MODIFIED

Mr. President, I offer, on behalf of Senator CANTWELL, a second-degree amendment to my amendment and send the amendment to the desk.

I thank Senator CANTWELL, who has worked with Senator REED and myself on coming up with this amendment, which also does not add a single dollar of additional cost to the pharmacy bill but does provide some clarification on how any audits would be done on records to make sure that rebates and refunds are going to the proper place.

The PRESIDING OFFICER. Without objection, the amendment will be reported.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. ENZI] for Ms. CANTWELL, proposes an amendment numbered 944 to amendment No. 932.

Mr. REID. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit an eligible entity offering a Medicare Prescription Drug plan, a MedicareAdvantage Organization offering a MedicareAdvantage plan, and other health plans from contracting with a pharmacy benefit manager (PBM) unless the PBM satisfies certain requirements)

On page 2 of Amendment No. 932 between lines 18 and 19 strike ''.'' and insert the following: ''with the auditor of the Administrator's choice.''

Mr. ENZI. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, before the Senator from West Virginia takes the floor, I say to my friend from Wyoming, shouldn't we accept this second-degree amendment now?

Mr. ENZI. Mr. President, I am sure it has been cleared on both sides, and I would be more than happy to do that at this time.

The PRESIDING OFFICER. If there is no further debate on amendment No. 944, without objection, the amendment is agreed to.

The amendment (No. 944) was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 932, AS MODIFIED

Mr. ROCKEFELLER. Mr. President, I would like to speak briefly on the underlying amendment.

We are here to consider legislation that is going to create a much needed prescription drug benefit. We have been here to consider that matter for some years now. We have 41 million seniors and disabled people in this country who require and need that benefit. So it is a momentous time. It is also a moment of opportunity, which we will either grab or not grab, where we can craft a prescription drug benefit that provides the coverage seniors desperately need, coverage that is both affordable and reliable for all seniors.

I intend to offer amendments—not now, but later—that will improve the proposed coverage and delivery system for the Medicare prescription drug benefit so that this bill will better meet the real needs of our senior citizens.

In 1965, this Nation recognized that health care costs were the primary reason that one-third of our Nation's seniors lived in absolute poverty. With the establishment of a universal health care benefit for seniors, financed through both individual payroll tax contributions and the General Treasury—the Medicare program—we lifted most American seniors out of poverty.

That is something to be profoundly proud of, but it is the work of our predecessors. And now there is work for us

to do. Medicare is one of America's great achievements, but it has long needed to include a prescription drug benefit. At the time Medicare was enacted, prescription drugs were not a popular form of treatment. Now they are a critical part of health care.

A Medicare prescription drug benefit is something I have heard seniors tell me they want and need almost every time I have ever run into them or have had meetings with them in my State. And I daresay the Presiding Officer has had the same situation in his State of Kentucky.

I have worked on this for nearly 2 decades as a Senator, and we are perhaps at the point—or perhaps we are not. I don't know. I hope so.

Fifteen years ago, Congress acted to provide a catastrophic drug benefit under Medicare. The fact of the matter is, it was a very good bill. I led the fight on this floor three times to defeat repeal by the House because it was a very good benefit. There has never been anything that approached that in terms of catastrophic drug benefits since that time.

However, seniors did not understand the bill because we did not do a good job of putting it out to them, and we passed it perhaps too quickly. So the catastrophic benefit was rejected by the very people that it was intended to help through the votes of their elected representatives.

We should not repeat that experience. We should do our very best as the legislative process moves forward to offer a benefit that will be widely welcomed by Medicare beneficiaries and by their families. This will be a very hard thing to do, working with only $400 billion, as that is not the full cost of what we need. But that is what we have. We are operating, therefore, under a very tough budget constraint. I understand and accept that. But I think we should keep in mind that if we can achieve more than 50 votes for a Medicare prescription drug benefit, we might be able to achieve more than 60 votes to pay for a strengthened drug benefit. We shall see whether the Senate is able to successfully amend this proposal over the next several days, weeks, whatever the situation will be.

For my part, I remain committed to fight to improve the Medicare prescription drug benefit that is before us because I know the need is tremendous. The average total gross income for the average Medicare beneficiary in West Virginia is about $10,800. My guess is for the State of Kentucky, it is not a great deal more. It probably is somewhat over that, but $10,800 in West Virginia. If they have various kinds of internal problems, they may be paying $3-, $4-, $5,000. That doesn't give them very much to live on.

When I talk about this, I think about senior citizens in Mingo and Raleigh Counties in West Virginia; Charleston and Weirton, in Martinsburg and Parkersburg. They want and expect a prescription drug benefit that will meet their needs, and they have that right. I would like to believe that 2003 could be another landmark date in the passage of Medicare legislation that will improve the basic health of more than 40 million Americans. But even as I say that, I need to acknowledge that there are a few things in this bill that are very troubling to me and which may well make the difference between a welcome and sustained Medicare drug benefit and a long road of complaints and criticisms from the very people we are, in fact, trying to help.

Let me take a minute to talk about a couple of them. There is a substantial gap in coverage under this bill. That gap is about $1,300. Under the bill, there will still be times when seniors are paying a premium and receiving no benefits whatsoever. We should eliminate that coverage gap.

I fundamentally disagree with the notion that we should pay private insurers more than traditional fee-for-service Medicare to deliver a drug benefit. Either they are more efficient or they are not. If they have marketing costs, well, then that has to be factored in, but there is no reason to pay private insurers more than other providers.

All Medicare beneficiaries should get the same benefit. They should pay the same premium, just as they do under Part A or Part B. There should not be different benefits or premiums for Medicare beneficiaries just because they happen to live in West Virginia or Montana or, on the other hand, in New York or California.

Seniors who don't have access to a private insurer or choose to stay in traditional Medicare should be able to still receive additional benefits such as a catastrophic limit on their medical expenses. We should do our best to make sure that employers do not drop coverage because there is not a sufficient incentive for them to continue providing this coverage to their retirees. That should not be an excuse. We could fix this by allowing employer contributions to count toward the out-of-pocket costs seniors currently are paying.

In addition, I have serious concerns about the fallback in the proposal. It is, in my judgment, unstable. Under this proposal, if there are not at least two quality bids for plans to serve a region, as we all know by now, the fallback moves into place for 1 year. The next year, a new bidding process begins. And if two plans show up, the fallback disappears. This means seniors, especially seniors in rural areas where PPOs and private plans are not likely to come or perhaps have not ever been, may end up bouncing between a fall back, then a private plan the next year, and then back to a fallback. All the while seniors will be forced to change doctors and pharmacists. Their cost sharing will be changed, and there will be other changes. This will be of profound concern to them, confusing to them. I think it is a frightening scenario which takes me back to the catastrophic bill to which I referred a few moments ago. I don't think that kind of coverage represents a stable, genuine, or guaranteed fallback for seniors.

Finally, there have been a number of Members on the floor of the Senate referring to this as a universal drug benefit. We should all be very clear this is not a universal drug benefit. In fact, this legislation specifically excludes some Medicare beneficiaries from enrolling in the Medicare drug benefit. Those Medicare beneficiaries who are low income, 74 percent of poverty or below, and therefore, qualify to receive a drug benefit under Medicaid, are excluded from enrolling in the Medicare benefit. This is the first time in the history of the program that we would prohibit some Medicare beneficiaries from receiving a Medicare benefit.

Not only is it unfair to exclude the poorest seniors from part of the Medicare Program, it gives them a bad deal. Prescription drugs are an optional benefit under Medicaid. States can and are limiting the number of prescriptions. Some States only cover three drugs or charge any copayments that they choose to or that they have to. Since 1965, Medicare has provided a universal benefit to all of its beneficiaries. That has been its magnificent social contract. It is the promise that society made to our seniors: If you work and make your payroll contributions, then you get Medicare, regardless of where you live, how old you are, or what your income might be.

This legislation—for the very first time in the history of the program—would prohibit some Medicare beneficiaries from receiving a Medicare benefit. We should provide all seniors with a dependable Medicare guarantee of prescription drug coverage. That is what seniors expect when we tell them we are giving them a Medicare drug benefit. And we should make sure that they have a drug plan they can always count on, even if some believe private plans are the future of the program.

I have a word on the pending Daschle amendment. The current Senate plan offers no protection against varying premiums. The estimate that is given, $35 as an average premium, is precisely that. It is an estimate. The proposed legislation gives PPOs broad discretion in assigning premiums. Senator DASCHLE's amendment will limit variations in the amount the beneficiaries have to pay to only 10 percent above the national average, no matter where they live. So it does not limit the amounts plans could charge as a whole; i.e., the total premium. It would also not prevent lower premiums.

Stable premiums limit seniors' cost of liability and complement the provisions of the fallback plan. Stable premiums increase the safety net for seniors in geographic regions where private insurers are less likely to offer affordable coverage. This amendment is especially important for seniors who

live in rural areas because it is in rural areas where private insurers are more likely to charge higher premiums to offset the increased costs associated with benefit deliveries.

Stable premiums do not inhibit competition. Instead they increase the safety net for seniors. Beneficiaries in rural areas, such as West Virginia, are often older and sicker. Competition among private insurance plans in these areas is likely to be less under any circumstances. Seniors' ability to plan for prescription drug expenditures within their limited budgets hinges upon a great degree of certainty. That is what seniors depend on. Their ability to have this assurance should not be decided by private HMOs, who respond to market forces and attempt to correct deficiencies by varying and fluctuating premiums. Seniors should not have to wait and see what private insurance companies are going to charge them from year to year.

I support Senator DASCHLE's amendment. He is working to pass a Medicare package—as we all are—that works for all Medicare beneficiaries no matter where they live.

I yield the floor.

The PRESIDING OFFICER (Mr. TALENT). The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Mr. President, I appreciate the opportunity today to speak regarding the Daschle amendment. First, I want to commend my colleagues from Iowa and New Mexico, Senator GRASSLEY and Senator BAUCUS, for doing truly an outstanding job with putting together a package of legislation to deal with the challenges we have all met and continue to sort out relating to prescription drug coverage for seniors. I commend them for an outstanding effort.

In the midst of that commendation, I think—and others would admit—that the pending legislation can be improved. I have yet to see a piece of legislation that could not have some amendment that at least some people would think would be an improvement.

In this particular situation, I think the area that we could improve is in making sure the rate differentials among the States is not extraordinary. Therefore, the Daschle amendment sets a 10 percent variation of the national average, so that a State would not have a rate that would be 10 percent above what that national average is. What this provides is protection that the rate differential between States such as New York and Nebraska are not going to vary more than 10 percent.

We all recognize if insurance is a focus to provide protection and stabilize across a broad base of individuals, to spread the costs and risks over that entire group of individuals, you will then have a rate that would be based on that spreading of the risk. This particular situation seeks to do that, but the spread of the risk seems to be more directed on a statewide basis, therefore giving the opportunity for a wide variation of rates between two States on a nationwide basis.

I think this amendment will correct that and will assure that people living in whatever State they may reside are not going to be paying a substantially higher rate than other individuals.

The proposed prescription drug plan promises an average premium of about $35 a month. But we cannot be sure that is a guarantee because just in the case of Medicare, managed care, Medicare+Choice, there is no set premium under the new prescription drug proposal. So all premiums will vary nationwide. Experience suggests that premiums could significantly—as they do with premiums for Medicare HMO plans—vary from $99 a month in Connecticut to $16 a month in Florida. Floridians might enjoy that, but residents of Connecticut might ask a question as to why we cannot have a balanced rate nationwide with variations of a much smaller amount.

Spreading the risk is what insurance is all about. I think spreading the risk in this case involves spreading the costs as well. I think I speak for many of my colleagues when I say we want to have a prescription drug benefit that is well balanced, meets the needs of those who are the neediest and the sickest, but provides a fair amount of coverage for all American seniors who qualify. It is my duty to make sure that what we provide, whether for Nebraskans or Floridians, is truly a spread of the risk and cost. We need to ensure that the premiums are priced both fairly and equitably and that geographic concerns don't price seniors out of the market for coverage in any location. That is what I think we must find as the focus as we move forward.

So, again, I commend my colleagues for putting together an outstanding package of benefits given the very difficult task of making the ends meet with $400 billion, but with needs that could exceed that several times over, putting together a package that I think truly represents what will take care of the prescription drug needs of our seniors. At the same time, we want to make sure the protection is also there against a wide disparity of rates from State to State. So I speak today on behalf of the Daschle amendment. I hope the people within this body will look at that and think about that in terms of their own States—not as to whether their State will get a better deal than others but where we all have an opportunity for an excellent deal and that the variations will be minimal at best.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I note that the managers are not on the Senate floor at this moment. I had visited with Senator REID before the Democratic Policy Committee luncheon, and he indicated the floor would be open for an amendment. I have an amendment I wanted to offer. It deals with reimportation. I am ready to offer that. The amendment is written, and I have been told that they are looking for amendments. This is ready to go. If we are not able to offer it now, the question I ask is when are we able to offer it?

Can we sequence it so I may have an understanding as to when I may offer it this afternoon?

The issue of reimportation is one that relates to this legislation because it relates to the issue of the cost of prescription drugs. I will want to offer this on behalf of myself and Senators STABENOW, JEFFORDS, SNOWE, JOHNSON, LEVIN, and BOXER. I don't want to tie up the Senate for any great length of time. I think this is important, and I would like to speak on it. I expect a number of colleagues would like to speak on this amendment as well. It makes sense to me to have it considered, and then I will make a presentation, and then it can be set aside so others can make presentations.

I understand we have three additional amendments that are now pending and on which we will likely have a vote, perhaps midafternoon. I don't know exactly the whereabouts of the committee chairman or ranking member. They are not on the floor. I shall not ask for unanimous consent, but I would like to, as soon as they return, be able to query them so I can understand where I fit in this mix. As I indicated yesterday and today, I have continued to hear that they want amendments offered, and they want to move through these issues as quickly as possible. I am ready. Several of my colleagues would like to speak on this as well and are ready to do so. I will wait at this moment until the chairman and ranking member come back. I will make the inquiry of them as to when I might be sequenced. I would like to be recognized to offer this amendment this afternoon—the earlier the better.

At the moment, I will relinquish the floor. I am tempted to ask unanimous consent, but I shall not in recognition that the chairman and ranking member will want to find some order. I will relinquish the floor with the expectation of being able to query them on the floor when they return.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, to follow the remarks of my colleague from North Dakota, I, too, have an amendment I would like to lay down. It is a very short amendment. It would not require a great deal of debate and discussion. I hope it would have widespread support. It has to do with mammography screening under Medicare, and the fact that we have a dual system now for that screening. They are reimbursed at a certain rate.

For diagnostic mammographies, they are reduced to a lower rate. What we find is when a woman who is Medicare

eligible who gets screened for breast cancer and, under the screening mammography, there are some indications possibly that she might have breast cancer, she now needs to get a diagnostic screening. The waiting time is up to 6 months because the rates are so low for the reimbursement for diagnostic screening of mammographies.

What we have done is put women in this very terrible position. They get screened and there is some indication they might have breast cancer, and yet they then cannot get the diagnostic screening they need.

What my amendment would do, basically, is increase the technical portion of diagnostic mammograms performed in hospital-based facilities by removing this procedure from the ambulatory payment categories and placing it in the Medicare fee schedule. The Medicare fee schedule reimburses at a higher rate than the ambulatory payment categories. The change would result in roughly a 13-percent increase for unilateral diagnostic mammograms and roughly a 39-percent increase for bilateral diagnostic mammograms.

As I have said, under these two repayment categories, screening mammographies are already in the Medicare fee schedule, but the diagnostic mammograms are still in the ambulatory payment category. This amendment would put the diagnostic screening in the same position as the screening.

Medicare officials estimate that more than half of all women who are Medicare beneficiaries receive their breast cancer screenings in a hospital-based facility. Unfortunately, due to the low Medicare reimbursement rates for the diagnostic screening, over 700 hospital-based mammography facilities have closed in the last 2 years simply because the reimbursement rates are so low. As a result, waiting times for hospital-based mammograms covered by Medicare can be several months in many parts of the country. These delays can have significant clinical implications for fighting breast cancer.

Again, what my amendment would do is correct the problem by increasing the reimbursement for the diagnostic mammograms. I point out again why this is necessary. Women receive diagnostic mammograms following the screening mammograms if there is a suspicious finding.

Imagine that you had a screening—put yourself in a woman's shoes—and they said there is some suspicion there, but because there are no local hospital-based mammography facilities—they have closed down—you may have to wait weeks or months to get your diagnosis definitively confirmed or denied. As these facilities close, there are fewer places for women to get mammograms.

When you consider that approximately 1 million additional women per year become age eligible for these mammogram screenings, it is easy to see we have an access problem. Moreover, because radiologists use and train at these hospital facilities, they find it difficult to sustain their mammography practices, and fewer and fewer of them are being trained.

Again, it is a very simple, straightforward amendment. I would like to ask that the pending amendment be set aside, but I am not going to do that. As the Senator from North Dakota pointed out, the managers are not in the Chamber. It seems to me we are trying to move this process along, and we have amendments we could offer and have a short debate, have a vote or have them accepted. We are standing here not being able to move the process along.

Mr. DORGAN. Mr. President, will the Senator from Iowa yield for a question?

Mr. HARKIN. I will be delighted to yield to my colleague from North Dakota.

Mr. DORGAN. I know what is going to happen. When we get into mid next week, late next week, as we try to finish this bill, there is not going to be enough time to offer these amendments and to debate these amendments. That is why, it seems to me, right now it is in our interest to lay these amendments down, have the discussion on the amendments, and then proceed.

I mention to the Senator from Iowa, there is a second amendment I have—I have not offered it, but I have talked to the staff about an amendment that sounds similar to the amendment Senator HARKIN described, and that is on the issue of cholesterol screening.

If you have heart disease and have cholesterol screening for that heart disease, it is covered under Medicare. But if you do not have heart disease and the screening is to determine whether you have heart disease, it is not covered. It seems to me the best way to promote wellness and the appropriate way to deal with the reimbursement for these issues, especially something such as cholesterol screening, would be to cover cholesterol screening, especially if the cholesterol screening is to determine whether someone has heart disease, not just cover in the circumstance you know they have heart disease. It seems to be a similar circumstance to the situation the Senator from Iowa was describing.

I am told the chairman and ranking member are off the floor working on this bill. When they come back, I hope to inquire of them. My desire would be to be the next Democratic amendment. I know the Senator from Iowa wishes to have his amendment considered. It behooves the Senate and those managing this bill to put us in line, let us offer amendments and move them through, so that by late next week we are not in a circumstance where we are told: We have to finish this bill; we do not have to time to consider your amendment.

I thank the Senator.

Mr. HARKIN. Mr. President, I think the Senator has laid out exactly the format. We know the crunch is going to come next week because at the end of next week begins the July 4 recess period. They are going to go around asking, Can you drop your amendment; drop your amendment; we have to get out of here.

Here we are ready to go with amendments that I think are meaningful. The Senator from North Dakota has a meaningful amendment. The one on cholesterol screening sounds meaningful. These are important life-and-death issues for a lot of people out there, as mammogram screenings for women are.

These are not amendments that are going to require a long time to debate. As a matter of fact, in the length of time I have stood here, I probably could have offered my amendment, had it debated, and started a vote on it or had it accepted. I hope we will move along.

Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. HARKIN. Will the Chair please advise at least this Senator what is pending at the desk right now? What is the pending business before the Senate right now?

The PRESIDING OFFICER. The pending question is the Enzi amendment, as modified and amended. There are also two other amendments pending.

Mr. HARKIN. Further parliamentary inquiry: There are three amendments pending, and the one that is now before the Senate is the Enzi amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. The Senator assumes then the other two amendments—I am sorry, I forgot what they are—a unanimous consent agreement was entered to set them aside to consider the Enzi amendment.

The PRESIDING OFFICER. The Enzi amendment was the first amendment called up, and consent was obtained to set the Enzi amendment aside, first for the Bingaman amendment and then for the Daschle amendment. Then Senator ENZI called for the regular order, which brought the amendment back before the Senate.

Mr. HARKIN. The pending business is the Enzi amendment. As I said, with comity with respect to the fact the managers are not here, I will not ask unanimous consent to set the Enzi amendment aside to offer my amendment. When they come back, I hope we can do so.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I understand there are some issues as to who is in line and how this is going to proceed. I will simply express what I hope will occur and what I believe is the general understanding, at least amongst a number of Senators, and that is that the next amendment to be offered is a Republican amendment. We

have been alternating back and forth. The amendment that would be offered would be the amendment sponsored by myself, Senator SCHUMER, Senator MCCAIN, and Senator KENNEDY, which deals with generic drugs. We would agree to an hour of debate, no second degree, and then a vote on that amendment.

I would ask unanimous consent for that now, but I understand there is one Senator from the other side who may have an issue. So we want to wait for that.

As long as we are waiting and not doing much, I will talk a little bit about this amendment and then hopefully that will even lessen the time that has to be dedicated to it once we get to it.

This amendment which will be brought forward by myself, Senator SCHUMER, Senator MCCAIN, and Senator KENNEDY, is very important legislation. It is not specifically on the Medicare issue but it is certainly specifically on the issue of how we make affordable drugs more available to people in this country by making available to people in this country drugs which are of a generic form which therefore cost less and are more affordable.

This has been an issue that has been before the Senate before. It has been debated. As a matter of fact, a bill offered by Senator MCCAIN and Senator SCHUMER passed the Senate by a rather large vote. I did not support it at the time. However, we have taken the issue back. We have sat down. We have worked very hard with all the different people who are concerned about how we should proceed in this very critical area of getting drugs out to consumers at a more reasonable price, and we have now worked out this understanding with legislation which passed out of the Health, Education, Labor and Pension Committee, which I have the honor to chair and Senator KENNEDY is the ranking member. It passed out of that committee unanimously.

The reason it passed out unanimously obviously is because after a great deal of consideration we were able to reach an accommodation that works rather well in addressing this issue.

The basic theme of this bill is really quite simple. No. 1, we want to make generic drugs more available to consumers on a faster timeframe, which therefore gives them lower cost drugs. At the same time, we want to continue to encourage innovation, especially in our brand-name companies, which are the ones that create the drugs to begin with. Without their creativity and research, we would not have a generic industry because there would not be any underlying drug from which to develop the generic. So we do not want to chill innovation. Rather, we want to accomplish both goals, and to some degree the goals pull at each other.

The third thing which I was concerned with was that we not set up a massive atmosphere of litigation, that we not create a minefield of litigation through which people have to pass before they are successful in getting the generics to the market or fight getting the generics to the market, having a definitive decision in both of those areas.

This bill does that. It accomplishes those three goals. I think it does as well as can be expected in the context of the different forces pulling at the issue.

It builds upon the underlying law, which is the Hatch-Waxman law, which was extraordinarily good legislation put together by Senator HATCH on our side of the aisle and Congressman WAXMAN across the hallway, which basically created the first attempt at settling out the issue of how generics get to the market in a prompt way while still maintaining innovation.

Over the years, Hatch-Waxman, as with much legislation, was put under the microscope of the attorneys and the creative folks who work for various entities involved in this issue. As a result, it developed cracks. We found that in some instances the system was being gamed and in some instances simply misdirected. As a result, it wore down over time and there were corrections that needed to be made. That is what the purpose of this bill is, to correct the problems we saw that were occurring.

At the same time we moved this legislation forward, the administration was moving forward with its own initiative in this area dealing with a 30-month stay issue, which is the technical part of this bill. They have now put out a rule in this area. The rule is fairly close to where we end up with the legislation. As a practical matter, the administration could not go as far as they wanted. And when I am talking of the administration, I am speaking of the FDA, the Food and Drug Administration. They could not go as far as they wanted to go because they were restricted by the fact they were working within the framework of regulatory requirements, but because we are working in a legislative atmosphere we can go much further, and we have. We have addressed not only the issue of the 30-month stay, we have addressed the issue of the 180-day questions which were raised. We have addressed the issue of listing, of how we handle the orange book and a variety of other issues, including patent extension, the changing of labels, coloring of pills, and things like that which became an issue of whether they were actually substantive changes or attempts simply to avoid having the generics come to the market.

Our bill goes considerably further than the rule the FDA has put in place. In my opinion, it is a very substantive improvement over the proposal which came through this body last year, and although it passed, it never became law. That is why it has garnered very bipartisan support.

I note the amendment I am going to be offering is cosponsored. The original sponsors are from last year, Senators SCHUMER and MCCAIN, who designed this bill, joined by myself and Senator KENNEDY, the chairman and the ranking members of the committee, Senator ROBERTS, Senator EDWARDS, Senator COLLINS, Senator LEAHY, Senator JOHNSON, Senator FEINGOLD, Senator HARKIN, and Senator KOHL. I know other Members have a deep interest in this bill and will probably want to cosponsor this amendment also.

With that being said as an introduction to the issue, hopefully we can move to it as soon as we reach an accommodation with all of those parties who have other issues floating around.

I will yield the floor unless the Senator from Oregon has a question?

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. If I could pose a question to the Senator from New Hampshire and the Senator from New York, who has been very gracious in indicating that he has been in support of what I want to do. Last week I made public a report from the General Accounting Office involving Taxil, which is the biggest selling cancer drug in history. This drug was developed largely by the taxpayers, with everything for support from the Pacific yew tree, which grows in my home State of Oregon, all the way to the work done at the National Cancer Institutes by Federal researchers, and has produced $9 billion in sales for Bristol-Myers with the Federal Government getting a return of about $35 million, about one half of 1 percent on the biggest selling cancer drug in history.

In this report, the General Accounting Office documents that the Federal Government basically dropped the ball. Without going to price controls and regulations and things of this nature, with some modest steps, the Federal Government could have stood up for the taxpayers and the patients who cannot afford the medicine and gotten the drug to market quickly and also taken steps to make it affordable and to protect the taxpayers. It is my desire, as somebody who has worked on these issues often with the Senator from New Hampshire for many years, to work out a bipartisan agreement where the National Institutes of Health would simply consider affordability when it enters into these agreements. It would not have to do anything prescriptive but would also have to look at affordability. I do not want in any way to hold up the work of the Senator. I think what he and the Senator from New York have done is very helpful, but I would have to object now if we could not get an agreement to at least at some point in this take a very modest step and ask that the question of affordability be considered when the National Institutes of Health enters these agreements, given the fact that basically patients on this particular drug, which has been the biggest selling cancer drug in history, cannot afford it and taxpayers got very little in return.

Would that be acceptable to the Senator from New Hampshire? If I did not object at this point, would the Senator from New Hampshire work with me so at some point later in this discussion we could get a bipartisan agreement on a very modest step that affordability be considered in these agreements? Is that acceptable to the Senator from New Hampshire?

The PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. GREGG. First, I was very impressed with the report the Senator was able to get out of the public domain. It was a report that raised very serious issues. The fact is it appears somebody dropped the ball somewhere in the process. We should have gotten a better return for the taxpayer than we got on this drug.

The Senator is approaching an issue which needs to be addressed. I am happy to work with the Senator to try to address it. I cannot say unilaterally I can agree to the terms, but I will work throughout the day and tomorrow and have our staffs work to try to come up with language that gets to the Senator's purpose to make sure, when this research is done by NIH or other Federal entities, that research receives a fair return to the taxpayer. I was rather surprised we did not in that instance. I am happy to work with the Senator.

On this amendment, there is an agreement between myself and the other primary sponsors that we will not have second-degree amendments because we worked hard to get to this point.

Mr. WYDEN. Mr. President, the Senator from New Hampshire is being very gracious. On the basis of his statement that he would work with me on it—what the Senator from New Hampshire and Senator SCHUMER have accomplished is very important. I reiterate how important it be done at this time. It is one thing when drugs are developed with private sector money. It is a free enterprise system. Fortunately, investors take risks. There are some gushers, some that are not profitable. It is a different story when the drugs get to market with taxpayer money. Here we have the largest selling cancer drug in history.

It is imperative over the next day or so we work in a bipartisan way. The National Institutes of Health does phenomenal work. I don't want to do anything to impede their mission in getting drugs to market quickly. That is their first and foremost obligation. But let us also make sure when they sit down and enter into these agreements, they also try to make sure the drugs are affordable. It is one thing to get the drugs on the shelf, and it is another to not have the patients able to afford them.

On the basis of the pledge of the Senator from New Hampshire to try to work this out with me in the next day or so in an agreeable fashion, I do not intend to object. I want to see the amendment of the Senator from New Hampshire and the Senator from New York go forward. I will work with the Senator from New Hampshire when he completes this important amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I appreciate the Senator from Oregon. His issues are legitimate. I certainly hope we can work this out and include it in the bill. It is an appropriate place for it.

I now ask unanimous consent, regarding the amendment Senator SCHUMER, I, Senator KENNEDY, and Senator MCCAIN will offer relative to generics, that we have 1 hour of debate equally divided and there be no second degrees and the yeas and nays be considered as ordered on the amendment.

The PRESIDING OFFICER. The Chair informs the Senator, the Senator cannot order the yeas and nays by unanimous consent.

Mr. BAUCUS. Reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent the pending amendments be set aside and that Senator GREGG be recognized in order to offer an amendment regarding generic drugs, with no second-degree amendment in order to the amendment; further, that there be 60 minutes equally divided for debate prior to the vote in relation to the amendment; provided further that at 3:45 today the Senate proceed to a vote in relation to the Enzi amendment, No. 932, as amended, with no other amendments in order to the Enzi amendment. I further ask that following that vote there be 10 minutes equally divided for debate prior to a vote in relation to the Daschle amendment, No. 939, again with no second-degree amendment also in order prior to the vote. Finally, I ask consent that following that vote, the Senate proceed to a vote on the Gregg amendment, with no intervening action or debate, and 2 minutes equally divided prior to the vote.

I further ask consent that following disposition of the Gregg amendment, the next sequence of amendments be the following: Senator DORGAN, Senator GRASSLEY, and Senator HARKIN, and these would be first-degree amendments.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Reserving the right to object, I wonder if we could get some time to explain the amendments.

The second two votes will be 10-minute votes? I ask consent they be 10-minute votes, not the ordinary 15.

The PRESIDING OFFICER. Does the Senator object?

Mr. GRASSLEY. I amend my consent request accordingly.

The PRESIDING OFFICER. Is there objection? The Senator from Nevada.

Mr. REID. Reserving the right to object, as the manager of the bill said, there will also be 2 minutes equally divided before each vote?

Mr. GRASSLEY. That is in my request.

The PRESIDING OFFICER. Is there objection? The Senator from North Dakota.

Mr. DORGAN. Reserving the right to object, and I shall not object, is it my understanding the vote on Gregg-Schumer is the third rollcall vote in sequence, and following the disposition of that vote I will be recognized to offer an amendment?

Mr. GRASSLEY. Yes.

Mr. DORGAN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Hampshire.

AMENDMENT NO. 945

Mr. GREGG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for himself, Mr. SCHUMER, Mr. MCCAIN, Mr. KENNEDY, Mr. ROBERTS, Mr. EDWARDS, Ms. COLLINS, Mr. LEAHY, Mr. JOHNSON, Mr. FEINGOLD, Mr. HARKIN, and Mr. KOHL, proposes an amendment numbered 945.

Mr. GREGG. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text Of Amendments.'')

Mr. GREGG. I yield 5 minutes to the Senator from Arizona, who is one of the original creators of this legislation and has done such extraordinary work in this area.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank Senator GREGG for his leadership on this legislation. I thank him for reaching out to Senator SCHUMER, Senator KENNEDY, and myself to resolve issues that are important. He recognized the problem existed and worked to ensure loopholes in the system are closed and consumers have access to the best and most affordable medicines. Senator GREGG's leadership enabled the expeditious introduction and successful committee markup of this legislation. Under his chairmanship, the bill was reported out by unanimous consent last Wednesday.

Senator KENNEDY's support of this measure must also be recognized. His

experience and technical expertise have been invaluable throughout the process. Staffs of all three of these Senators have worked 7 days a week for the last few weeks to ensure that the language we have crafted is as technically sound as possible without unintended consequences.

I also thank my friend, Senator SCHUMER, with whom I have enjoyed working over the last few years. His dedication to American consumers and his commitment to restoring fairness to the drug industry must be commended time after time.

This amendment will enhance competition and restore a level of sanity in the pharmaceutical market. The amendment closes loopholes in the current food and drug laws that allow brand pharmaceutical companies to protect themselves from generic competition by unfairly extending drug patent life, maximizing company profits on the backs of American consumers.

This amendment ensures that lower cost generic drugs will get to market faster and with more competition, allowing substantial savings for both consumers and taxpayers. With this measure, we are one step closer to the larger goal of providing better access to affordable health care for all Americans.

Several years ago, my good friend, Senator SCHUMER, and I began this effort when we introduced the first Greater Access to Affordable Pharmaceuticals Act in the fall of 2000. I joined Senator SCHUMER then in order to put a stop to the anticompetitive actions in the pharmaceutical industry that artificially inflate prices and keep lower cost prescription drugs out of the hands of American consumers. I am here today because those loopholes remain.

Last summer, when the Senate was mired in partisan gridlock debating a Medicare prescription drug benefit, the later version of the bill was used as a vehicle for Medicare debate. Although the Senate failed to pass a Medicare prescription drug benefit package last summer, the GAAP Act passed by an overwhelming margin of 78 to 21. That bill set consumers on course to save an estimated $60 billion over 10 years, while providing seniors and all Americans with access to more affordable prescription drugs. Unfortunately, after our astounding victory for consumers, the bill was not subsequently passed or even considered by the other body.

Today, we are once again debating Medicare prescription drug benefits. We have before us a plan that is estimated to cost a minimum of $400 billion over the next 10 years but will surely cost substantially more upon implementation. Unlike the majority of the amendments that have been and will be considered during this debate, the amendment we are offering will not cost the taxpayers a dime. In fact, it will save money for both the Federal Government and American consumers.

The amendment is the result of a carefully crafted bipartisan compromise, which Senators SCHUMER, GREGG, KENNEDY, and I reached several weeks ago. This amendment achieves the same goals Senator SCHUMER and I have been striving to achieve over the last few years. It closes loopholes in the law, encouraging competition, without sacrificing incentives for innovation, while discouraging anticompetitive behavior on the part of brand or generic drug companies.

Of the many elements contributing to the rapid growth in our Nation's health care costs, the rising costs of prescription drugs is one of the most significant. This year alone, prescription drug costs are expected to rise by 19 percent.

I ask my friend from New Hampshire if he would yield me an additional 4 minutes?

Mr. GREGG. I yield the Senator from Arizona such time as he may need.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I thank my friend from New Hampshire.

I want to repeat that comment. This year alone, prescription drug costs are expected to rise by 19 percent. Today, this morning, in New York, New Hampshire, Massachusetts, and Arizona, seniors are getting on a bus—in the case of Arizona, to drive to Mexico; in the case of New Hampshire, Massachusetts, and New York, to go to Canada—to buy their prescription drugs. Most times these prescription drugs are fine. Most times they are exactly what they are advertised to be. But sometimes they are not. That is because these seniors who are having to get on the bus to go to Canada or Mexico simply cannot afford to go to their local druggist and get the prescription drugs that they very badly need—many cases in life-saving situations.

Skyrocketing health care costs have left many businesses struggling to provide coverage for their employees and an increasing number of Americans without any health insurance. Consequently, access to affordable prescription drugs represents one of the most serious problems facing our Nation's health care system today. Not isolated to one segment of society, this issue affects individuals, families, companies, and the like.

The financial burdens associated with rising prescription drug costs have left many companies struggling to provide employees with health care coverage. This January, workers at General Electric staged a 2-day strike over increased copayments for prescription drugs covered under the company's insurance plan. General Motors, one of the largest providers of private sector health care coverage, spends billions of dollars a year on workers, retirees, and their dependents, over $1 billion of which is on prescription drugs alone. Even with aggressive cost-saving mechanisms in place, General Motors' prescription drug costs continue to rise between 15 percent and 20 percent per year.

Given the crises in both corporate America and our Nation's health care system, anticompetitive behavior in the marketplace is particularly onerous. Such abuse simply has no place in our health care system. My intention in supporting this amendment is not to weaken patent laws to the detriment of the pharmaceutical industry, nor is it to impede the tremendous investments they make in the research and development of new life-sustaining drugs. The purpose of the underlying legislation is to close loopholes in the Hatch-Waxman Act, which established the generic drug industry we know today, and to ensure more timely access to generic medications. This is an important distinction which must be made clear.

Nonetheless, to believe that patent laws are not being abused, is to ignore the mountain of testimony from consumers, industry analysts, and the Federal Trade Commission (FTC). Over the past three years several Senate and House committees have heard testimony regarding the extent by which pharmaceutical companies, including generic manufacturers, engage in anticompetitive activities and impede access to affordable medications. During a hearing at the Senate Commerce Committee, Chairman Muris of the FTC testified that:

> [in] spite of this remarkable record of success, the Hatch-Waxman Amendments have also been subject to abuse. Although many drug manufacturers, including both branded companies and generics, have acted in good faith, some have attempted to ''game'' the system, securing greater profits for themselves without providing a corresponding benefit to consumers.

The intent of the Hatch-Waxman Act was to address the escalating costs of prescription drugs by encouraging generic competition, while at the same time providing incentives for brand name drug companies to continue research and development into new and more advanced drugs. To a large extent, Hatch-Waxman has succeeded in striking that difficult balance between bringing new lower-cost alternatives to consumers, while encouraging more investment in U.S. pharmaceutical research and development in the pharmaceutical industry has increased exponentially. Unfortunately, however, some bad actors have manipulated the law in a manner that delays and, at times, prohibits generics from entering the marketplace.

I believe that this amendment will improve the current system while preserving the intent of Hatch-Waxman. This legislation is not an attempt to jeopardize the patent rights of innovative companies, nor does it seek to provide an unfair advantage to generic manufacturers. Rather, the intent of this amendment is to strike a balance between these two interests so that we can close the loopholes that allow some companies to engage in anti-competitive actions by unfairly prolonging patents or eliminating fair competition.

In doing so, we offer consumers more choice in the marketplace.

It is imperative that Congress build upon the strengths of our current health care system while addressing its weaknesses. This should not be done by imposing price controls or creating a universal, government-run health care system. Rather, a balance must be found that protects consumers with market-based, competitive solutions without allowing those protections to be manipulated at the consumers' expense—particularly senior citizens and working families without health care insurance.

I want to thank my friend, Senator SCHUMER, with whom I have enjoyed working over the last few years. His dedication to American consumers and his commitment to restoring fairness to the drug industry must be commended.

I also want to thank Senator GREGG for reaching out to Senator SCHUMER, Senator KENNEDY and myself, to find middle ground. He recognized that this problem existed and joined us to ensure that loopholes in the system are closed and consumers have access to the best and most affordable medicines. Senator GREGG'S leadership enabled the expeditious introduction and successful Committee markup of this legislation, where under his chairmanship the bill was reported out by unanimous consent last Wednesday.

Senator KENNEDY'S support of this measure must also be recognized. His experience and technical expertise have been invaluable throughout the process. The staffs of all three of these senators have worked seven days a week for the last few weeks, to ensure that the language we have crafted is as technically sound as possible—without any unintended consequences.

It is my strong belief that this measure represents a significant and immediate step that Congress can take to help to improve the lives of many Americans. I look forward to debating this issue and working with my colleagues on both sides of the aisle to protect the health care needs of older Americans while also eliminating the anti-competitive abuses of both pioneer and generic drug companies.

This place in some ways has become more partisan than a lot of us would like. I think this legislation is an example of how people on both sides of the aisle can work together. In this case, the chairman and ranking member of the appropriate committee, Senator GREGG and Senator KENNEDY, have worked together, as have Senator SCHUMER and I, and all others on his committee who have made this legislation come to the floor. I imagine it will pass with relative ease, to the benefit of many millions of Americans.

I again thank all who have been involved in it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I thank the Senator from Arizona for laying the foundation without which this piece of legislation could not have come forward. I thank him, and, of course, Senator SCHUMER—two key Members in getting this initiative going. I congratulate them for making this product a much better product this year.

Also, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I cleared this with the Democratic manager. I ask unanimous consent that I control the time under the control of the Democratic manager.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SCHUMER. Thank you, Mr. President.

I thank my colleagues and my friend, the Senator from Arizona, who is just walking off the floor. He and I got involved in this issue a couple of years ago when we saw the abuses that occurred. He has been simply a pleasure to work with—right on the money, focused on getting the job done for consumers, and not being deterred by interest groups on one side pushing him one way or by others questioning him on this or that. I thank him.

I also thank my partner in this endeavor, Senator GREGG of New Hampshire. Early on this year, he came over to Senator MCCAIN and me and said: Why can't we work this out? He agrees with the principles in the bill that we put together, but he had some very positive and constructive suggestions. I mean this as a complete compliment, having spent 7 years there. Without his New England style leadership—understated, to the point, courageous, forthright—this bill would not have gotten as far as it did. I thank him for his leadership. I would say that New England leadership is tempered by having spent a few years in higher education in the great city of New York as well.

Finally, I thank my good friend and our great leader in this Senate, a Senator I have been privileged to know and who again has been invaluable in bringing this bill to the floor. The original Schumer-McCain bill would not have gotten the push that it did if the Senator from Massachusetts had not steered it through the shoals of the health committee when he was chair, and again he and his staff have just been of constant, invaluable assistance in making this happen. I thank him for that.

The concept of this bill is simple. It is clear that we know we have these miracle drugs. They are wonderful drugs. The people who invent them in the pharmaceutical industry, I know many have had harsh words for on occasion, and I am not the least of those. But they do a very good thing. They come up with new, wonderful drugs that keep people living longer and living healthier.

One of the reasons that my parents—praise God—just last week turned 80 and 75—our whole family got together and celebrated their birthdays in Connecticut—is the fact that these drugs are available. I think every family can recount the stories.

The careful balance we seek to reinstate here says we want to see innovation continue. We want to see a fair and reasonable rate of return made. We want to realize that for every 1 successful drug, there may be 20 or 50 or even 100 failures. There has to be an economic viability there. We want that to happen.

I think most of us agree that the Hatch-Waxman bill—I thank my friend from Utah, who I think is over at the Judiciary Committee trying to work out another grand compromise, this time on asbestos, understood that.

But here is what has happened over the last several years. This is where I fault the drug companies despite the goodness of the products they come up with. A lot of blockbuster drugs were on the market. Their patents were about to expire. The drug industry, accustomed to the high rate of return they have had, came to the conclusion that they had to do everything they could, they had to pull out all the stops to extend their monopolies. They came up with wild and crazy schemes to do it, such as patenting the substance the body makes when the drug is ingested; developing computer programs and listing the patents on the drug; and, in one case, absurdly, a new patent was asked for because the color of the bottle was changed.

That was never the concept of Hatch-Waxman. We found that the pharmaceutical industry, instead of spending all its time developing new drugs, was developing new patents. They seemed to care more about hiring good lawyers than good chemists, scientists, and doctors.

Let me give you one example of what happened. Paxil, a $2.1 billion drug used to treat obsessive compulsive disorders, has been in litigation since 1998. After the lawsuit began and the first 30-month stay was triggered, the brand, Glaxo, listed nine additional patents on the drug, triggering five additional 30-month stays.

Well, over the past 4 years, there have been court decisions on four of those patents. The patent which began this litigation was found not to be infringed by the generic, and three others were found invalid. But the 30-month stays are still going on and on and on, costing consumers $3 billion. The same drug, with its same miracle qualities, would have been available for $3 billion less altogether had these frivolous and unnecessary patents not been filed. Well, this story could be repeated and has been repeated.

Why is this a great day for consumers? Because the cost of the generic drug is so much less than the cost of the brand-name drug. And that generic drug should be allowed to come on to the market without frivolous patents, lawsuits, and legal mumbo jumbo preventing that from happening.

We want a rate of return to be made by the drug company, but we do not want to allow them to do what they have been doing, with increasing frequency: playing games, perverting the law, and costing consumers billions of dollars because the lower-priced generic drug is delayed from coming on the market by frivolous patents.

Let me give you some examples in my State:

In Buffalo, Allegra, a great drug for allergies: The brand cost for 30 pills is $84.56; if a generic were available, it would cost about $32.98.

In New York City, Prevacid, to treat acid reflux: The brand cost is $154.28; the generic would cost $60.17.

In Rochester, Celebrex, a great drug for arthritis: The brand cost is $108.29; the generic would cost $42.23.

In Rochester, Lipitor, a wonder drug for cholesterol; I think it is now the largest selling drug in the world: The brand cost is $77.73; the generic would cost $30.32.

And finally, in Syracuse, Norvasc, for angina and hypertension: The brand cost is $54.37; the generic would cost $21.20.

The bottom line is: When 30 pills cost you $100 for the brand-name drug, it will cost you $25 or $30 for the generic—for the exact same medication.

What our proposal does is encourages robust competition by allowing the generic to come on to the market in its fair time. It restores the balance of Hatch-Waxman. It does it in a way without frivolous lawsuits. It does it in a way that gives everybody notice. But what it says is, the recent trend to extend the patent monopolies long beyond what anyone thought they should be will be stopped.

So this is a fair compromise. It is a compromise that helps consumers. It was estimated that the original McCain-Schumer—bill I don't see why it should be too much different in this new bill that Senator GREGG and myself, with Senator MCCAIN and Senator KENNEDY, have sponsored, other than some changes due to the baseline—would have saved American consumers $60 billion over 10 years. It was estimated our bill would have saved $18 billion in the Democratic Medicare package on the floor last year.

In the same way, the bill before us today will save companies, that are struggling to pay for health care, hundreds of millions of dollars. That is why it has such a big and broad coalition behind it. And not just consumers and consumer groups, but industry groups, companies such as General Motors, the insurance industry—which I am often at odds with when it comes to health care issues—are fully on our side. There is a broad consensus of support.

It is my hope the House will pass this bill. It is my hope the President of the United States will support this bill and sign it. And it is my hope—my sincere hope—the drug companies will see the error of their ways and, instead of spending so much time on extending patent monopolies, they will, rather, spend that time creating new drugs. They will spend their time not innovating new patents but, rather, innovating new drugs. That is what this is all about.

One final point. Some might say, well, the FDA is doing some of this, anyway. I am glad they are, but as this chart shows, the FDA only goes about a third of the way in doing what is needed in this fair and balanced bipartisan compromise. In fact, when the FDA actually talked about closing these loopholes, it was made clear that legislation would be needed to finish the job.

Mr. President, in conclusion, this legislation finishes the job. It allows generics to come on the market. It will save consumers, American companies, and our Government billions of dollars and increase the quality of health care—the good health and vitality—of the American people.

The PRESIDING OFFICER (Mr. CRAPO). The Senator has used 10 minutes.

Mr. SCHUMER. Mr. President, I do not see Senator GREGG on the floor, so let me yield 10 minutes to my colleague and partner in this 2-year attempt to bring balance back into the area between brand and generic drugs. He is one of our great leaders in the Senate on health care and so many other issues, the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 10 minutes.

Mr. KENNEDY. Mr. President, if the Chair will remind me when I have used 8 minutes.

Mr. President, first of all, I congratulate Senator SCHUMER and Senator MCCAIN for the development of this legislation from over 2 years ago. I thank them for their work and help with our Labor and Human Resources Committee.

When I was fortunate enough to be chairman of that committee, we considered the legislation, and we reported that legislation out. But it was a very contentious meeting of our committee, and we had a very contentious debate here on the floor of the Senate.

But what we have been able to do over the period of the recent months, under the leadership of Senator GREGG and others, is we have come up with a recommendation which reflects virtually a unanimous committee. I think this legislation is going to achieve the objectives Senator MCCAIN and Senator SCHUMER had intended.

So at the outset, I want to say that I am very hopeful we will get this legislation passed.

I quite frankly think this is the appropriate amendment on the appropriate vehicle because we are talking about prescription drugs and we are talking about Medicare, and we are now talking about the costs of the prescription drugs. These matters are interrelated.

If you ask people and seniors about their issues with prescription drugs, they will say, first, accessibility and availability, but, secondly, they will talk about cost. This legislation isn't going to be the final answer on cost, but make no mistake about it, as Senator SCHUMER has pointed out, the savings will be in the tens of billions of dollars to consumers over the period of the next few years. That is incredibly important.

The Hatch-Waxman legislation, as we know, was to try to provide encouragement to our drug companies to innovate and to create and to bring new possibilities into the market. It has been very successful. But it has also interfered with the chances for generics to enter the market after these patents were up.

As has been pointed out by those earlier, we found out there were abuses. Senator MCCAIN and Senator SCHUMER noted this and made a series of recommendations in order that we address it. Their position was justified, again just over a year ago, by the Federal Trade Commission, which virtually identified very similar kinds of problems. There were previously many questions by the Members of this body—I remember the debate and I can still hear the voices in opposition. But, I think, this legislation is reaffirming the efforts which they have developed and which will, hopefully, pass here and will be accepted in the conference that is going to take place.

Just finally, Mr. President, I want to review once again, as the Senators have pointed out, the cost difference of the various drugs over recent times.

First of all, this chart I have in the Chamber shows you that the brand and generic price gap continues to widen.

This chart goes back to 1990. And here you will see, the average prescription was going for $27.16, but only $10.20 for the generic.

On the chart, the red represents the continuing increase in the cost of the average prescription drug that is requested by the pharmacy. It has gone up to $65.29 over the period of 10 years. For the generic, it has gone from $10.29 up to $19. So we have seen this dramatic increase in terms of the brand name, and really a very level increase effectively in terms of the generic.

If we are talking about cost and talking about prices, the more we do to help give consumers a greater opportunity to get generics, we will have had some important impact in terms of creating a downward trend in prices. That is enormously important.

Let's just look over, as others have pointed out, the difference between the average cost per brand name on these

various items. If we look at Prozac for depression, $110.77 for the brand name versus $44.31 for the generic. Claritin for allergies, $63.65 versus $25.46. And going to heart disease, Norvasc, $55.69 to $22.27. Zocor for high cholesterol, $124.71 to $49.88. These are various drugs dealing with ulcers, depression, allergies, heart disease, and high cholesterol, which are many of the challenges our seniors are facing. This is a pretty good indicator of what we are talking about in terms of making generics more available and improving the opportunity for them to get on the market and be able to have a positive impact for our consumers.

All of us understand that we have doubled the NIH budget. That is because we recognized in a very important way, Republicans and Democrats, that this really is the life sciences century. The opportunities we are facing now with the mapping of the human genome, the analysis of DNA, the proclivities that individuals have in terms of cancer and other diseases, are enabling us to anticipate and begin to develop medical technologies that will help prevent individuals from getting these diseases. The opportunities are unlimited. We have made that commitment and we are finding these breakthroughs that are taking place every single day. Many of these initiatives are up in my home State of Massachusetts, they are in New England, associated with many of our great universities and our teaching hospitals. We want to make sure those kinds of breakthroughs are actually going to get out and benefit our fellow citizens.

We want to maintain on the one hand the incentives for the industry, the pharmaceutical industry to move ahead with breakthrough kinds of technologies. On the other hand, we want to make sure that available drugs in the form of generics will be accessible. This legislation is going to have an important impact in terms of the cost.

I commend the Senator from New York, Mr. SCHUMER, and Senator MCCAIN for moving this along. I thank very much the chairman of the committee, Senator GREGG, for giving it time and attention and for his very constructive and positive help. This is an important piece of legislation. It makes a very significant difference for our seniors. I am hopeful this will pass by an overwhelming majority.

I yield back to the Senator from New York any remaining time I have.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I thank the Senator from Massachusetts and the Senator from New York for their kind words. Obviously their efforts have already been highlighted and have been the key to this successful undertaking. The doggedness of Senator SCHUMER on this issue has managed to bring this to fruition.

It is an important piece of legislation as has been outlined relative to the differential in cost. It will save people significant amounts of dollars on their pharmaceuticals, obviously, as they come off patent. It is important not to underestimate the innovation side. We didn't want to do something that basically undermines or chills innovation, because the ability of our health care system to function well today requires a pretty strong pharmaceutical industry. Pharmaceuticals are really the process by which we are going to be caring for people as we go into the future. That is where the true discoveries are occurring, especially in the biologics area.

We want to make sure we have an extraordinarily vibrant and strong research component, not only in the public sector through NIH, where we have doubled that budget, but in the private sector where people will invest in research, if they see a reasonable return. Some folks forget when they go to Canada to buy these drugs at a discounted price, they don't realize the cost of bringing a drug to the market is extraordinary. It takes about somewhere between 10 and 12, 15 years to bring a new drug to the market. It costs somewhere in the vicinity of three quarters of a billion dollars, $750 million to $1 billion, to bring it to the market. You can't do that unless you have dollars to support the investment and that length of time it takes to develop the drug.

In a free market society, dollars flow where there will be a return. If somebody is going to find that they invest in a drug and that drug research comes to fruition and they produce a drug and immediately the drug is taken over or in too short of a time the drug's patent rights are taken over so there cannot be an adequate return on investment, people will not make the investment in trying to find a new drug. As a result, everyone will suffer. There will be fewer new and exciting drugs on the market that help people with health issues. So we have to have a strong and vibrant industry doing the research. That is why I have always been an aggressive advocate of a strong pharmaceutical industry. It is key to maintaining a health care system in this country which is going to be vibrant and effective for people.

That being said, there is a time at which drugs need to come off patent. They have to be available at a lower price. They have to be available at a more reasonable price, the return having occurred on the original investment. What we saw, regrettably, under Hatch-Waxman, was there were games being played. There were games being played on both sides of the aisle, in fact. There were games being played on the brand-name side which would use the 30-month stay as a weapon, basically interminable stays. And there were games on the generic side where they might team up with a brand name and take advantage of the 180-day exclusivity clause and never bring the drug to market even though they had filed. This bill is an attempt to address those issues. It addresses them very conscientiously and in a positive way. It does it in a way that will not open up a whole new arena of litigation. It is going to do it in the context of the already existing causes of action which is the way it should be done, and it goes a little bit further than what the administration could do in their FDA rule, quite a bit further in some areas, certainly the 180-day issue. In addition, it has statutory support versus regulatory action which means it probably has more opportunity to survive a court challenge.

We think this is an excellent bill. It is a bipartisan bill. I thank the original sponsors, Senators Schumer and McCain. I especially thank Senator KENNEDY for his willingness to work across the aisleway to make sure we move it through committee in a prompt way and have it be done in a constructive manner.

I notice the Senator from Maine is here. I suspect she wishes to speak on this as she has been an aggressive advocate for this type of approach, one of the leaders on this issue in the Senate. We regret she is no longer on the HELP Committee because she was a positive force on lots of issues but especially this one specifically.

Now that she is chairperson of the Investigation and Oversight Committee, she has her plate full of her own accord. I yield to the Senator from Maine such time as she may consume.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. I thank my colleague from New Hampshire for his leadership on this issue. He is an extraordinarily talented chairman of the HELP Committee who was able to bring people together on both sides of the aisle. This is yet another example of an outstanding achievement of the chairman, working together to benefit the people of this country. I do miss serving on the HELP Committee. I enjoyed the many issues the committee addresses, and this is an issue that is near and dear to my heart. I am very pleased to be a cosponsor of this amendment. I commend not only Chairman GREGG, but also Senators SCHUMER, MCCAIN, and KENNEDY, for all of their hard work on this comprehensive proposal.

The amendment we are offering today will make prescription drugs more affordable by promoting competition in the pharmaceutical industry to increase access to lower priced generic drugs while at the same time protecting innovation and preserving the incentives for companies to make the investments necessary to develop newer, better, and safer pharmaceuticals.

This amendment, which is based on legislation I joined Senators SCHUMER and MCCAIN in introducing earlier this year, will make prescription drugs more affordable for all Americans. The Congressional Budget Office estimates that our original proposal would have cut our Nation's drug costs by some $60 billion over the next 10 years, and I understand this compromise proposal is

also expected to result in similar savings.

I will repeat that. There are very few bills we are ever going to consider that will result in cutting our Nation's health care costs. This proposal, according to the CBO, will help reduce the cost of prescription drugs by some $60 billion over the next decade. At a time when we are modernizing Medicare to include a prescription drug benefit, it is very important that this legislation be passed to help moderate the cost of prescription drugs.

Prescription drug spending in the United States has increased by 92 percent over the past 5 years. These soaring costs are a particular burden for millions of uninsured Americans, as well as for seniors on Medicare who now lack prescription drug coverage. Many of these individuals are simply priced out of the market or forced to choose between paying the bills or buying the pills that keep them healthy.

Skyrocketing prescription drug costs are also putting the squeeze on our Nation's employers, who are struggling in the face of double-digit annual premium increases to continue to provide health insurance for their employees. They are exacerbating the Medicaid funding crisis that all of us are hearing about from our Governors back home as they struggle to bridge shortfalls in their States' budgets.

The 1984 Hatch-Waxman Act made significant changes in our patent laws that were intended to encourage pharmaceutical companies to make the investments necessary to develop new drug products while enabling their competitors to bring lower priced generic alternatives to the market.

We should acknowledge that, toward that end, the Hatch-Waxman Act has succeeded to a large degree. Prior to the Hatch-Waxman Act passing, it took 3 to 5 years for generics to enter the marketplace after a brand name patent expired. Today, lower cost generics often enter the market immediately upon the expiration of the patent. As a consequence, consumers are saving anywhere from $8 billion to $10 billion a year by purchasing lower priced generic drugs.

There are even greater potential savings on the horizon. Within the next few years, the patents on brand name drugs with combined sales of $20 billion are set to expire. If the Hatch-Waxman Act were to work as it was intended, consumers could expect to save between 50 to 60 percent on these drugs as lower cost generics became available as these patents expired.

Despite its past success, however, it has become increasingly apparent that our patent laws in the Hatch-Waxman Act have been subject to abuse. While many pharmaceutical companies have acted in good faith, there is mounting evidence that some manufacturers have attempted to game the system by exploiting legal loopholes in the current law.

Too many pharmaceutical companies have maximized their profits at the expense of consumers by filing frivolous patents that have delayed access to the lower priced generics. Currently, brand name companies can delay a generic drug from going to market for years. A ''new'' patent for an existing drug can be awarded for merely changing the color of the pill or its packaging. There were examples cited by the Chairman of the Federal Trade Commission in testimony before the Senate Commerce Committee last year.

One case involved the producer of a heart medication which brought a lawsuit for patent and trademark infringement against the generic manufacturer in early 1996. Instead of asking the generic company to pay damages, however, the brand name manufacturer offered a settlement to pay the generic company more than $80 million in return for keeping the generic drug off the market. In the meantime, the consumers of this heart medication, which treats high blood pressure, chest pains, and heart disease, were paying about $73 a month, while the generic would have cost them only $32 a month.

Last July, the FTC released a long-awaited report that found that brand name drug manufacturers had misused the loopholes to delay the entry of lower cost generics into the market. The FTC found that these tactics led to delays of between 4 and 40 months—that is over and above the first 30-month stay provided under the Hatch-Waxman Act—for generic competitors of at least eight drugs since 1992.

The FTC report pointed to two specific provisions of our patent laws—the automatic 30-month stay and the 180-day market exclusivity for the first generic to file a patent challenge—as being particularly vulnerable to strategies that could delay the entry of lower cost generics into the market. And it is precisely those two provisions which this carefully crafted compromise, which the chairman of the HELP Committee, Senator KENNEDY, Senator SCHUMER, and Senator MCCAIN have crafted, it is precisely those provisions that would be solved, and those loopholes would be closed by the amendment we are offering today.

The bipartisan amendment we are offering would restore the balance in the current laws. It would close the loopholes that have reduced the original law's effectiveness in bringing lower cost generic drugs to market more quickly.

Again, I salute the chairman for the tremendous work that was done on this important proposal. I am delighted it is being offered. I am proud to be a cosponsor. This will make a real difference in the drug bill, not only for consumers, not only for seniors, but employers, State governments, or anyone who is purchasing prescription drugs.

I urge my colleagues to support the amendment.

Mr. FEINGOLD. Mr. President, I join my colleagues, Senators GREGG, SCHUMER, MCCAIN, KENNEDY and others in introducing the Gregg-Schumer-McCain-Kennedy Amendment to the Medicare Prescription Drug Benefit bill.

As we all know, the sky-rocketing cost of prescription drugs is a problem deeply affecting senior citizens across the country. During my listening sessions and travels around my State of Wisconsin, health care, and specifically the cost of prescription drugs, continue to be the number one issue on people's minds. The problem of access to affordable prescription drugs is particularly acute among Wisconsin senior citizens who live on fixed incomes. Nationally, prescription drugs are senior citizens' largest single out-of-pocket health care expenditure, and the amount they are spending is rapidly increasing: this year, the average senior spends $996 a year for their prescription drugs. This is expected to rise to $1,147 in 2004.

I am pleased to be an original cosponsor of the bill on which this amendment is based, the Greater Access to Affordable Pharmaceuticals Act. This important legislation will improve access to prescription drugs, and make them more affordable for our Nation's seniors. By closing a series of loopholes that are hindering true competition in the prescription drug market, this legislation will bring lower-cost generic drugs to the market faster, passing on approximately $60 billion in savings to consumers over the next ten years.

A Medicare Prescription Drug Benefit is absolutely necessary, and the debate we are having on this bill is an important one. But there are no real cost-control measures for the rapidly escalating costs of prescription drugs. This amendment is truly a cost-savings measure for not only our Nation's seniors, but also all Americans who need prescription drugs. This amendment offers a way to help halt the rising costs of prescription drugs, without costing the taxpayers a dime.

Drug companies have every right to profit from their innovations. We need drug companies to continue the important research that brings life-saving drugs to the market. But once a prescription drug patent expires, we cannot allow the drug companies to keep renewing their patents for frivolous reasons, denying consumers affordable access to a generic alternative.

Mr. KOHL. Mr. President, I rise today in strong support of the amendment offered by Senators GREGG and SCHUMER, of which I am a cosponsor.

We are all aware of the incredibly high cost of health care these days and the often prohibitive cost of prescription drugs. We have all heard the sad but true stories of the senior citizens who are forced to choose whether to buy food or buy the medicine they need. We have heard the stories of seniors who only take half a pill instead of a whole one in order to make their prescriptions last longer. We hear these stories, and we all struggle to find a solution to these problems.

I believe this amendment is an incredibly important step towards that

solution. In 2001, Americans spent more than $130 billion on prescription drugs, and of this amount, only $11 billion of this was spent on generic drugs. What makes this statistic so important is that although only $11 billion out of $130 billion spent was on generic drugs, this $11 billion bought 45 percent of the total prescription drugs purchased in 2001. Generic drugs, as safe and effective as their brand name counterparts, cost up to 80 percent less than those counterparts, and this amendment will help make sure that these drugs are made available to the consumer as soon as possible.

This important amendment will close the loopholes that brand name companies have been using to make sure that their drug is the only one on the market, keeping their profits, and consumer costs, high. It will prevent brand name drugs companies from listing frivolous patents with the FDA in order to keep generics from being able to enter the market, and if they do, it will give generic companies recourse options. It will limit brand name companies to one automatic 30-month stay automatically keeping a generic alternative off of the market, instead of unlimited stays, which have kept generics off the market for years.

These provisions, and others in this amendment, will save significant money to States, large corporations, small businesses, senior citizens, and so many others—money we could all use in this economy. For example, at the State level, Wisconsin spent over $14 million dollars in 2001 as a part of its Medicaid Program on 17 popular drugs whose patents will expire in the next 2 years. If generics for those drugs are allowed to enter the market, the taxpayers in my State will save about half of that money. That is no small change.

At the same time, however, this amendment will not force pharmaceutical companies to stop researching and developing new and improved drugs, and looking for the cure for cancer, Alzheimer's disease, Parkinson's disease, and so many other ailments we are so close to curing. Both of these goals—bringing generics to the market as soon as possible, and continuing to support companies in their research and development efforts—are vital, and I believe this amendment strikes a solid balance between the two.

I would like to commend Senators SCHUMER, MCCAIN, KENNEDY, and GREGG for their hard work on this effort, and I encourage all Senators to vote in favor of this amendment.

Mr. HATCH. Mr. President, I rise to speak on the Gregg-Schumer amendment. This is a revised and improved version of S. 1225, the Gregg-Schumer bill, ''The Greatest Access to Affordable Pharmaceuticals Act of 2003.'' The HELP Committee reported S. 1225 just last week.

This bipartisan amendment was authored by Senators GREGG, SCHUMER, MCCAIN, and KENNEDY. I commend all of them for their hard work which, I believe has resulted in a bill that is vastly improved over legislation that passed the Senate last July, S. 812. Additionally, substantial improvements have been made between the version reported by the HELP Committee last week and the new draft of the amendment that I understand was only completed early this morning after an all night drafting session.

While I am supportive of the efforts and leadership of Senator GREGG and his prime cosponsors, Senators SCHUMER, MCCAIN, and KENNEDY, I am not in position to support this extremely important but complicated amendment at this time.

While I am mindful that the underlying bill is an attractive vehicle for this amendment, my experience teaches me that it is good to let the dust settle a bit, or at least let the ink dry, before making an informed judgment on an amendment that works at the complex intersection between the patent code and the Federal Food, Drug, and Cosmetic Act.

I can say this for certain: Senators GREGG, SCHUMER, MCCAIN, and KENNEDY deserve credit for their effort to make drugs more affordable for the public without undermining the existing incentives for developing new medicine.

On Tuesday, the Senate Judiciary Committee held a hearing on the issue of competition in the pharmaceutical industry. This hearing focused on the July 2002 Federal Trade Commission Study: Generic Drug Entry Prior to Patient Expiration, the recently-finalized Food and Drug Administration rule on patent listings and the statutory 30-month stay available in certain circumstances, and the new bipartisan Gregg-Schumer legislation, S. 1225.

At that hearing, I requested the Department of Justice to give us its opinion on the constitutionality of a provision of the legislation and asked the Patent and Trademark Office for their views on the patent-related provisions of the bill. I want to learn more from DOJ and PTO and others about their views on this only recently developed piece of legislation.

As well, at the hearing I discussed with the Chairman of the Federal Trade Commission, Tim Muris, and the Chief Counsel for Food and Drugs at the Department of Health and Human Services, Dan Troy, problems that may arise from the manner in which the bill addresses the granting of the 180-day marketing exclusivity incentive when patents are successfully challenged. The amendment appears to retain a feature of the current system that grants the 180-day marketing exclusivity period to first filers of generic drug applications rather than those applicants actually successful in defeating the patents of pioneer drug firms.

I look forward to working with the proponents of this legislation and once again commend them for their efforts to bring innovative and affordable drugs to the American public.

Mr. GRASSLEY. I commend Senator GREGG and Senator SCHUMER for their bipartisan efforts and leadership on this issue. This amendment would eliminate questionable practices that have emerged since passage of Hatch-Waxman. I applaud the responsible intent of this amendment.

This amendment reduces the possibility for drug companies to play games and prevent competition. These drug companies have not been accountable to consumers. Simply stated, this bill helps to ensure that consumers have access to low-priced drugs. This is a good thing.

This amendment reduces the cost of prescription drugs.

I can't think of a better time to enact these improvements. The underlying bill, S. 1, will provide drugs to seniors and this amendment will ensure access to lower priced drugs to everyone.

I support this amendment and appreciate the efforts of the HELP Committee on this issue.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I ask unanimous consent that Senator GORDON SMITH of Oregon be added as a cosponsor of the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

If no one yields time, the time will be charged equally to both sides.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from New Hampshire has 4 minutes. The Senator from Montana has 11 minutes.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I thank my friend and colleague from Montana, who is working hard overall on this legislation. We appreciate his work.

I came to the floor today to join with colleagues to support this amendment and to commend the Senator from New Hampshire and the Senator from Massachusetts for their joint leadership on the committee of jurisdiction and on this very important amendment.

I think one of the most important actions we can take to lower prescription drug prices for everyone is this amendment. Making the marketplace work, making competition work, allowing, once a patent is completed, for a generic drug—or, as we say in Michigan, an unadvertised brand—to have the opportunity to go on the market, to be able to manufacture that drug and drop the price, I think is very significant.

It is very important that we adopt the provisions in this amendment that relate to enforcement and the 30-month stay.

We have had in Michigan for the last couple of years a very important coalition with Blue Cross and Blue Shield, the Detroit Regional Chamber, and the Grand Rapids Chamber. I just came from a meeting in my office with representatives from the chambers, with other businesses, and those in the community who understand we have to get a handle on the explosion of prescription drug prices, and it is critically important we have competition to bring those prices down.

We know the average brand-name product is going up about three times the rate of inflation. We also know it is very costly to invest in new breakthrough drugs. We have many policies on the books to support and subsidize, through the taxpayers, new breakthrough lifesaving medication and to get it to market.

There is important research done in my State of Michigan, of which I am very proud, through those working in Ann Arbor and Kalamazoo and many other parts of Michigan, which has made a real difference in our lives.

Also, after we help fund the National Institutes of Health research, we allow companies tax deductions and credits for research, and we give them up to a 20-year patent so they can recover their costs from their investments in critical research and then the opportunity to bring these products to market.

The deal with the American taxpayers is once that process of subsidizing and support is finished, that formula, that information is supposed to be available for companies that do not do research—companies that have been called generic drug companies—to manufacture that medicine at a cheaper price. They do not do the research so, by definition, it can be done at a cheaper price. We know that anywhere from 30 percent—I have seen prices that were 70 percent lower. There is a wide range in the ability to bring down prices by having this system work.

We also know that, unfortunately, there have been cases where the system has not worked, where companies have gamed the system or manipulated the system to stop these lower-cost medications from going on the market.

This amendment will close the loopholes and hopefully better enable the system to work so we can have the benefit as consumers, as American taxpayers, of the investments we have made in helping to bring new drugs to the market and have the benefit of being able to afford those products once that medicine comes to the market.

I am very pleased and appreciate the hard work everyone on both sides of the aisle has been involved in to bring this legislation forward. I have spoken many times on the floor about what I believe to be the two goals of Medicare prescription drug coverage and lowering prices for everyone. This amendment is part of lowering the prices for everyone.

I commend everyone involved and urge support of the amendment.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Montana.

Mr. BAUCUS. Mr. President, it goes without saying we live in a very complicated era. That is especially true with prescription drug pricing, health care costs, new technologies, and new health care technologies. You cannot turn on the evening news without seeing a new technology, some way to help people lead higher quality lives, and you cannot turn on the TV without seeing an ad where essentially a prescription drug is being advertised as a new drug to help make people's lives better.

It is very hard for people to know what to believe. It is also very difficult to know just what the right policy should be in Congress with respect to prescription drug benefits, more particularly what prices people should pay for drugs, and that is why we have deductibles, copays, and catastrophic coverage, and also what price Medicare should pay to the prescription drug companies when seniors are receiving benefits for drugs, and what the subsidy would be.

It is not easy. I commend the Senators who put together this amendment because this amendment says: OK, the brand-name drug companies, the pharmaceuticals have their patent protection, and there is a good reason for patent protection: Because it takes a long time to develop drugs, and it is expensive. But there comes a time when enough is enough, when 17 years—I think that is the number of years of patent protection—is enough.

Over the years, some of the drug companies have been able to prevent competition from working; that is, the generic companies come along to produce basically the same product, since the patent expired, but they are, in effect, denied the ability to sell at the much lower price because pharmaceuticals have multiple 30-month periods of stay. I am not saying this bill is perfect, but it is a great advance in helping beneficiaries and in helping the Federal Government get the best price, get the best buy for the drugs that are on the market that senior citizens are going to utilize and buy, one way or another, and Uncle Sam is going to buy.

I highly compliment the authors of this legislation. We will see how well it works. My guess is it is going to work pretty well. There are many efforts, Mr. President, as you know, around the country; many States are figuring out ways, with volume purchasing, to get lower prices for prescription drugs under the Medicaid program.

We do not want to kill the goose that lays the golden egg. The pharmaceuticals have provided our people with wonderful drugs. There is no getting around that. At the same time, everybody wants to get as much as he or she can for themselves—not everybody but a lot of people do. Certainly, in our competitive capitalistic system which works pretty well, companies are concerned about the bottom line, shareholders, quarterly reports, so they are going to try to make as much money as they can for the shareholders, and that is their responsibility.

In so doing, brand-name companies have taken advantage of the patent, taken advantage of current law. They have found a loophole, and this legislation is designed to close that loophole, so that after 17 years and the patent period has expired, companies can offer generic drugs, lower-priced drugs. That makes the most sense once the patent period has expired. It is going to help. This is a bill which has many different provisions. It is very complicated. We are entering a whole new era of prescription drug benefits and a whole new way to get them out to senior citizens through Medicare, through private plans, through PPOs, through HMOs, and trying to find the right balance between value for beneficiaries—that is stability, so our senior citizens know what they are getting on the one hand and efficiency on the other; that is making sure it is the lowest price possible.

This amendment before us does a pretty good job in striking that balance; that is, efficiency as a lower cost to seniors and the Federal Government because of generics, and also stability because it is done in a way that seniors have a better idea what they are getting.

I commend the Senators, and I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Oregon.

Mr. SMITH. Mr. President, I rise in support of this amendment. I commend Senators GREGG, SCHUMER, MCCAIN, and KENNEDY for their work on this carefully crafted and bipartisan amendment.

Improved access to generic drugs is a policy that is, frankly, long overdue. Last year I voted in favor of this amendment, and I am pleased to say I believe today's vote will be on an improved amendment.

The bill's sponsors have worked with the FDA, the drug industry, and the generics to reach the compromise that is before the Senate today. The result is a bill that will bring generics to the market in a timely way without stifling or shifting the process. Innovations that are vital to the American public and to health care consumers around the globe are, I believe, contained within this bill. By closing the loopholes that have allowed both the brand name drug companies and the generics to keep more affordable drugs off the market, all Americans win. I urge my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SMITH. 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. ENZI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. Mr. President, I ask unanimous consent that Senator LINCOLN be added as a cosponsor to my modified amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. 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. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, how much time remains?

The PRESIDING OFFICER. Forty-five seconds.

Mr. GREGG. Mr. President, that is just enough time for me to once again thank the people who have brought this bill to fruition, especially Senator SCHUMER, Senator MCCAIN, and Senator KENNEDY. It is very strong legislation which is going to do a lot to make drugs more affordable for all American citizens, and innovation for new drugs to care for the people in America.

I yield the floor, 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. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I know we are about to vote in a couple of minutes. I look forward to voting for this very important amendment. I commend the Senator from New Hampshire and the Senator from New York for their tireless work to bring this amendment to the floor in a way that it will receive broad support. It will achieve the objective of lowering the cost of prescription drugs, I believe, by bringing generic drugs to market faster. It will do so in a balanced, responsible way.

I also want to take a second to applaud the Senator from Utah, Mr. HATCH, who really showed remarkable foresight in the original Hatch-Waxman bill that has done so much to maintain balance between fostering research and innovation of new drugs on the one hand and expanding accessibility of more affordable generic drugs on the other. The success of that particular bill has been remarkable.

I do have several concerns about the amendment. I will be voting proudly for this amendment, but I will state the few concerns I have that I hope we can address over the coming days.

The intent of the amendment is clear: To improve competition, to bring high-quality, cost-efficient, and generic alternatives to the market sooner; and this amendment does just that.

Mr. President, I want to address the amendment before us offered by Senator GREGG and to commend him for his tireless work to lower the cost of prescription drugs by bringing generic drugs to market faster.

Last year, the Senate considered, and I voted against, a proposal to disrupt a system that has worked relatively well for almost 20 years—the landmark Hatch-Waxman law. And I want to express my respect and admiration for the tremendous commitment and foresight shown by Senator HATCH in sponsoring and authoring—along with other colleagues in this body—the original Hatch-Waxman bill that has done so much to maintain a balance between fostering research and innovation of new drugs on the one hand and expanding the accessibility of more affordable generic drug copies of existing medicines on the other.

Under Hatch-Waxman, generic competition has flourished. In 1984, when the law was passed, generics represented less than 20 percent of the market. Today, generic drugs represent nearly 50 percent of the entire market.

Yet because of some abuses of the law, S. 812 last year proposed to address the conditions under which generic drugs come to market. Although the bill was intended to speed this process and bring cheaper drugs to the American consumer, I voted against this proposal for a number of reasons, including concerns about the impact the bill would have on public health as well as its possible effect on the development of new, innovative drugs. I shared the concern about abuses to Hatch-Waxman and agreed with issues related to rising drug costs, but the proposal last year simply went too far, way beyond the recommendations contained in the Federal Trade Commission's 2-year study.

Therefore, I commend Senator GREGG for the good work he has done on today's amendment. This represents significant improvement from last year's bill in an attempt to address ongoing concerns with last year's proposal.

Currently, we are working to provide Medicare recipients access to prescription drugs, and that debate will continue into next week. During this discussion, we must address the cost issue, what current changes we must invoke to maintain the long-term sustainability of this added benefit by ensuring that the cost of drugs are appropriate, reasonable, and not beyond the reach of Americans. The Hatch-Waxman law has almost 20 years of balance, and now is the time to go back and readjust and make sure that balance is well situated going forward.

As we look at the overall skyrocketing cost of health care, the cost of prescription drugs is dramatically increasing. But in the name of cost savings, never should we threaten public health. Furthermore, never should we threaten the research and innovation that has made us the envy of the world in terms of health care—the great breakthrough drugs, the investment in research and development, which eventually will deliver a cure for diseases that are not curable today.

Let me make clear that today's amendment is much improved over last year's proposal, which took a heavy-handed approach to this very real problem and would have dealt a serious blow to pharmaceutical research and innovation. My colleagues, Senators GREGG, SCHUMER, MCCAIN, and KENNEDY, should be commended for their progress. Nevertheless, the amendment still has some significant flaws. Let me briefly outline several of my concerns. Even though these concerns will not prevent me from voting for this amendment, I believe that we must address these issues and I hope my colleagues will work with me in this regard.

First, I am concerned by questions that have been raised regarding the constitutionality of a key provision allowing generic drug makers to seek declaratory judgment that the brand's patent is not valid or is not infringed. At the least, it seems likely that this question will generate significant litigation; at the worst, it raises the prospect that all of the work put in on this point may ultimately be for naught if the courts decide that it is unconstitutional.

Next, under current law, if the court finds that a person has willfully infringed a patent, then the court awards treble damages. The amendment states that the court need not award treble damages in some circumstances—an alteration of patent rights that would apply only to drug patents and that removes the disincentive for generic companies to willfully infringe patents.

While this amendment seeks to codify the recently finalized FDA rule limiting innovators to one 30 month stay, I am concerned that it fails to include a clarification of the Food and Drug Administration's, FDA, current policy that an amendment or supplement to an abbreviated new drug application, ANDA, cannot cover a drug other than the original drug indicated in the ANDA. Without closing this obvious loophole, we are only creating additional problems with the appropriate administration of the 30-month stay and leaving in place a possible manner by which to game the system.

The intent of the amendment is clear, to improve competition and bring high-quality, cost-efficient generic alternatives to market sooner. If improving competition is achieved, I believe costs will decrease. However, I believe changes could be made to better improve competition, for example,

by allowing a generic firm that may not have been the first to file but is the first to have an approved drug ready for market to obtain the 180-day marketing exclusivity. This would be more proconsumer because it would reward the generic company that actually gets their drug to market fastest, rather than the one that simply was first in line.

However, I do comment Senator GREGG for including a ''use it or lose it'' provision to discourage anticompetitive behavior. This is a significant advancement from last year's ''rolling exclusivity'' provision, and will protect consumers from anticompetitive behavior on the part of both brand drug companies and generics.

I will support this amendment. However, I believe we must continue to work to ensure the workability of the amendment, to provide that this does not inadvertently increase the health and safety risks to patients, and to avoid setting precedents that could lead to greater confusion and litigation in this area. I thank Chairman GREGG for his work on this issue and look forward to continuing to work with him on this as we move forward.

Again, I commend the Senator from New Hampshire for his tremendous support in authoring, sponsoring, and amending this amendment.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 932, as modified and amended.

Mr. ENZI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea''.

The PRESIDING OFFICER (Mr. SMITH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—95

Akaka	Breaux	Cochran
Alexander	Brownback	Coleman
Allard	Bunning	Collins
Allen	Burns	Conrad
Baucus	Byrd	Cornyn
Bayh	Campbell	Corzine
Bennett	Cantwell	Craig
Biden	Carper	Crapo
Bingaman	Chafee	Daschle
Bond	Chambliss	Dayton
Boxer	Clinton	DeWine
Dodd	Johnson	Reed
Dole	Kennedy	Reid
Domenici	Kohl	Roberts
Dorgan	Kyl	Rockefeller
Durbin	Landrieu	Santorum
Ensign	Lautenberg	Sarbanes
Enzi	Leahy	Schumer
Feingold	Levin	Sessions
Feinstein	Lincoln	Shelby
Fitzgerald	Lott	Smith
Frist	Lugar	Snowe
Graham (SC)	McCain	Specter
Grassley	McConnell	Stabenow
Gregg	Mikulski	Stevens
Hagel	Miller	Sununu
Harkin	Murkowski	Talent
Hatch	Murray	Thomas
Hollings	Nelson (FL)	Voinovich
Hutchison	Nelson (NE)	Warner
Inhofe	Nickles	Wyden
Jeffords	Pryor	

NOT VOTING—5

Edwards	Inouye	Lieberman
Graham (FL)	Kerry	

The amendment (No. 932), as modified and amended, was agreed to.

AMENDMENT NO. 939

The PRESIDING OFFICER. There are now 10 minutes equally divided prior to the next vote.

Who yields time?

The Democratic leader.

Mr. DASCHLE. Mr. President, the amendment that is now pending before the Senate addresses a concern that many of us have with regard to the volatility of the premium.

As everyone knows, currently, the Medicare Part B premium is $58.70. That is across the board, across the country. Regardless of where you live, regardless of the circumstances, a senior pays $58.70. We do not know what the premium for this prescription drug benefit will be. We are told the average cost is anticipated to be $35. But there is the average national weighted premium that is supposed to be about $100, which comprises both what the beneficiary pays and what the Government pays. If that is off by $10, if it is going to be $110 rather than $100, that $10 is going to be added to the $35, requiring a 30-percent increase in the cost of the premium for the beneficiary.

So we are very concerned, first, about the unpredictability of the premium, and, secondly, about the volatility of the premium because we really do not know what the national weighted average is going to be.

We also know because of utilization, there could be dramatic changes from region to region. Currently, in a Medicare+Choice program, including prescription drug benefits, a benefit package in Florida costs $16 and a package costs $99 in Connecticut. So you get a wide-ranging variance with regard to regions of the country.

This amendment simply says: Look, of all the factors you have to be concerned about; at least on the premium you are going to have some understanding that it is not going to vary as dramatically and as wildly as it might because there will be a cap of 10 percent over that national average for the beneficiary's contribution. If the national average is $35, it cannot exceed 10 percent more in any 1 year. It might exceed more than that year after year, but each year it would be within 10 percent of the average. It can go below that, but it just cannot go above 10 percent.

When you look at all of the concerns that seniors have with regard to the unpredictability of this plan, the copay, the coverage gap, the stop loss, the benefits package itself—all of those concerns, in addition to the variance of the premium—we are simply saying, let's do, at least in part, what we do with Medicare Part B. If Medicare Part B can be $58.70, let's say the prescription drug benefit can be $35 plus 10 percent regardless of what circumstances may be out there.

Let's give a little more certainty, a little more stability to seniors as they begin to pay their premiums. As it as a result of this bill, they are going to be paying $100 a month now for Part B as well as for this new prescription drug benefit per month. I think we have to be concerned about how high those costs can go and how much economic challenge these seniors are going to have to take on as they face the real prospect of being in a position of not being able to afford the benefit at all.

Mr. President, I yield to my dear friend and colleague from Nebraska, Senator NELSON.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, the purpose of insurance is to help stabilize the market and spread costs and risk over an entire group of people. This amendment will help achieve that goal. It will reduce significantly the unpredictability of the premium and the unpredictability of the disparity of State premiums. It will bring certainty to the process. People will know that their rate cannot be greater than 10 percent of the national average.

If we are going to manage care, we need to manage competition as well. This is one way of being able to do it. Just such as in Medicare, the insurance companies here, providing the new drugs, would decide what premiums to charge seniors based on experience within the State. What we would say is they have to take into account the national statistics and data in determining the rates.

I think it will even it out, and the disparity between State 1 and State 2 will be significantly lower. Unpredictability will be reduced and the certainty that will be established will be beneficial to the people. It will give seniors peace of mind, as well, with the ability to pay and know what the future will bring.

Stability and predictability is important in this particular program. We hope our colleagues will take a look at this and understand that the difference in the rate in New York should not be significantly different than the rate in Florida or Nebraska or wherever we may reside.

I think we all have an interest in making sure this program works, that

it is sustainable, and, therefore, I ask colleagues to be supportive of this amendment. I think it is in the best interests of the insuring public, and, in this particular case, our seniors.

Mr. HATCH. Mr. President, I rise in opposition to the amendment offered by the minority leader, Senator DASCHLE. This amendment would mandate a nationwide cap on the premium for the stand-alone prescription drug plans.

Although at first this amendment might seem attractive, a closer look reveals blemishes and flaws in this approach, flaws that would spell disaster for the stand-alone prescription drug benefit and for Medicare beneficiaries were we to adopt this amendment.

S. 1 provides for a stand-alone prescription drug plan premium that would average $35 nationwide. The amendment offered by Senator DASCHLE would cap the premium at $38.50.

Although it may sound trivial, the difference between these two approaches is an important distinction to make if we are to implement a successful program.

S. 1 provides for at least two, and perhaps many more, private entities to bid for and provide stand-alone prescription drug coverage in each region. The plans may provide either the standard drug benefit or a drug benefit that is actuarially equivalent to the standard drug benefit.

The actuarially equivalent plans will have some flexibility in determining the specific prescription drugs that they provide and how they provide those drugs to beneficiaries. Some plans may be more efficient. These plans may find that they are able to provide prescription drugs at a lower cost and charge a premium that is less than $35. Others may choose to offer enhanced coverage or use delivery systems that require a premium that is higher than $35. It may be 5 percent higher. It may be 10 percent higher. It may be 15 percent higher. Or, it could also be lower.

So why should we lock ourselves in? We would be negating the very flexibility around which S. 1 was designed.

The point is that by providing for an average nationwide premium and stipulating that the plans may be actuarially equivalent, we allow plans to offer choices. And that is what Americans and particularly Medicare beneficiaries want.

S. 1 provides Medicare beneficiaries with the opportunity to choose plans based on price, service, and within certain mandated limits, the prescription drugs that are provided.

Let me mention something that I addressed also a few days ago in my opening remarks. This pertains to the provision in the bill ensuring that Medicare beneficiaries will have affordable prescription drug coverage.

S. 1 gives the Secretary of Health and Human Services the discretion to make adjustments in geographic regions so there will not be a large discrepancy in Medicare prescription drug premiums across the country.

This is very important to me, because I do not want Utahns paying significantly higher premiums than Medicare beneficiaries living in Miami or New York.

That being said, I believe it is better to give the Secretary of HHS the discretion to make those important decisions. If we cap the monthly premium in legislation, we are taking away plan flexibility—one of the fundamental principles of S. 1.

If we adopt the Daschle amendment and cap the stand-alone drug plan premium nationwide, Medicare beneficiaries will lose choices. The plans will not have the flexibility to offer improved service; they may find that they are unable to offer different services at all. There could be little to distinguish plans from each other. And beneficiaries may not be able to find a plan that offers the services or the particular brand of drug that they prefer.

This is not what Medicare beneficiaries want and it is certainly not what we in the Senate should offer them. My Finance Committee colleagues and I have worked hard during the last several months to provide Medicare beneficiaries with choices; choices that allow them to determine which prescription drug plan works best for them.

My colleague from South Dakota is concerned also about the complexity of variable premiums in S. 1. He has claimed that differences between plans will be confusing to our Nation's seniors.

I share Senator DASCHLE's desire that our seniors understand the terms of the plans that they are offered. However, I must disagree that the stand-alone prescription drug plans provided for in S. 1 will confuse seniors because the choices offered to them will be clear. Differences between plans will be obvious; seniors will choose a plan based on the factors that are important to them. It seems to me that this promotes the kind of transparency in public policy that a democratic, open society is all about.

Let me mention another problem that will certainly occur if the Senate were to mandate a national prescription drug premium.

If we mandate a specific, nationwide premium dollar amount, Congress will be back here every year debating whether that amount reflects the true cost to deliver prescription drugs. Since we all know how quickly the Government moves, this seems like a decidedly inefficient process.

This is not how the American people want their elected officials to spend our time, and it certainly is not how I think we can best use our time. This is an instance when Congress should trust the American people to determine what is best for them by making choices in the marketplace.

Furthermore, providing for a nationwide average premium allows plans the flexibility to design prescription drug benefit packages that reflect modern health care—not just what makes sense today, but what will make sense in 10 to 20 years.

If plans do not have this flexibility, we may in 10 years find ourselves in the same situation that we are in today, needing to revise a system that no longer provides the up-to-date options that Medicare beneficiaries need and deserve.

The private health insurance market and the Federal Employees Health Benefit Plans operate in this manner.

These plans provide benefits that have evolved over time in response to enrollees' needs to keep pace with modern health care innovations. Flexibility enables these plans to adjust quickly to meet their enrollees' needs and flexibility will allow the stand-alone prescription drug plans to meet Medicare beneficiary needs quickly and efficiently over time.

It is important also that we recognize that the Congressional Budget Office has said that prescriptive benefits, those spelled out in statute, will cost more and will provide lower quality and less efficient health care. Setting limits usually means that plans provide the minimum benefit at the lowest cost. Providing flexibility enables plans to be innovative and to offer multiple coverage options that reflect what Medicare beneficiaries want.

I urge my colleagues on both sides of the aisle to resist the temptation to vote for this amendment. Although it may sound enticing, capping the prescription drug premium will result in an outcome that none of us desire and that no one intended.

Capping the prescription drug premium will result in a one-size-fits-all approach, an approach that will leave us in a few years with a tired old prescription drug plan that doesn't meet anyone's needs.

This bill, S. 1, is about providing people with choices—choices that are affordable, but choices that also provide Medicare beneficiaries with what they need and want.

When the Government limits prices, Americans lose choices. In establishing a national average premium, not a nationwide premium, S. 1 will provide Medicare beneficiaries with the prescription drugs that they need and the choices that they want today and in the future. That is what Medicare beneficiaries tell us that they want and that is what my Finance Committee colleagues and I have worked so hard to provide. And that is why I will oppose this amendment and why I urge my colleagues to do the same.

The PRESIDING OFFICER. Time in support of the amendment has expired.

Who yields time in opposition?

The Senator from Wyoming.

Mr. THOMAS. Mr. President, I yield time to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I just want to inform my colleagues that this

is a balanced bill. It has been very difficult to achieve that balance. I fear it is becoming more fragile as the days pass by. I think it would be very unfortunate if this bill fell apart.

I am not saying, by any stretch of the imagination, that the amendment offered by my very good friend from South Dakota is going to tip the balance of the bill, but I am saying—knowing of other amendments that are coming up, and the views that various Senators are taking on the amendments they may offer later on—this balance, this bill which I think we all want to support, is not in jeopardy yet but it is somewhat tenuous.

There are protections in the bill for premiums. A couple quick points: One, under the bill, there are large geographic areas, which will tend to force the premiums to not fluctuate but to be according to insurable principles.

Second, there are very strong consumer protections that are basically the FEHBP protections which provide premiums have to be in line with benefits. That is under FEHBP. We incorporated that in the bill.

There is also a geographic adjustment in the bill. Right now, the Secretary has discretion to make the geographic adjustment. That might be strengthened later on in the proceedings.

I am sympathetic with the purpose of this amendment, but my judgment is, at this time, we should not adopt this amendment because there are sufficient protections in the bill, and I do not want this bill—I do not think any Senator wants this bill—to go south because of other amendments that may be adopted that may cause that to happen.

This is a historic moment. We are on the eve, the cusp of passing prescription drug benefit legislation. We should not take that lightly. I know we don't. I think we want a big vote. Medicare passed by a large margin back in 1965. Many Senators are saying there is a chance this underlying bill could get 60, 70, 80 votes. I say to my colleagues, I think we owe it to ourselves to try to find a way to help pass this legislation by a large margin.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BREAUX. Mr. President, how much time remains?

The PRESIDING OFFICER. Two and a half minutes.

The Senator from Wyoming.

Mr. THOMAS. Mr. President, I urge my colleagues to vote against this amendment. Competition is the key to holding down costs. That is common sense. This amendment is anticompetitive because it constrains competition. I think we should oppose it.

According to CBO, the competitive policies in our bill ensure that premiums and cost sharing for drug coverage will be affordable. Under S. 1, prescription drug plans that do a poor job of negotiating drug prices will have to charge a higher premium. The same goes for plans that are inefficient and wasteful. Plans that do a good job negotiating will be able to charge lower premiums. That is the marketplace. We should not micromanage it. This amendment does just that. I urge my colleagues to oppose it.

I remind my colleagues, a similar amendment capping premiums at 5 percent was defeated in the Finance Committee last week by a vote of 7 to 14.

I yield to my friend from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I would just say, in conclusion, protections in this bill are exactly the same we have as Members of the Senate. The Administrator could not approve a premium unless it reasonably and equitably reflects the value of the prescriptions they are getting. A Government agency makes the decision on whether it is a reasonable premium.

When you have a deductible that is fixed, it cannot be varied at all. And the catastrophic cut-in cannot be raised. It can be lowered. You have to have something left to compete on, and the premium will be one thing, although it still has to be approved by the Administrator.

So I think the balance we have in the bill is a good one. It is equitable, and I think it can work.

Mr. DASCHLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 939, as modified. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. GRAHAM) and the Senator from Massachusetts (Mr. KERRY) would each vote ''yea''.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 56, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—39

Akaka	Dodd	Lincoln
Bayh	Dorgan	Mikulski
Biden	Durbin	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Feinstein	Nelson (NE)
Byrd	Harkin	Pryor
Cantwell	Hollings	Reed
Carper	Johnson	Reid
Clinton	Kennedy	Rockefeller
Conrad	Kohl	Sarbanes
Corzine	Lautenberg	Schumer
Daschle	Leahy	Stabenow
Dayton	Levin	Wyden

NAYS—56

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Miller
Baucus	Ensign	Murkowski
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Breaux	Frist	Santorum
Brownback	Graham (SC)	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Campbell	Hagel	Snowe
Chafee	Hatch	Specter
Chambliss	Hutchison	Stevens
Cochran	Inhofe	Sununu
Coleman	Jeffords	Talent
Collins	Kyl	Thomas
Cornyn	Landrieu	Voinovich
Craig	Lott	Warner
Crapo	Lugar	

NOT VOTING—5

Edwards	Inouye	Lieberman
Graham (FL)	Kerry	

The amendment (No. 939) was rejected.

Mr. STEVENS. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 945

Mr. GREGG. Mr. President, what is the regular order?

The PRESIDING OFFICER. The Gregg amendment, on which there are 2 minutes of debate evenly divided.

Mr. GREGG. Mr. President, I ask unanimous consent that Senator TALENT be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I will just say this amendment is a good idea. I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time in opposition?

If all time is yielded back, the question is on agreeing to the amendment of the Senator from New Hampshire.

The yeas and nays have been ordered.

The clerk will call the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea''.

The PRESIDING OFFICER (Mr. CORNYN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 1, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—94

Akaka	Bond	Carper
Alexander	Boxer	Chafee
Allard	Breaux	Chambliss
Allen	Brownback	Clinton
Baucus	Bunning	Cochran
Bayh	Burns	Coleman
Bennett	Byrd	Collins
Biden	Campbell	Conrad
Bingaman	Cantwell	Cornyn

Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hollings
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—1

Hatch

NOT VOTING—5

Edwards
Graham (FL)
Inouye
Kerry
Lieberman

The amendment (No. 945) was agreed to.

RECOGNIZING NATIONAL HOCKEY LEAGUE'S NEW JERSEY DEVILS AND THE NEW JERSEY NETS

Mr. CORZINE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution No. 176, introduced by myself and Senator LAUTENBERG.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 176) recognizing the National Hockey League's New Jersey Devils and National Basketball Association New Jersey Nets for their accomplishments during the 2002–2003 season.

There being no objection, the Senate proceeded to consider the bill.

Mr. DORGAN. Reserving the right to object—and I shall not object—I want to be certain I will be recognized following the disposition of the resolution by the two Senators from New Jersey. My understanding is that I was to be recognized at this moment. They are asking for 10 minutes, combined, for this resolution. Is my understanding correct that I will be recognized by previous unanimous consent following disposition of this?

The PRESIDING OFFICER. It has been ordered that the Senator from North Dakota shall be recognized to offer the next amendment.

Mr. DORGAN. Thank you.

Mr. LAUTENBERG. Mr. President, is that reserving the time that was immediately available? I am a little concerned. If the Senator from North Dakota has that, I want to honor that. If not, we might take a little more time than 10 minutes.

The PRESIDING OFFICER. No time has been allocated.

Mr. BAUCUS. Mr. President, if I understand the drift of things, obviously Senators can reserve, we can work this out. I ask consent that the Senators from New Jersey be given 10 minutes to speak on a very important subject; following that, the Senator from North Dakota be authorized on his amendment to follow the order in the earlier unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. I rise today with my distinguished colleague from New Jersey, my friend and longstanding representative of our great State, Senator LAUTENBERG, to discuss a resolution honoring the New Jersey Devils and the New Jersey Nets, their accomplishments in postseason of the respective leagues.

The past 2 weeks have seen the Devils host the Stanley Cup after defeating the Anaheim Mighty Ducks and the Nets reached the NBA finals. For the second year in a row, the Nets have been in the finals of the NBA, this year against a very talented group from Texas, the San Antonio Spurs. These accomplishments have made the constituents of my State very proud, and deservedly so.

Over the last 9 years, the New Jersey Devils have won the NHL Stanley cup three times—as much as my team in hockey. During that time, a stifling defense led by Scott Stevens, the playmaking abilities Patrik Elias and Scott Gomez, and the superb goaltending of Martin Brodeur have become the standards of excellence in the National Hockey League.

At the same time, the New Jersey Nets have become one of the most successful teams in the NBA, winning the Eastern Conference Championship each of the last 2 years, led by the outstanding play of Jason Kidd, in my view the best pointguard in the NBA.

The Devils and the Nets both play at the Continental Airline Arena in East Rutherford, NJ, a town of about 10,000 folks. Many think it is the nexus of the sporting universe. We would like to see some of the Olympics in 2012. That is right, even though some of my colleagues from Texas might dispute some of that view.

It is a great organization that happens to own both teams, the Devils and the Nets. They go beyond their supporting crowds. Both teams are actively involved in the community and give a tremendous amount back to it. Patrik Elias helps support Transplant Speakers International, an organization that raises funds and awareness for organ transplants. Dikembe Mutombo helped dedicate the Nets Reading and Learning Center at the Hudson County Boys and Girls Club in Jersey City. Over and over again the players have helped in our disadvantaged schools and communities. They are terrific.

I mention one individual who sets a standard for excellence in business and in sports. That is the general manager—surprisingly, of both teams—Lou Lamoriello, whose dual role is unique in the sporting world. Quite frankly, I think he is the best in the business because he sets a standard not only on the basketball court and hockey wing but in how he operates in the communities, giving back and expecting people to behave and operate in a class way.

This is a terrific credit to an organization, to the teams, and most particularly to fans who have supported them. New Jersey sometimes does not get the kind of recognition it needs. These two organizations have done that through dedication, teamwork, and sportsmanship. They have achieved great success. I congratulate them.

I yield to my colleague from New Jersey.

Mr. LAUTENBERG. I thank my colleague and friend from New Jersey for his enthusiasm. I know he often gets on an airplane no matter what time, as long as our business here is done, and he gets up there, maybe sometimes in the fourth quarter of a game. But he gets there and roots the Nets on.

I am pleased to note the great sports accomplishments of two New Jersey teams in recent weeks. I support this resolution. I congratulate the New Jersey Devils for winning the Stanley Cup and the New Jersey Nets for winning the NBA's Eastern Conference.

I am going to be gracious and extend my congratulations to Senator HUTCHISON, with whom I had a wager, because the San Antonio Spurs played wonderful basketball, as disappointing as it was to me and other New Jersey Net fans. I paid off that wager with a case of beautiful New Jersey tomatoes for our terrible loss.

Winning the Stanley Cup 3 of the last 9 years proves that the Devils are the most dominant team in hockey. I was thrilled to watch them win game 7 with a shutout by the Devils' exceptional goalie, Martin Brodeur, who recorded 7 shutouts during the playoffs alone. Special congratulations are in order for five players who have been with the team for all three championships: Brodeur, Ken Daneyko, Scott Stevens, Sergei Brylin, and Scott Niedermayer.

As mentioned by Senator CORZINE, general manager Lou Lamoriello has established a culture of success in New Jersey by molding winning teams each year around this core of five. The Meadowlands, where the Continental Airlines Arena is located, is no safe haven for opponents. Our Devils were a remarkable 12 and 1 on home ice during the playoffs. That's the most home wins in the history of the Stanley Cup playoffs.

It's nice to congratulate the New Jersey Nets, as well, because New Jersey, after all, is where the first professional basketball game was played, in Trenton, 1898. No, I don't remember it.

The Nets have been Eastern Conference champions and have played in the NBA finals for 2 years in a row. This year they compiled an amazing streak of 10 consecutive wins, sweeping past the Celtics and Detroit Pistons along the way.

Nets coach Byron Scott has led the Nets to the most wins in franchise history. The Nets, led by their superb point guard Jason Kidd, lost a tough 6-game series to the Spurs, who are undoubtedly championship material. But the Nets are in that class, as well. I hope that this team will stay intact and continue on its quest to winning an NBA title.

New Jersey is a haven for great professional sports teams, and on behalf of the whole State of New Jersey, I congratulate the Devils and Nets and wish both teams the best of luck in the future.

Mr. CORZINE. 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 relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 176) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 176

Whereas the New Jersey Devils defeated the Anaheim Mighty Ducks 3-0 on June 9, 2003 to win the Stanley Cup in 7 games;

Whereas the New Jersey Nets won the National Basketball Association (NBA) Eastern Conference Championship and reached the NBA Finals for the second consecutive year before losing a closely contested series to the San Antonio Spurs in 6 games;

Whereas the Devils won their third Stanley Cup in the last 9 years, as many as any other team in that period;

Whereas the Devils and Nets have won over the State of New Jersey (where the first professional basketball game took place in 1898) with their skillful offenses and stifling defenses;

Whereas the Devils and Nets have come to epitomize the never-say-die spirit of the people of New Jersey and have both become an important part of the State and its identity;

Whereas the fans of both New Jersey teams have shown the same spirit and determination in support of their teams and deserve commendation for their loyalty in this season's playoffs;

Whereas the Devils had a 12 win, 1 loss record at the Continental Airlines Arena, the most home wins in the history of the Stanley Cup playoffs;

Whereas the Nets swept both the Boston Celtics and the Detroit Pistons during a 10-game winning streak in this season's playoffs;

Whereas Pat Burns, head coach of the New Jersey Devils, has enjoyed the kind of success that has eluded so many other great coaches, winning his first Stanley Cup title in his first season as head coach of the Devils;

Whereas Byron Scott, head coach of the New Jersey Nets, has guided the Nets to the most wins in franchise history, and has led them to the NBA Finals in 2 of his 3 seasons as head coach;

Whereas Martin Brodeur, regarded by many as the premier playoff goaltender in hockey history, recorded 3 shutouts in the Finals, giving him 7 shutouts during this season's playoffs and 20 during his illustrious postseason career;

Whereas the outstanding playmaking abilities of Jason Kidd, widely regarded as the best point guard in the NBA, has been key to the success of the Nets during the past 2 seasons;

Whereas the outstanding play of Ken Daneyko, Martin Brodeur, Scott Stevens, Sergei Brylin, and Scott Neidermayer has been a vital part of each of the 3 Stanley Cup Championships enjoyed by the New Jersey Devils organization;

Whereas Jason Kidd has superb teammates in Brandon Armstrong, Jason Collins, Lucious Harris, Richard Jefferson, Anthony Johnson, Kerry Kittles, Donny Marshall, Kenyon Martin, Dikembe Mutombo, Rodney Rogers, Brian Scalabrine, Tamar Slay, and Aaron Williams, allowing the team to win its second consecutive NBA Eastern Conference championship; and

Whereas the name of each Devils player will be inscribed on the Stanley Cup, including Tommy Albelin, Jiri Bicek, Martin Brodeur, Sergei Brylin, Ken Daneyko, Patrik Elias, Jeff Friesen, Brian Gionta, Scott Gomez, Jamie Langenbrunner, John Madden, Grant Marshall, Jim McKenzie, Scott Niedermayer, Joe Nieuwendyk, Jay Pandolfo, Brian Rafalski, Pascal Rheaume, Mike Rupp, Corey Schwab, Richard Schmelik, Scott Stevens, Turner Stevenson, Oleg Tverdovsky, and Colin White: Now, therefore, be it

Resolved, That the Senate congratulates—

(1) the New Jersey Devils for their determination, perseverance, and excellence in winning the National Hockey League's 2003 Stanley Cup; and

(2) the New Jersey Nets for their success during the 2002-2003 NBA season.

HONORING LARRY DOBY

Mr. LAUTENBERG. Mr. President, I rise in sorrow because baseball lost a legend, African Americans lost a pioneer, and I lost a good friend. I went to high school with Larry Doby at Eastside High School in Paterson, NJ, and watched as he amassed records that were beyond comprehension for most people.

He had four All-State letters. He played basketball, baseball, football, and he ran track well enough to earn an All-State letter in a big State like New Jersey, with that population. He was not only an exciting player to watch on the field, he was a good man. His five children and the whole country will miss him greatly.

Few people realize that Larry began his groundbreaking athletic career in 1943 as the first African-American to play in the American Basketball League for the Paterson Panthers. He then moved on to baseball, playing for the Newark Eagles of the Negro National League. After returning from his service in the Navy for two years, Larry hit .414 with 14 home runs in his final season in Newark, NJ.

It was on July 5, 1947, just 11 weeks after Jackie Robinson broke the color barrier in major league baseball, that Larry Doby signed a contract with the Cleveland Indians of the American League. He was the first African-American player in the American League.

Larry had no intention or desire to become an important part of history. When Indians owner Bill Veeck predicted to Larry that he would ''be part of history,'' Larry replied, ''I had no notions about that. I just wanted to play baseball.''

And play baseball he did, and quite well. Larry was an All-Star 7 times in his 13-year career, and he helped the Indians win the World Series in 1948 with a home run in Game 4. He hit at least 20 home runs in 8 straight seasons.

Larry went on to become the second African-American manager of a major league team taking the helm of the Chicago White Sox in 1978. He was also the director of community relations for the New Jersey Nets in the late 1970s, encouraging the development of youth programs in urban New Jersey.

It was not easy for Larry, few things this important are. He was harassed by opposing players and fans. He was forced to eat in separate restaurants, to sleep in separate hotels. Some of his own teammates would not even shake his hand. But he pressed on, and we're a better country for it.

Larry said it best in a speech after his career had ended. He said:

> We can see that baseball helped make this a better country. We hope baseball has given (children) some idea of what it is to live together and how you can get along, whether you be black or white.

When historians take note of the great contributions made by citizens of the State of New Jersey, certainly the name of Larry Doby should be included. He is at the top of that long list in my mind.

Mr. CORZINE. Mr. President, let me congratulate my colleague from New Jersey for bringing up this discussion of Larry Doby, who is really a national hero. I commend anyone to read the reports in today's newspapers about his career and the evolution of how African Americans ascended to the role they rightfully should have received in American baseball and American life in general. He was a hero to all of us. I am thankful he was remembered by my senior colleague.

PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT OF 2003—Continued

AMENDMENT NO. 946

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota is recognized.

Mr. DORGAN. I send an amendment to the desk on behalf of myself, Ms. STABENOW, Mr. JEFFORDS, Ms. SNOWE, Mr. JOHNSON, Mr. LEVIN, Mrs. BOXER, Mr. PRYOR, and Mr. FEINGOLD. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Ms. STABENOW, Mr. JEFFORDS, Ms. SNOWE, Mr. JOHNSON, Mr. LEVIN, Mrs. BOXER, Mr. PRYOR and Mr. FEINGOLD, proposes an amendment numbered 946.

Mr. DORGAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in Today's RECORD under ''Text of Amendments.'')

AMENDMENT NO. 947 TO AMENDMENT NO. 946

Mr. FRIST. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], FOR MR. COCHRAN, for himself, Mr. FRIST, Mr. BREAUX and Mr. SANTORUM, proposes an amendment numbered 947 to amendment No. 946.

Mr. FRIST. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To protect the health and safety of Americans)

At the appropriate place, insert the following:

''( ) CONDITIONS. This section shall become effective only if the Secretary of Health and Human Services certifies to the Congress that the implementation of this section will—

''(A) pose no additional risk to the public's health and safety, and

''(B) result in a significant reduction in the cost of covered products to the American consumer.''.

Mr. FRIST. Mr. President, the amendment I send to the desk is sent on behalf of Senators COCHRAN and BREAUX. It addresses an issue that we have addressed on the Senate floor this evening. It has to do with the safety aspects of the underlying Dorgan amendment.

As everyone in the Chamber knows, we have spent the last several days addressing the important issue of adding prescription drugs as a benefit to our Medicare Program today and at the same time strengthening and improving Medicare.

Just a few minutes ago, the Senate passed legislation that will speed access of generics to the market, really making drugs overall, I believe, more affordable and more accessible to all Americans. This merely builds on the rule announced last week by the administration that will enhance the overall process with generic drugs by limiting brand drug manufacturers to only one 30-month stay. But in the midst of the overall bipartisan progress to enhance access to and improve the affordability of prescription drugs, once again this proposal or proposals to look at importation of drugs from Canada have resurfaced.

Very briefly, the Senate has debated this issue several times before. The legislation itself is already on the books. Congress passed, this body passed, indeed President Clinton signed into law the Medicine Equity and Drug Safety Act of 2000, which allows for the importation of pharmaceuticals into the United States. However, the law provided that the Secretary of Health and Human Services had to demonstrate that its implementation, No. 1, would impose no risk to the public's health and safety; No. 2, would result in significant reduction in the cost of covered products to the American consumer.

Since that time, two Health and Human Services Secretaries, one a Democrat and one a Republican, could not demonstrate safety or cost savings from importation.

I reiterate, the law on the books is such that safety concerns have been expressed and, indeed, two HHS Secretaries could not demonstrate safety or cost savings from importation; therefore, the law has not been implemented.

In addition, the FDA, two separate Secretaries of Health and Human Services, the U.S. Customs Service, the Drug Enforcement Administration, and almost every former FDA Commissioner have consistently and repeatedly opposed these proposals and told us they cannot ensure that importing drugs is safe.

I ask unanimous consent to have printed in the RECORD a letter dated June 19 to Senator COCHRAN from Mark B. McClellan, Commissioner of Food and Drugs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH & HUMAN SERVICES
FOOD AND DRUG ADMINISTRATION,
Rockville, MD, June 19, 2003.

Hon. THAD COCHRAN,
U.S. Senate, Washington, DC

DEAR SENATOR COCHRAN. This letter is in response to your request for information from the Food and Drug Administration (FDA) on the importation of prescription drugs into the United States from foreign countries. It is currently illegal to import prescription drugs from foreign countries into the United States, but Congress has been debating whether to amend the law to allow such products to flow into the United States and become part of the drug supply. The FDA has serious concerns about proposals that would open America's borders to a stream of imported prescription drugs for which FDA cannot assure safety, effectiveness or quality.

We share with Congress deep concern for senior citizens and other patients who have difficulty paying for their prescription drugs. As I am writing this, the Congress is working towards enactment of landmark legislation to provide a prescription drug benefit that will enable millions of America's seniors to receive coverage for their drugs in Medicare. In addition, under my leadership, FDA has taken a number of significant steps to provide greater access to affordable prescription medications that are safe and effective. These steps include new initiatives to accelerate approval of innovate new medical procedures and drug therapies, changes to our regulations to reduce litigation that has been shown to unnecessarily delay access to more affordable generic drugs and proposals to increase Agency resources for the review and approval of generic drugs—products that are often far less expensive than brand name products.

The overall quality of drug products that consumers purchase from United States pharmacies is very high, and the American consumer can be confident that the drugs they use are safe and effective. However, a growing number of Americans are obtaining their prescription medications from foreign sources and when they do so, consumers are exposing themselves to a number of potential safety risks that must be ignored. In FDA's experience, may drugs obtained from foreign sources that either purport to be or appear to be the same as U.S.—approved prescription drugs are, in fact, of unknown quality. These outlets may dispense expired, subpotent, contaminated or counterfeit, product, the wrong or a contraindicated product, an innocent dose, or medication unaccompanied by adequate directions for use. The labeling of the drug may not be in English and important information regarding dosage and side effects may not be available. In addition, the drugs may not have been packaged and stored under proper conditions to avoid degradation.

Some have suggested that limiting each drug imports to those from Canada would address these potential safety concerns. But FDA cannot guarantee the safety of Canadian drugs. Additionally, Canadian health officials have made clear in public statements that they can provide no assurance as to the safety and authenticity of drugs products shipped to Canada for resale in other countries. In fact, the Agency has concrete examples of drugs purchased from Canadian pharmacists that violate safety provisions established by FDA and the state pharmacy authorities, and we had been instances of internet sites that offer to sell FDA-approved drugs, but upon further investigations we have determined that the drugs they sell are adulterated, sub-potent, or counterfeit.

The relatively ''closed'' regulatory system that we have in this country has been very successful in preventing unapproved or otherwise unsafe drug products from entering the U.S. stream of commerce. Legislation that would establish other distribution routes for prescription drugs, particularly where those routes traverse a U.S. border, creates a wide inlet four counterfeit drugs and other dangerous products that are potentially injurious to the public health and that pose a threat of our nation's drug apply.

In sum, while we strongly support efforts to make prescription drugs more affordable and have taken several recent steps to accelerate access to more affordable, safe and effective prescription drugs, I remain concerned that provisions to legalize importation of prescription drug products would greatly erode the ability of the FDA to ensure the safety and efficacy of the drug supply. At the time, the Agency simply cannot assure the American public that drugs imported from foreign countries are the same as products approved by FDA, or that they are safe and effective.

Sincerely,
MARK M. MCCLELLAN, MD., PH.D.
Commissioner of Food and Drugs.

Mr. FRIST. I will read two sentences from the letter, the entire text of which will be in the RECORD. It says in the first paragraph:

The FDA has serious concerns about proposals that would open America's borders to a stream of imported prescription drugs for which FDA cannot assure safety, effectiveness or quality.

In the last paragraph, one other sentence:

I remain concerned that provisions to legalize importation of prescription drug products would greatly erode the ability of the FDA to ensure the safety and efficacy of the drug supply.

One final point: Canadian health officials just very recently made it clear

that they cannot, and they indeed will not, vouch for the safety of prescription drugs imported from Canada to the United States. Thus, I would argue that there is no need for Congress to pass yet another piece of legislation when a law is already on the books, and doing so only further threatens the safety of the American public, particularly in this time of sensitivity to the dangers of possible biological, chemical, or other terrorist attacks.

Relying on medicines that have been imported from other countries, if that were the case, I believe would lead to seniors and individuals with disabilities opening themselves to unnecessary threats in particular, especially in light of the current bill, where we are giving them access to prescription drugs they simply did not have before. Obtaining drugs from other countries has a certain appeal to seniors who simply have no access to any prescription drugs at all, but the underlying premise of the bill on the Senate floor is that we are going to improve that access to each and every senior, in terms of having better access to those prescription drugs.

I yield the floor.

Mr. COCHRAN. Mr. President, I support the effort to provide prescription drugs to Medicare beneficiaries and to lower the costs of medicines for all Americans. Today's therapies are too valuable, in terms of improving health and quality of life, for Medicare beneficiaries not to have prescription drug coverage.

However, we must not create new opportunities for counterfeit products, or products that have been tampered with, or products of unknown origin to be brought into this country.

The amendment I have offered requires the Secretary of Health and Human Services to certify that the reimportation of drug products will pose no additional risk to the public health and safety and will result in a significant reduction in the cost of covered products to the American consumer.

If reimportation is safe and will reduce costs, this amendment should not pose a problem. However, these are genuine concerns that reimportation may not be safe for Americans.

We have had this issue before the Senate on two previous occasions. Three years ago during consideration of the annual appropriations bill for the Department of Agriculture, Food and Drug Administration and related agencies, a similar amendment was added to the bill. The Senate unanimously approved that amendment.

Then again last July, when we were considering the Greater Access to Pharmaceuticals Act, a similar amendment was offered that limited reimportation to products from Canada. Again, the Senate, by a vote of 99–0 approved this safeguard as part of the legislation that passed the Senate. The House did not act upon this legislation.

In both these cases the Senate has adopted this amendment by a unanimous vote both times for an obvious reason: the safety of the American consumer must be protected.

Three years ago, Secretary of HHS Donna Shalala was not able to make such a demonstration as required by that law.

I ask unanimous consent that a copy of her letter to President Clinton dated December 26, 2000, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF
HEALTH AND HUMAN SERVICES,
Washington, DC, December 26, 2000.

Hon. WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The annual appropriations bill for the Food and Drug Administration (FDA) (P.L. 106–387), signed into law earlier this year, included a provision to allow prescription drugs to be reimported from certain countries for sale in the United States. The law requires that, prior to implementation, the Secretary of Health and Human Services demonstrate that this reimportation poses no additional risk to the public's health and safety and that it will result in a significant reduction in the cost of covered products to the American consumer.

I am writing to advise you that I cannot make the demonstration called for in the statute because of serious flaws and loopholes in the design of the new drug reimportation system. As such, I will not request the $23 million that was conditionally appropriated for FDA implementation costs for the drug reimportation system included in the FY 2001 appropriations bill.

As you know, Administration officials worked for months with members of Congress and staff to help them design safe and workable drug reimporation legislation. Unfortunately, our most significant concerns about this proposal were not addressed. There flaws, outlined below, undermine the potential for cost savings associated with prescription drug reimportation and could pose unnecessary public health risks.

First, the provision allows drug manufacturers to deny U.S. importers legal access to the FDA approval labeling that is required for reimportation. In fact, the provision explicitly states that any labeling information provided by manufacturers may be used only for testing product authenticity. This is a major loophole that Administration officials discussed with congressional staff but was not closed in the final legislation.

Second, the drug reimportation provision fails to prevent drug manufacturers from discriminating against foreign distributors that import drugs to the U.S. While the law prevents contracts or agreements that explicitly prohibit drug importation, it does not prohibit drug manufacturers from requiring distributors to charge higher prices, limit supply, or otherwise treat U.S. importers less favorably than foreign purchasers.

Third, the reimportation system has both authorization and funding limitations. The law requires that the system end five years after it goes into effect. This ''sunset'' provision will likely have a chilling effect on private-sector investment in the required testing and distribution systems because of the uncertainty of long-term financial returns. In addition, the public benefits of the new system are diminished since the significant investment of taxpayer funds to establish the new safety monitoring and enforcement functions will not be offset by long-term savings to consumers from lower priced drugs. Finally, Congress appropriated the $23 million necessary for first year implementation costs of the program but did not without funding core and priority activities in FDA, such as enforcement of standards for internet drug purchase and post-market surveillance activities. In addition, while FDA's responsibilities last five years, its funding authorization is only for one year. Without a stable funding base, FDA will not be able to implement the new program in a way that protects the public health.

As you and I have discussed, we in the Administration and the Congress have a strong obligation to communicate clearly to the American people the shortcomings in policies that purport to offer relief from the high cost of prescription drugs. For this reason, I feel compelled to inform you that the flaws and loopholes contained in the reimportation provision make it impossible for me to demonstrate that it is safe and cost effective. As such, I cannot sanction the allocation of taxpayer dollars to implement such a system.

Mr. President, the changes to the reimportation legislation that we have proposed can and should be enacted by the Congress next year. At the same time, I know you share my view that an importation provision—no matter how well crafted—cannot be a substitute for a voluntary prescription drug benefit provided through the Medicare program. Nor is the solution a low-income, state-based prescription drug program that would exclude millions of beneficiaries and takes years to implement in all states. What is needed is a real Medicare prescription drug option that is affordable and accessible to all beneficiaries regardless of where they live. It is my strong hope that, when Congress and the next Administration evaluate the policy options before them, they will come together on this approach and, at long last, make prescription drug coverage an integral part of Medicare.

Sincerely,

DONNA E. SHALALA.

Mr. COCHRAN. Mr. President, on July 9, 2001, a letter from the current Secretary of Health and Human Services, Tommy Thompson, indicated that based on an analysis by the Food and Drug Administration on the safety issues and analysis by his planning office on the cost issues, he could not make the required determinations, and he stated his view that we should not sacrifice public safety for uncertain and speculative cost savings.

Secretary Thompson also indicated that prescription drug safety could not be adequately guaranteed if drug reimportation were allowed and that costs associated with documentation, sampling, and testing of imported drugs would make it difficult for consumers to get any significant price savings.

I ask unanimous consent that Secretary Thompson's letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF
HEALTH AND HUMAN SERVICES,
Washington, DC, July 9, 2001.

Hon. JAMES JEFFORDS,
U.S. Senate,
Washington, DC.

DEAR SENATOR JEFFORDS: I am writing to follow up on my earlier response to your letter January 31, 2001, co-signed by fifteen of

your colleagues, regarding the Medicine Equity and Drug Safety Act of 2000 (MEDS Act).

You and other Senators and Representatives asked that I reconsider former Secretary Shalala's decision and make the determination necessary to implement the MEDS Act. As I mentioned in my prior communication, I ask the Food and Drug Administration (FDA) to carefully reexamine the law to evaluate whether this new system poses additional health risks to U.S. consumers, and the Office of the Assistant Secretary for Planning and Evaluation (OASPE) to examine whether the new law will result in a significant cost savings to the American public.

I believe very strongly that seniors should have access to affordable prescription drugs. I applaud your leadership in this area, and agree that helping seniors obtain affordable medicines should be a priority. However, as my earlier response stated, I do not believe we should sacrifice public safety for uncertain and speculative cost savings.

SAFETY CONCERNS

After a thorough review of the law, FDS has concluded that it would be impossible to ensure that the MEDS Act would result in no loss of protection for the drugs supplied to the American people. As you know, the drug distribution system as it exists today is a closed system. Most retail stores, hospitals, and other outlets obtain drugs either directly from the drug manufacturer or from a small number of large wholesalers. FDA and the states exercise oversight of every step within the chain of commercial distribution, generating a high degree of product potency, purity, and quality. In order to ensure safety and compliance with current law, only the original drug manufacturer is allowed to reimport FDA-approved drugs.

Under the MEDS Act, this system of distribution would be open to allow any pharmacist or wholesaler to reimport drugs from abroad; this could result in significant growth in imported commercial drug shipments. As you know, the FDA and the states do not have oversight of the drug distribution chain outside the U.S. Yet, opening our borders as required under this program would increase the likelihood that the shelves of pharmacies in towns and communities across the nation would include counterfeit drugs, cheap foreign copies of FDA-approved drugs, expired drugs, contaminated drugs, and drugs stored under inappropriate and unsafe conditions.

While the MEDS Act requires chain of custody documentation and sampling and testing of imported drugs, these requirements cannot substitute for the strong protections of the current distribution system. Counterfeit or adulterated and misbranded drugs will be difficult to detect, and the sampling and testing proposed under this program cannot possibly identify these unsafe products entering our country in large commercial shipments.

I can only conclude that the provisions in the MEDS Act will pose a greater public health risk than we face today and a loss of confidence by Americans in the safety of our drug supply. Although I support the goal of reducing the cost of prescription drugs in this country, no one in this country should be exposed to the potential public health threat identified by the FDA in their analysis. Further, the expenditure of time and resources in maintaining such a complex regulatory system as proposed by the MEDS Act would be of questionable public health value and could drain resources from other beneficial public health programs.

COST SAVINGS

The clear intent of the MEDS Act is to reduce the price differentials between the U.S. and foreign countries. The review by the Office of the Assistant Secretary for Planning and Evaluation (OASPE) concludes there are significant disincentives for reimportation under the MEDS Act, including the costs associated with documenting, sampling and testing, the potential relabeling requirements and related costs and risk associated with such requirements, the overall risk of increased legal liability, the costs associated with the management of inventories by wholesalers and pharmacists, and the risk to existing and future contractual relationships between all parties involved. Moreover, there are a number of reasons (including potential responses by foreign governments) why lower foreign prices may not translate into lower prices for U.S. consumers. Insufficient information exists for me to demonstrate that implementation of the law will result in significant reduction in the cost of drug products to the American consumer.

CONCLUSION

Since I am unable to make the determination on the safety and cost savings in the affirmative, as required under the law, I cannot implement the MEDS Act. Please find attached to this letter a more detailed analysis of the factors influencing the public-safety and cost-savings questions. If you need further clarification of my position on these issues, please do not hesitate to contact me.

Thank you for your leadership in health care. I look forward to working with you on new initiatives for making medicine more affordable to our citizens, and on other health issues of importance to our Nation.

Sincerely,

TOMMY G. THOMPSON.

Mr. COCHRAN. Mr. President, just this week, Mark McClellan, Commissioner of the Food and Drug Administration, has written to reiterate this point. I ask unanimous consent that Dr. McClellan's letter of June 19, 2003 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH & HUMAN SERVICES, PUBLIC HEALTH SERVICE, FOOD AND DRUG ADMINISTRATION,

Rockville, MD, June 19, 2003.

Hon. THAD COCHRAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR COCHRAN: This letter is in response to your request for information from the Food and Drug Administration (FDA) on the importation of prescription drugs into the United States from foreign countries. It is currently illegal to import prescription drugs from foreign countries into the United States, but Congress has been debating whether to amend the law to allow such products to flow into the United States and become part of the drug supply. The FDA has serious concerns about proposals that would open America's borders to a stream of imported prescription drugs for which FDA cannot assure safety, effectiveness or quality.

We share with Congress deep concern for senior citizens and other patients who have difficulty paying for their prescription drugs. As I am writing this, the Congress is working towards enactment of landmark legislation to provide a prescription drug benefit that will enable millions of America's seniors to receive coverage for their drugs in Medicare. In addition, under my leadership, FDA has taken a number of significant steps to provide greater access to affordable prescription medications that are safe and effective. These steps include new initiatives to accelerate approval of innovate new medical procedures and drug therapies, changes to our regulations to reduce litigation that has been shown to unnecessarily delay access to more affordable generic drugs, and proposals to increase Agency resources for the review and approval of generic drugs—products that are often far less expensive than brand name products.

The overall quality of drug products that consumers purchase from United States pharmacies is very high, and the American consumer can be confident that the drugs they use are safe and effective. However, a growing number of Americans are obtaining their prescription medications from foreign sources and when they do so, consumers are exposing themselves to a number of potential safety risks that must not be ignored. In FDA's experience, many drugs obtained from foreign sources that either purport to be or appear to be the same as U.S.—approved prescription drugs are, in fact, of unknown quality. These outlets may dispense expired, subpotent, contaminated or counterfeit product, the wrong or a contraindicated product, an incorrect dose, or medication unaccompanied by adequate directions for use. The labeling of the drug may not be in English and important information regarding dosage and side effects may not be available. In addition, the drugs may not have been packaged and stored under proper conditions to avoid degradation.

Some have suggested that limiting such drug imports to those from Canada would address these potential safety concerns. But FDA cannot guarantee the safety of Canadian drugs. Additionally, Canadian health officials have made clear in public statements that they can provide no assurance as to the safety and authenticity of drug products shipped to Canada for resale in other countries. In fact, the Agency has concrete examples of drugs purchased from Canadian pharmacists that violate safety provisions established by FDA and by state pharmacy authorities, and we have seen instances of internet sides that offer to sell FDA-approved drugs, but upon further investigation we have determined that the drugs they sell are adulterated, sub-potent, or counterfeit.

The relatively ''closed'' regulatory system that we have in this country has been very successful in preventing unapproved or otherwise unsafe drug products from entering the U.S. stream of commerce. Legislation that would establish other distribution routes for prescription drugs, particularly where those routes traverse a U.S. border, creates a wide inlet for counterfeit drugs and other dangerous products that are potentially injurious to the public health and that pose a threat to the security of our nation's drug supply.

In sum, while we strongly support efforts to make prescription drugs more affordable and have taken several recent steps to accelerate access to more affordable, safe and effective prescription drugs, I remain concerned that provisions to legalize importation of prescription drug products would greatly erode the ability of the FDA to ensure the safety and efficacy of the drug supply. At this time, the Agency simply cannot assure the American public that drugs imported from foreign countries are the same as products approved by FDA, or that they are safe and effective.

Sincerely,

MARK B. MCCLELLAN, M.D., Ph.D.,
Commissioner of Food and Drugs.

Mr. COCHRAN. Mr. President, it would seem prudent that the safeguards we have adopted twice, by unanimous votes, should also be applied to

this proposal. That is why I offer this amendment.

We should be certain that any change we make results in no less protection in terms of the safety of the drugs supplied to the American people and will indeed make prescription drugs more affordable. Liberalization of protections that are designed to keep unsafe drugs out of this country, especially considering the terrorist threats we face now, should occur only if the necessary safeguards are in place.

This amendment will ensure that the concerns of the last two administrations regarding the safety and cost-effectiveness are addressed prior to the implementation of this proposal.

Currently, under the Federal Food, Drug, and Cosmetic Act, it is unlawful for anyone to introduce into interstate commerce a new drug that is not covered by an approved new drug application or an abbreviated new drug application. Approval must be sought on a manufacturer and product-by-product basis. A product that does not comply with an approved application, including an imported drug not approved by FDA for marketing in the United States, may not be imported, even if approved for sale by that country.

A product introduced into interstate commerce that does not comply with an approved application is considered an unapproved new drug in violation of the Food, Drug, and Cosmetic Act, as well as ''misbranded'' under the section of that act.

Under section 801 of the act, a drug that is manufactured in the United States pursuant to an approved new drug application and shipped to another country may not be reimported into the United States by anyone other than the original manufacturer. This prohibition on reimportation of products previously manufactured in the United States and then exported was added in 1988 to prevent the entry into this country of counterfeit and adulterated products.

Section 801 was enacted not to protect the corporate interests of pharmaceutical companies but to protect the safety of American consumers. Counterfeit drugs are a very real threat and can be deadly. Any change of drug reimportation laws must assure safety from this threat. Limiting reimportation to drugs from Canada does not necessarily solve that problem.

In a July 11, 2001, letter to the Energy and Commerce chairman and ranking member, William Simpkins, Acting Administrator of the Department of Justice Drug Enforcement Administration, who was referring to reimportation amendments, said the following:

> (W)e oppose . . . these amendments because they would hinder the ability of law enforcement officials to ensure that drugs are imported into the United States in compliance with long-standing Federal laws designed to protect the public health and safety.

More recently, in letter dated November 25, 2002, Asa Hutchinson, then Administrator of the Drug Enforcement Administration at the US Department of Justice, reiterated this position with respect to any type of proposal that might limit the ability of the FDA to inspect and assure the safety and compliance with Federal law of products that would be brought back into the United States.

I ask unanimous consent that Administrator Hutchinson's letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
DRUG ENFORCEMENT ADMINISTRATION,
Washington, DC, November 25, 2002.

Hon. THAD COCHRAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR COCHRAN: The purpose of this letter is to respond to your inquiry regarding the position of the Drug Enforcement Administration (DEA) with respect to any proposal to limit the authority of the Food and Drug Administration (FDA) to inspect shipments of prescription drugs that are imported into the United States.

In general, DEA opposes any such limitations because they would hinder the ability of federal law enforcement officials to ensure that drugs are imported into the United States in compliance with long-standing federal laws designed to protect the public health and safety. Since its creation in 1906, the FDA has served as the American public's watchdog to ensure safe, medically approved prescription drugs. In undermining the FDA's ability to do its job, we risk undermining the public health and safety.

First, a brief explanation of DEA's role in this issue: DEA's statutory authority is limited to controlled substances (drugs of abuse). DEA is the primary agency responsible for enforcement of the Controlled Substances Act (CSA). Controlled substances can be viewed as a subset of prescription drugs. All legal (pharmaceutical) controlled substances are prescription drugs (e.g., OxyContin, Percocet, Demerol, Valium). However, most prescription drugs are not controlled substances (e.g., Claritin, Prozac, Viagra, erythromycin, insulin). Nonetheless, for the following reasons, limiting FDA's authority to inspect shipments of imported prescription drugs could potentially lead to an increase in the illegal importation of controlled substances into the United States.

DEA is currently facing enforcement challenges on many fronts with respect to controlled substance importation and smuggling. Several foreign countries have been identified as the source of a large amount of controlled substances that have been illegally imported. Additionally, the United States Customs Service (USCS) inspectors on the southern and northern borders must determine whether each traveler entering the United States with a drug is complying with the Federal Food, Drug and Cosmetic Act (FDCA) and the CSA. Information obtained from the USCS indicates that there is an increased volume of prescription drugs being imported through the mail as a result of the Internet. Sometimes the drugs are counterfeit; other times the drugs are real drugs, including controlled substances, sold without the required prescription. Although the CSA clearly prohibits importation of controlled substances in this manner, the FDA and USCS must inspect each package to ascertain the contents. Identifying a drug by its appearance and labeling is not an easy task. From a practical standpoint, inspectors cannot examine drug products and accurately determine the identity of such drugs or the degree of risk they pose. This is particularly true since these drugs are often intentionally mislabeled. Persons who are willing to illegally ship controlled substances to the United States are unlikely to honestly label their packages as containing controlled substances,

Therefore, in order to support DEA's efforts to curtail the illegal importation of controlled substances into the United States, it is crucial that FDA retain its authority to inspect all packages that purport to contain ''prescription drugs.'' If federal law prohibited the FDA from inspecting foreign shipments of prescription drugs, making an exception in the law that would allow the FDA to inspect controlled substance shipments would serve little purpose. The foreign shipper could simply label the package ''prescription drugs—noncontrolled substances'' and the FDA would be powerless to take any investigative steps or to assist the DEA in intercepting these illegal shipments.

I trust that this has been helpful in explaining he DEA's position on this issue. Please let me know if there is anything else I may do to assist you in the future.

Sincerely,

ASA HUTCHINSON,
Administrator.

Mr. COCHRAN. Mr. President, William Hubbard, FDA's Associate Commissioner for Policy and Planning, and the FDA's authority on the topic of reimportation of pharmaceuticals, has testified a number of times before Congress regarding the dangers of reimported products and the inability of the U.S. regulatory system to assure the safety of products brought into this country. Most recently, this month before the House Committee on Government Reform, Dr. Hubbard testified

> (T)he overall quality of drug products that consumers purchase from United States pharmacies is very high. The public can be confident that the drugs they use are safe and effective. However, FDA cannot offer the same assurances to the public about the safety of drugs they buy from foreign sources.

There are a number of reasons why these products are not safe. Counterfeiting of drugs is common throughout the world and the transshipment of these counterfeit products through Canada is one of the most serious dangers.

A recent example of the dangers of counterfeiting is the FDA alert issue on May 23 of this year regarding counterfeit version of the cholesterol lowering agent, Lipitor. This product is taken by over 18 million Americans. This investigation is currently ongoing and FDA is still trying to determine the extent of this case.

In March, the FDA discovered counterfeit versions of the drug Procrit which had been contaminated with bacteria or in some cases the product contained no active ingredient.

There are numerous other examples. It is amazing the number of drugs that are now on the shelves in drugstores in America that are counterfeit and no one knows about it. These are difficulties that we now face. The proposal of this amendment by the Senator from North Dakota will further relax our capability to find illegal drugs, and to find those drugs that are dangerous

that are being brought into this country.

It will create a new opportunity for transshipping drugs from all over the world into our country which will be a great danger to the citizens of our country.

The National Association of Boards of Pharmacy, the body that represents the state boards of pharmacy in all 50 United States, as well as eight Canadian Provinces has stated in March of this year

> Of utmost concern is the lack of ability to determine the actual country of origin. An order for what is purported to be a Canadian drug may never be filled by a legitimate Canadian pharmacy with a Canadian drug or even be filled in Canada.

NABP, representing the boards that regulate the practice of pharmacy, has also recently joined the Canadian National Association of Pharmacy Regulatory Authorities in endorsing a statement opposing illegal importation of prescription drugs.

The Canadian government itself has stated publicly that drug products shipped to Canada for resale in other countries do not fall under the Canadian regulatory system, and they can provide no assurance as to the safety or authenticity of such drugs.

The conditions contained in my amendment, which would be added to the legislative proposal before the body, are the same as those previously adopted twice by this Senate. They were adopted both times by unanimous votes of the Senate.

I ask my colleagues to again support this amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I was interested in the statement by the majority leader. This, of course, is not the amendment the Senate previously considered. It is not the amendment to which the Senate previously agreed. It is not the provision of law that the Secretary of Health and Human Services has refused to implement in two administrations. It is not that at all.

First, we will sort out the facts.

Let me make a case for the amendment itself. My colleague just won a debate we weren't having. His debate is about a piece of legislation the Senate passed a couple of years ago. I supported that, and I believe the Health and Human Services Secretary and the FDA made a mistake in not implementing it. Nonetheless, that was all a couple of years ago.

Yes, this particular amendment we offered deals with the reimportation of prescription drugs, but it deals only with the reimportation of prescription drugs from the country of Canada—only from the country of Canada.

The Senate previously addressed this issue of reimportation in 2000 by saying reimportation from other countries—as long as it was an FDA-approved drug and brought here under conditions of safety—would be appropriate. We have already said the HHS and FDA did not implement the previous legislation. But now, we will narrow this legislation very dramatically and provide reimportation only from the country of Canada.

I will explain why that is important.

First, miracle drugs offer no miracles to those who cannot afford them. If we don't do something to make drugs more affordable, seniors in the country lose, and others who need prescription drugs and can't afford them lose.

We should and must put some downward pressure on drug prices.

I understand the pharmaceutical manufacturers do not like that. I understand why they resist it. If I were in their position, I would certainly resist it as well.

I don't try to paint with a dark brush all of those who are on the other side of the issue. I think the pharmaceutical industry does many good things. They do a lot of very important research, some of which is original and some of which they take from the National Institutes of Health. They create medicines that are very important for the American people.

I also said the other day that some of the pharmaceutical companies have been providing free and discounted drugs to the lowest income Americans. Five and a half million people have benefitted from free medicines from American drug companies. I commend those companies. I don't have the names of all the companies. Good for them. It is a step in the right direction. They ought to be commended and saluted for their program to help the lowest income Americans.

But the other issue is the larger one of the price of prescription drugs. The fact is, we need to try to do something that puts some downward pressure on prices. Let me describe, if I might, what the problem is. Let me do it with some bottles of medicine.

I ask unanimous consent to be able to show some bottles of medicine on the Senate floor. These are empty bottles.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. This is Zocor. A very famous football coach advertises this at halftime at football games. He says he takes Zocor. It is quite a good medicine, I am sure. These are two bottles for Zocor—one from the United States and one from Canada. The same pill is put in the same bottle, manufactured in the same place, by the same company. In both bottles is an FDA-approved drug. The only difference is, when that medicine is sold in the United States to U.S. consumers, it costs $3.03 per tablet. In Canada, the same pill, in the same bottle, made by the same company, cost $1.12 cents per tablet—$3 versus $1. The same pill, same company, different countries. That is Zocor.

This is a drug called Lipitor. It has the same purpose as Zocor—to reduce cholesterol. You can see that it is sold in the United States and in Canada. These are bottles from each country. They are identical bottles, made by the same company, again only the cost is different—$1 per tablet for the Canadians, and $1.86 for the U.S. consumer. The same drug, same pill, manufactured in the same FDA-approved plant, put in the same bottle, but different prices.

This is Vioxx used for arthritis. As you can see, same pill, made by the same company, put in identical bottles. The difference? It costs $2.20 if you buy it in the United States. If you are a Canadian customer, it costs 78 cents for the same tablet—$2.20 versus 78 cents for the same medicine.

Let me use one more example, if I might.

This is Prevacid: Those who are afflicted with ulcers would take this drug. As you can see, once again, the same bottle, identical shape. The difference? It costs $3.58 for the American consumer, and $1.26 for the Canadian consumer—same pill, same bottle, same company, but a different price.

Let me tell you about being in a little one-room drugstore in Emerson, Canada, 5 miles north of the United States. Just 5 miles north of the Canadian border, there is a drugstore. I accompanied a group of seniors to the one-room drugstore in Emerson, Canada, just to make a point.

The point was very simple. The medicines those seniors purchased in Canada—the identical medicines to what they buy in the United States and for which there is no safety concern or issue because the chain of custody is identical in Canada—cost much less.

It begs the question. Why not let the market system resolve these issues? As long as you have the safety of supply and the closed chain of custody which you can be confident in—and you certainly do with Canada because their system is very comparable to ours—allow people to decide where they want to purchase their prescription drugs. If they decided they would purchase their prescription drugs where they are less expensive, it forces repricing of prescription drugs in this country.

Let me use some charts to show what is happening. How much more does the U.S. consumer pay? More than everyone else in the world by far. If we pay $1 for a pharmaceutical product, that same product is 62 cents in Canada. You can see what it is around the globe in different countries—in England, 69 cents, Germany, 65 cents, France, 55 cents, and Italy, 52 cents.

Let me show a chart with specific medications.

I just showed these: U.S. price versus Canadian price for Prevacid, Zocor, Paxil—all heavily used drugs and costing nearly 40 percent more in the United States than in Canada.

Now let me quote, if I might, President George W. Bush during the third Presidential debate in St. Louis, MO.

During the Presidential debates, President Bush was asked about this. Here is what he said:

Allowing the new bill that was passed in the Congress made sense to allow for, you know, drugs that were sold overseas to come back and other countries to come back into the United States. That makes sense.

What he was saying there is that the reimportation of prescription drugs makes sense. That is what he said in the third Presidential debate.

I am not making this up. These are the President's words from the debate—prescription drugs coming back into the country would make sense. If I could put words in his mouth, I would believe, of course, that he would say it makes sense, if this is safe.

But, nonetheless, this President, in a debate, said reimportation makes sense.

Mr. JEFFORDS. Mr. President, will the Senator yield for a question?

Mr. DORGAN. I would be happy to yield.

Mr. JEFFORDS. I was obviously on this issue with the Senator from North Dakota. We were forced into providing an ''out'' for them so we could get the bill to the floor that said the Secretary would have the authority to be able to set the bill aside and prevent this coming in. I don't think they would be required to make any rationalization. But, obviously, it was something we had to accept at the time in order to get the bill voted on. And then what happened?

Mr. DORGAN. Well, Mr. President, the second-degree amendment that was attached then dealt with safety and so on. What happened was, the Department of Health and Human Services and the FDA indicated they would not implement the law, so it was not implemented. But it is important to point out that this piece of legislation dealt with the importation of prescription drugs from many other countries.

We have narrowed this amendment to the country of Canada, to allow the reimportation of drugs only from Canada. And because Canada has an identical chain of custody to this country, there can be no question as to the safety of allowing licensed distributors and pharmacists to be able to access, from a licensed pharmacy in Canada, FDA-approved prescription drugs. So that is why I do not have a problem accepting the second-degree amendment offered by the Senator from Mississippi.

I cannot think of anybody at HHS or the FDA who can make a credible case that there is a safety issue by allowing a licensed American pharmacist to access prescription drugs from a licensed pharmacy in Canada. There is no safety issue there. It is gone, finished.

So we, I hope, will adopt this. I believe there is no justification for HHS or the Food and Drug Administration to fail to implement this legislation.

Mr. JEFFORDS. I thank the Senator.

Mr. DORGAN. Mr. President, let me conclude quickly and quote what Health Canada's Associate Director General said:

As soon as any drug crosses the border into Canada, it has to meet all the regulations of our laws. . . .

What they are saying in Canada, with that statement, is that they do not have drugs ricocheting around their country that are counterfeit drugs or non-approved drugs. They have a drug safety system very much like ours, in which drugs that go from an inspected plant into this system, all the way through to the local licensed pharmacy, so that you have a safety circumstance that everyone understands.

Let me continue. It was referenced a bit ago that all of the FDA—or virtually all—of the former FDA Commissioners, oppose this. Let me tell you what former FDA Commissioner David Kessler said:

I believe the importation of these products could be done without causing a greater health risk to American consumers than currently exists.

That is David Kessler, former FDA Commissioner.

Let me continue. William Hubbard, FDA Senior Associate Commissioner, September 5, 2001, in a hearing that I chaired before the Senate Commerce Subcommittee on Consumer Affairs said:

I think as a potential patient, were I to be ill and purchase a drug from Canada, I think I would have a relatively high degree of confidence in Canadian drugs. . . .

Simple and easy to understand, I think.

Finally, let me describe the systems in the United States and Canada. Drugs must be proven to be safe and effective. We are talking only about FDA-approved drugs. There are good manufacturing practices required in both countries. There is appropriate labeling required in both countries. There is the inspection of manufacturers, pharmacies, and drug wholesalers in both countries. Pharmacists and wholesalers must be licensed in both countries. And there is a chain of custody required between the pharmacist, the wholesaler, and the drug manufacturers in both countries. There is a regulatory requirement for postmarketing surveillance required in both countries. And a national mechanism for drug recall exists in both countries.

This is a chart that shows the same thing: The regulation in the United States and the regulation in Canada, from the production of the drug to the licensing of the pharmacist, are the same. There isn't any way, in my judgment, that restricting reimportation to medicines from Canada will allow the HHS or FDA folks to say this does not work. Of course, it works. Of course, it will not compromise the safety of the American consumer. The question is, Will we be able to have a circumstance where the American consumer can access lower cost prescription drugs?

It is not my intention—and it has never been my intention—to force U.S. consumers to go outside of this country to access a supply of prescription drugs. It is my intention to find ways to put downward pressure on these prices by injecting competition that will force a re-pricing of drugs in this country.

Now, every year, spending on prescription drugs in this country is increasing 15 percent, 16 percent, 18 percent, every year. Just about every year, there are double-digit increases in the cost of prescription drugs. If we do not do something about this, we will hook a hose up to the Federal tank and suck this tank dry. I guarantee it.

Now, let me end as I began. If I were representing the pharmaceutical industry, I would fight like the dickens to price drugs however I wished to price them. That is in their interest. It is in their stockholders' interest. I understand that. It is in their company's interest. But there is a limit.

This increase every year—15, 16, 18 percent—comes from two main factors: one is increased utilization, the other is price inflation. The fact is, if we do not find some way to moderate these price increases, this system of ours isn't going to work.

I started by saying that I think the prescription drug industry, the pharmaceutical manufacturers in this country, provide a significant service to the American people by doing the research and providing prescription drugs that are, in many cases, breakthrough drugs. I might say at least a fair amount of that which they do comes from National Institutes of Health research which is financed by the U.S. taxpayer. I do not complain about that. Good for them. And I want those companies out there.

I want the NIH and the pharmaceutical manufacturers searching for the cure for diabetes and for cures for cancer and searching for new pharmaceutical products that can help the American people. I want that to happen. I do not want to shut off research.

The argument is made that if somehow the American people do not pay the highest prices in the world, it will shut down research on new drugs. That is not true. The fact is, European drug companies spend more on research on drugs than companies do in the United States. There is more research on drugs that occurs in Europe than in the United States, and prices are lower in Europe than in the United States.

I just do not think it is right. I do not think it is right for the U.S. citizen to pay the highest prices for prescription drugs in the entire world. I just do not believe that is right.

Now, I understand all the arguments that are going to be raised by my colleagues who oppose this and I would just ask them, what happened to your faith in the market system? I hear a lot about this market system: Let the market system work.

As long as you have the safety of the drug supply, and a protected chain of custody—and that exists in Canada; no one can come to this floor and say it does not—why not let the market system work?

Mr. SANTORUM. Will the Senator yield for a question?

Mr. DORGAN. Of course. I am happy to yield.

Mr. SANTORUM. Mr. President, if a drug is shipped from outside of Canada to Canada for resale in the United States, does that go through the same handling that the Senator from North Dakota has discussed?

Mr. DORGAN. Yes. As I indicated in one of the charts I presented, the Canadian official said that any drug that crosses into Canada is treated just the same as the drugs that enter the United States. As you know, there are many drugs that are imported into this country. Just as is the case for the importation of drugs into the United States by the drug manufacturers, drugs that are imported into Canada from other sources of production are certified as safe by the Canadians—just as ours are certified by the FDA.

Mr. SANTORUM. If they are for the purposes of being resold in the United States, not in Canada, are they also certified by the Government?

Mr. DORGAN. First of all, the only way they can be reimported into the United States would be if a licensed pharmacist or a licensed distributor in the United States purchases them from a licensed pharmacist or distributor in Canada. So at that point, they have entered the stream of prescription drugs in the Canadian system. At that point, the Canadians say: We assure the safety of the chain of custody of those prescription drugs just as you do in the United States.

I find this debate interesting because I was up on the border of Canada one day. This was before mad cow disease occurred in Canada. My heart goes out to the Canadian ranchers for having discovered one instance of mad cow disease. Do you know what we do with Canada with respect to meat. We say: We have reciprocal inspection procedures for meat. You inspect it and that is good enough for us. What we want you to do is cut one little strip off the meat and lay it in the back of the truck, and we will open the back of the truck and see if it looks decent and smells all right, and then you just run the truck through. Why? Because we have reciprocal inspections. We say: If it is good enough for you, it is good enough for us.

We have identical chains of custody for prescription drugs in Canada and the U.S., but we won't say: If it is good enough for Canada with an identical chain of custody for prescription drugs, it is good enough for us. That doesn't make sense to me.

There is only one reason we won't say that. That is because some are willing to support the notion that the U.S. customer, the U.S. citizen, should pay the highest prices for prescription drugs. I happen to think that is wrong. I believe our citizens ought to pay a good price. Miracle medicines are not cheap. We ought to pay a good price and a fair price. Should we pay the highest price in the world? I don't believe so.

Mr. HARKIN. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. HARKIN. I thank the Senator for yielding. I compliment him on his amendment. I see seniors from our State sometimes trying to get up to Canada and buy drugs, the same drugs you pointed out, and paying one-third as much as in the United States. The Senator pointed out that one of the arguments we often have here for this higher drug price in the United States is so the drug companies can engage in research. And we want them to do that research. They do a lot of good research, as the Senator just stated. They develop new drugs, and sometimes those drugs don't pan out, and they need to cover the expense of bringing new drugs on the market. We are all for that.

But I ask the Senator from North Dakota, is it not a fact that last year the major drug companies in the United States spent more money on advertising to the public than they did on research, that they actually spent more money advertising prescription drugs which you and I can't even buy unless we get a prescription? Yet we see full-page ads in USA Today, three and four-page spreads in Time and Newsweek magazine, full pages in the New York Times.

I ask the Senator, what sense does it make if, in fact, they are going to charge us high prices for drugs in the United States and they are using it just to advertise for drugs we can't even buy unless we get a prescription? Isn't it a fact they actually spent more money on advertising than they did on research?

Mr. DORGAN. I believe that is the case. I don't have the numbers in front of me. I believe Senator STABENOW referred to that earlier. My understanding is that the expenditures on advertising and promotion exceed the expenditures on research.

Let me make two additional points and then yield the floor. I support research and development, R&D, tax credits for industries, including for the pharmaceutical industry. They benefit greatly from them. I have always supported those tax credits. I think it makes sense to provide credits and incentives for the development of new drugs.

Second, when these drugs are produced and then sold, I don't think we ought to pay the highest prices in the world.

Let me give one more example, if I might. A woman with breast cancer needs Tamoxifen. With a prescription to go buy Tamoxifen, you have one of two choices, if you live near the border. You can pay $10 for a supply of Tamoxifen in the United States, or you can go to Canada and buy exactly the same amount of Tamoxifen for $1—$10 or $1. Why should you have to fight breast cancer and fight these pricing policies at the same time? It is not fair. It doesn't make sense that we should pay the highest prices in the world.

Again, the majority leader started off by saying we have passed this before and it doesn't work. Let me correct it again to say: Legislation limited to Canada has not been enacted before. We passed something else before. You are right, it was not implemented. It was reimportation from other countries in the world, provided it was an FDA-approved drug. That was not implemented.

This will be reimportation from Canada, so the legislation has been dramatically narrowed to a country that has an identical chain of supply for which there can be no safety concerns about unsafe drugs. We are only talking about having licensed pharmacists and licensed distributors accessing those drugs from licensed pharmacists or distributors in Canada.

I am not interested in any way ever compromising the supply of pharmaceutical drugs in America. I wouldn't offer this in a million years if I felt it did that. I know it doesn't. There isn't any way anyone in this Chamber can demonstrate that there is a safety issue with respect to the medicines sold in Canada. You might be able to demonstrate there is a safety issue dealing with Bali or Honduras or Guatemala or Zaire, but you can't do it with Canada. You just can't. And so that is why I have no difficulty accepting the second-degree amendment offered by my colleague from Mississippi.

There is not a safety issue with respect to this narrow amendment. There is only this issue: Shall the American people be able to see a repricing of prescription drugs that results in price fairness with respect to what U.S. and Canadian consumers are charged for identical drugs put in identical bottles produced by the same company?

Mr. HARKIN. Will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. HARKIN. The Senator really has made an eloquent case for why we ought to have free trade with Canada in drugs as long as they meet the same requirements. I ask the Senator, do we not in fact have a free trade agreement with Canada?

Mr. DORGAN. Yes, we have free trade with Canada. It actually isn't free trade. We could spend a long time talking about wheat and other issues. We have a free trade agreement with Canada, but it excludes prescription drugs. Why? Because a piece of legislation was passed a decade and a half ago that said the only entity that will be allowed to reimport prescription drugs into the United States is the manufacturer of that prescription drug. That is what perverts the market. If you assume that you have a safe supply of drugs in both countries, why then would consumers simply not decide where to purchase the drug in whatever represents their best interests? Why would they not be able to make their own choice under a free trade agreement? It is perverted by this previous legislation that prohibits the reimportation except by the manufacturer.

What we are saying now is, we would allow the reimportation by the licensed pharmacies. We are not talking about somebody shuffling around in a T-shirt who knows nothing about prescription drugs. We are talking about a licensed pharmacist or a licensed distributor who does this for a living. We are saying they have the ability to go to Canada and access medicines from a licensed pharmacist or a licensed distributor.

I would love to have somebody make a persuasive case that somehow that compromises safety. I don't think the case exists.

Mr. HARKIN. If the Senator will yield for another question, I thank the Senator for yielding again. The Senator continues to make an excellent point here that seems to be lost on the proponents of this bill on the other side.

I continue hearing how this is a bill that is supposed to promote competition. It is supposed to promote free enterprise and the marketplace. Yet here, as the Senator from North Dakota has pointed out, in one place where the marketplace really could save seniors money, by opening up the marketplace for these drugs to come in from Canada as long as they meet all of our FDA requirements, on this the other side says, no, we don't want the marketplace to work in this case.

It kind of gives lie to all of the arguments about how this bill is to promote competition in the marketplace on drugs for the elderly. Quite frankly, it seems to me this bill is to promote higher prices and to ensure the elderly really do not get the best deal they could possibly get in buying prescription drugs which would mean they would not be able to buy them from Canada, which distorts the marketplace.

Again, I thank the Senator for his well-reasoned arguments and his well-reasoned amendment. With this amendment, we ought to strike a blow for the marketplace and let the marketplace work by allowing our seniors to be able to purchase these drugs under this so-called free trade agreement that we have with Canada.

I compliment the Senator from North Dakota for this amendment.

Mr. DORGAN. Mr. President, let me say I will not put this entire report in the record, but we asked the Congressional Research Service, the CRS, to do a comparison of U.S. and Canadian requirements for approving and distributing prescription drugs. This is by the nonpartisan Congressional Research Service. They prepared a memorandum comparing the U.S. and Canadian systems for both approving and distributing prescription drugs. Essentially this report affirms that, in all aspects of the U.S. and Canadian drug systems, drug approval, drug manufacturing, drug labeling, drug distribution, the U.S. and the Canadian systems are similar in all respects.

There just is not a circumstance here where someone can say the U.S. system is terrific and the Canadian system is not. Both countries have chains of custody that I think give people in Canada and the U.S. assurance of safety.

Perhaps before I give up the floor, I should mention this has been something Republicans and Democrats have worked on over a period of time. We have debated these issues before, but not this amendment because this is narrowed to Canada. I would be remiss if I didn't mention our late colleague, Paul Wellstone. If he were in the Chamber, he would be sitting in that back seat, and he either would have offered the amendment, perhaps, or be waiting to be among the first to speak. He, like many others of us—particularly in northern States—felt strongly that the reimportation of prescription drugs was a way for senior citizens, yes, but all Americans, to access the same prescription drugs at a fairer price.

My expectation is that when we finish this debate and have a vote—I believe we will vote on this tomorrow—this amendment will be further amended by the second-degree amendment of Senator COCHRAN, which I indicated I would accept. I don't believe there is a need to vote on that. I believe that amendment will be subject to a recorded vote tomorrow.

I hope my colleagues will do as we have done previously on broader legislation. At least with this narrower bill, let's decide to pass this and see if this can help provide some downward pressure on prescription drug prices.

Ms. STABENOW. Will the Senator yield for a question?

Mr. DORGAN. Yes, I am happy to yield for a question.

Ms. STABENOW. I appreciate that. I wanted first to compliment my friend from North Dakota, who has worked so diligently on this issue. I am very proud to be a cosponsor of the amendment.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator can only yield for a question.

Mr. DORGAN. I was yielding for the purpose of a question.

Ms. STABENOW. I was in the middle of saying I wanted to ask is it not true that even though the report you just indicated made it clear the safety provisions, the oversight, is the same between Canada and the U.S., isn't it true that even in light of that, you have gone the extra mile to put into place basically a 1-year provision for reimportation, and then at the end of that time the program would stay in effect, unless the Secretary submits a certification that in fact there is a problem, that based on experience, based on evidence that the benefits do not outweigh the risks? Isn't that correct that you in fact have gone that extra step, that extra mile to make sure even though we know it is safe, it is the same, that we give a safety valve so that the Secretary in fact could step in and certify if there was a problem?

Mr. DORGAN. Mr. President, Senator STABENOW has done a service by pointing out something in the amendment I did not point out. The other change is that this would be a 1-year pilot program, when approved by the Senate. The certification will still be that this is safe because, clearly, we have identical systems in the U.S. and Canada.

In addition, after a 1-year pilot project, there will be a 6-month period in which the Secretary of Health and Human Services will certify if there is a problem, if in fact there is one. I expect there will not be. At that point, this program will continue. At least it creates a specific 1-year pilot project and an evaluation, so there is a fail-safe system if there would be any problem at all. I would not expect a problem—particularly because we have narrowed this—with respect to Canadian drugs.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, I rise in opposition to the Dorgan amendment, although as modified by Senator COCHRAN's amendment, I will not oppose it.

Senator COCHRAN's amendment goes to the whole point here, which is that reimportation of drugs is unsafe. I am not the one saying that. I think most Members here are very concerned about the safety aspects of reimportation. We have three Secretaries of Health and Human Services, 10 former FDA commissioners, the U.S. Customs Service, the White House, DEA, CMS, Canadian Pharmacy Regulatory Agency, U.S. Pharmacy Regulatory Agencies, and 44 U.S. pharmacist groups, voicing safety concerns about the reimportation of drugs.

I am satisfied Senator COCHRAN's amendment will sufficiently reflect the concern of Members of this body and of these organizations about the issue before us. So I am going to set that aside. I could argue until the cows come home how this is an unsafe and unwise practice to engage in. But with this amendment, we will leave it up to the Secretary to determine as to what he believes—and he was here a minute ago. We have a statement from him already saying he does not believe it is safe. I am comfortable leaving it in the hands of someone who will study this issue in depth with respect to safety.

I want to dispel a couple of myths that have been created during this debate. One of the myths is that American pharmaceutical companies spend more money on advertising than they do on research. As most people who have followed the pharmaceutical industry and followed this debate know, the pharmaceutical industry is the most research-intensive industry in our country. I have always said I find it remarkable that we are here on the floor of the Senate all the time beating up on the pharmaceutical companies, saying they make too much money or they spend too much money on advertising or they don't spend enough money on research and development, and we need to whack them here and

whack them there until they become like the steel industry, where they become—or other industries—less and less profitable, and then we pass loan guarantee programs to prop them up. That is sort of the way we do things here. If anybody is doing well, whack, we are going to take a shot at them and say they are doing too well for everybody's good.

Let me just suggest the pharmaceutical industry is doing well because they are leading the world in curing disease and treating very serious health problems. They are doing it because of the enormous amount of research they are doing, not because of the money they are spending on advertising. General Motors spends more money on advertising—some $4 billion every year. That dwarfs almost all of the spending by the pharmaceutical industry with respect to advertising. Yet I don't hear the Senators from Missouri or Michigan or any others out here complaining we pay too much for cars. Cars are as much of a necessity for most people as pharmaceuticals. Why don't we hammer General Motors, Ford, and those other folks for wasting this money on advertising.

Companies spend money on advertising because they have an obligation to sell their product. The way you sell your product is by promoting the value that product hopes to bring to an individual's life—the positive attributes of the product. Pharmaceutical companies have the right to do that through advertising to the general public, which may not be informed about new therapies that are available, as well as through direct advertising to physicians who prescribe the medicine. That is a proper role, I believe, in informing the public. We want them to be informed.

I cannot imagine we would want a public that would not want to know what some of the more recent developments and potential improvements to their lives that are available to them. Some have suggested their spending on advertising is more than they are spending on research and development. That is not true. I know that was said in passing. Someone said: I think this is the case. Let me clarify for the record so we do not have this common misstatement that I think this may be the case. Let me tell you what the facts are.

I have a chart. It is just a piece of paper. I do not have it blown up. The black line is the spending on research and development, and the light gray line is the total promotion. Total promotion means, yes, advertising, but it also means the free samples of drugs many receive when they go to the doctor's office. That goes in promotion. That is actually, in a sense, free drugs for the purposes of advertising and promoting the product. All that is included in here.

You can see that research and development while, yes, advertising is going up, research and development is going up even further. In 2001, $30 billion was spent on research and development and a little over $10 billion on advertising—three to one. I daresay General Motors does not spend three to one on research and development versus their advertising. I daresay most companies and most industries do not come close to spending that amount of money. But you know what. They are the bad guys. They are the guys we have to hit upside the head. Why? Why do we have to hit them upside the head? Because they are increasing their prices too much. It is too costly, and we need these products.

Let's look at why they are increasing their prices and why you can go to Canada, Germany, or other places, and receive these drugs for less money. There are a couple of reasons.

No. 1, there was an excellent article in the ''Weekly Standard'' just the other day talking about the incredible cost of getting drugs approved by the FDA.

For a company which starts out with thousands of compounds with which they are experimenting, researching, trying to work themselves through the process to determine what is a viable compound to experiment with and to move forward with, they start out with thousands, tens of thousands. They narrow it down to a few hundred. They do some more intensive research on those. They get to about four or five they do some trials on and some tests on and even further research. They come down to usually one drug where they go through the extensive process of clinical trials and testing.

By the way, the reason Europe, Canada, and other countries around the world get drugs years before we do, in some cases, is because of the incredible costly process the very people who are complaining the drugs cost too much have supported, the extensive approval process that jacks up the price of those drugs in this country.

It costs $1 billion on average for a drug to go from that basic research of compounds all the way through the process of determining whether it is effective, whether it is safe, what conflicts there are. All the issues they have to deal with, it costs about $1 billion in this country.

It does not cost $1 billion in Canada. It does not cost $1 billion in Europe. It does not cost $1 billion in Mexico. It costs $1 billion here because of the extraordinary lengths to which we go to make sure the drugs here are, what? Let's hear that word again. Safe. That those drugs are safe. We put a premium value on, yes, efficacy. They have to be effective. They have to treat what they say they are treating, and do so effectively, but they also have to be safe. So we put a high value on safety, and we require these companies to go through enormous hoops to make sure, in this country, before a drug is sold, we know it is safe.

We are suggesting two points: No. 1, safety is a highly valued commodity when it comes to drug use, and that reimportation is unsafe. No. 2, one of the reasons reimportation is so popular is because the cost of the drugs are cheaper. One of the reasons they are cheaper is because they do not have to go through the safety measures they are put through in this country.

You require them to prove it is safer, and then you say: Gee, why are you charging us more money? Why don't we just get them from this other country, that, by the way, does not require you to go through those hoops. So they do not pass on the costs to these other countries.

There is another reason. The other reason is because in Canada, Mexico, most of the world, they set prices. They set prices. They say: You want to sell drugs in our country? Fine. Pfizer, you want to sell a drug in our country? No problem. Here is what we will pay you.

Pfizer says: Wait a minute, we have all these costs. I want to make a profit.

Fine, if you want to make a profit, here is what we will pay you.

We charge $3 for this drug in the United States. You are only offering to pay us $1.

Well, we have looked at it and your manufacturing costs are 50 cents; $1 is a pretty good price. You will make 50 cents on every pill.

Pfizer says: That is our manufacturing cost. We have hundreds of billions of dollars in research costs. We have litigation costs we have to be concerned about. We have advertising and other related costs that are built into the cost of this drug. You are only giving us the manufacturing cost.

If you don't like the deal, you cannot sell your drug. So if you want to sell your drug and make your 50 cents, sell your drug. If you don't, see ya.

The drug company has to make a decision: Do I agree to sell based on the price the Government wants to give me or am I shut completely out of that market?

A lot of drug companies say: OK, I am not making the money I could in this country because we do not have those kinds of price caps on our drugs yet, and they say: At least I am making some margin. OK, I will agree to sell there. If they say no, they do not have any market share at all.

That is a best case scenario. A worst case scenario in Canada is: I have a breakthrough drug, and there are no other drugs like it in the world. It is a new class. It is, in fact, one of these great discoveries that we hope for every day. They go up to Canada and say: We spent over $1 billion researching, coming up with this great breakthrough drug for a cure or for a treatment for this illness.

Canada says: Great, we would love to sell that drug. There isn't any other drug out there that does this. Yes, you want to charge us $10 a pill, that is nice; we will pay you $5.

The drug company says: Well, that is nice, 10.

Canada says: No, you didn't hear me, 5.

The drug company says: I am just not going to sell the drug.

A lot of drug companies will sell it anyway. Why? Because they feel a social responsibility to have that drug available, as we see with the AIDS drugs in Africa that are being sold at well below the costs in any other country in the world. They may feel a social responsibility to sell it, and, in many cases, they do.

Let's assume for some reason this company says: No, I do not feel any social responsibility here; I am going to play hard ball. What does the Canadian Government do? What do they by law have the right to do? They have the right to steal that patent, make the drug in Canada, and sell it for whatever price they want.

That is a pretty strong bargaining position. It is wonderful to stand out here on the floor of the Senate and beat up on these companies for selling drugs for less money in Canada, for less money in Mexico, for less money in Germany. Why?

No. 1, it is a one-sided bargaining situation. You either take the price we give you or you are out of the market. If we want your drug anyway, we will steal your patent. Not a lot of bargaining power. Plus, by the way, the United States costs so much more because of the FDA process, not to mention the litigation costs on top of the research and development costs.

The litigation costs in this country, because of runaway malpractice suits and liability suits, product liability suits, class action suits, the costs associated with drugs are higher here on top of that.

So what do we do? We blame the pharmaceutical company. We blame them because Canada sets prices. We blame them because we have an extensive and very costly FDA process. We blame them because we cannot put our tort liability system in place. It is their fault because they want to advertise their product. God forbid that someone knows what my product is. This is the bad work that is being done.

Now what are we going to do? We are going to say that, yes, well, maybe you are right, Senator, maybe it does cost more to bring a market here. I think everybody would admit that, yes, our litigation system is more costly; yes, Canada sets prices and blackmails them if they do not go along. We agree with all of that, but you know what, it is still not fair, because our seniors—and not just seniors but anybody—our people in America deserve the same price they get in Canada.

Okay. Let's make a decision. Let's make a decision that, in a sense, we are going to set prices in this country, that we are going to adopt the Canadian formula. Now, obviously not every drug is sold in Canada. So there are a lot of drugs that will not be affected by this reimportation because Canada does not pay for every drug. There are certain drugs that just are not sold up there. Why? Because the drug company decided they were not going to play ball and sell at a price that is well below what they believe is a profitable price for them to sell. So we are only talking about a certain group of drugs. We understand that.

We saw an amendment earlier today that is going to make sure these research-oriented drug companies, the ones that are creating the new therapies for the future, now that their patents expire on time, they have no patent extensions, even though some may be worthy or not; we are going to tighten down on that so generics can get into the business. Generics, by the way, make no breakthrough drugs, do no research on new therapies to treat diseases that are heretofore untreated or not sufficiently treated, but we are going to squeeze down these drug companies that are making these research investments and doing these kinds of innovative therapies. We adopted that earlier. Now we are going to whack them again and we are going to basically take the Canadian prices that were set in Canada and have them apply in the United States, so there will be free trade.

I heard people say free trade, free trade with a country that sets prices. Now, I would suspect the Senator from North Dakota would not be for free trade if they set the price of wheat in Canada at 50 percent below the price of wheat in the United States. I do not think the Senator from North Dakota would call that free trade—I could be wrong—or if we set the price of timber at half, by law, in Canada, of what the product was here. I do not think the Senator from Iowa would consider that free trade if they set the price of corn or the price of milk in Canada, by law, at half the price of the product in this country. I do not think we would be up here extolling the virtues of Canadian free trade. I know for a fact the Senator from North Dakota would not because he is on the floor with great frequency extolling the evils of free trade in Canada, particularly when it comes to wheat. They do not set the price of wheat in Canada, but he is for free trade on a product that is artificially priced below the market to come into this country. Interesting economic theory but certainly not consistent economic theory.

So what happens? We now have this product coming into this country at below what arguably it could cost to get that product approved and researched, with the liability costs, all the other costs associated. Now what would be the result? If it is that pervasive, we may force the drug companies to lower their prices. It could happen. In either event, we are going to take a significant piece of the market share away from the pharmaceutical companies selling drugs in this country.

What is the effect of that? Well, the effect of that is obviously lower profits for pharmaceutical companies. There are a lot of folks, I guess, who do not want people to be profitable, not at the expense of our consumers who want to buy pharmaceuticals. In the end, the result is this: We have to make a decision as to whether we want an industry that is going to spend 30-plus-billion dollars a year in finding the next cure, in doing the next level of research for that disease someone in our family may have or some neighbor may have, or whether we are more concerned with having cheap drugs today.

Let's understand, with eyes wide open, what we are balancing. We subsidize the world's research. Admit it. I accept that. People say we pay more for drugs here than everybody else in the world. All we are doing is subsidizing the drug companies in this country and the rest of the world is riding along on the money we give drug companies by paying higher prices for drugs. They piggyback on us, and that is not fair. Okay. You are right. What do you want to do about it?

Well, one thing we could do is talk to our trade officers and get them to pound away at these other countries so they do not set formularies and artificially low prices. We could do that. Do we tell Canada they cannot blackmail our companies by threatening to make the drug and steal the patent? We could do that. Short of that, which is not happening right now and this debate is happening right now, we have to make this decision, and the decision is this: Do we want to eliminate the research and development of new drugs and new therapies to solve new problems or problems that exist, diseases that exist, and, yes, subsidize the world in the research and development or in exchange for that next generation of drugs coming on line next year, are we willing to trade cheaper drugs today for no cure tomorrow or cheaper drugs today instead of the cure tomorrow, 3, 4, or 5 years from now?

That is a legitimate debate. I say to the Senator from North Dakota if he wants to enter into that debate—and the Senator from Michigan who is going to speak next, if she wants to enter into that debate—I will accept that debate. I will truly accept the integrity of people who say it is worth it to have cheaper drugs today to get more drugs to people today who need them than to develop the next generation of drugs down the road for people who will need them then. That is a legitimate argument to make.

I assume many Americans would agree with that argument, particularly if they are the people who do not have the money to afford the drugs they need today. There are probably a great number of Americans who would say that is a good tradeoff.

I come down on the other side. I do not believe it is a good tradeoff. The reason I do not believe it is a good tradeoff is I think there is a better way to solve what seems to be an intractable problem: either research, innovation, new disease treatment, or cheaper drugs.

Interestingly enough, the solution is what we are talking about in this Chamber this week and next week, and that is drug coverage. The solution is, let's provide drug coverage to lower the cost out of pocket to the consumer, particularly catastrophic drug coverage.

In my mind, the most important thing we are doing, not some of what I consider very broad coverage that we have in this bill, but most important is including the catastrophic coverage. If we have a high drug user or the low-income subsidies in this bill for low-income individuals, those are the people I am most concerned about. They are the ones who, I argue, are the most compelling cases for saying we need cheaper drugs now as opposed to cures later.

If we can solve those compelling cases of the low-income individual and the high user of pharmaceuticals, if we can solve those two problems, then we take a lot of pressure off this issue of cures tomorrow versus drugs now.

This amendment does not belong. It is an anachronism. We get to the heart of the problem that this amendment attempts to solve. I believe it solves it in the wrong way.

I also believe reimportation is unsafe. It is unfair to an industry in this country which is much maligned—until, of course, you get that diagnosis. Once you get that diagnosis and you find out within the last few years a little white pill that keeps you alive, that keeps you walking, keeps you breathing, keeps you eating, once you find out there is an industry out there that you never had a good word for up until that moment, who you thought were bad people because they were raking these people over the coals with all this money they were making, until you found out because of the research and development that went on, your life will continue and you will be able to see your children grow up or you will be able to see and play with your grandchildren, all of a sudden these companies are not so bad after all.

I know this is not a popular view for Members of the Senate to hold. I have been told on numerous occasions defending drug companies is not a term extender for Senators. I understand that. This is not a populist issue. I accept it. But I have the gift in my State of having thousands of employees who go to work every day with the focus on creating the next little pill, the next little serum that will save somebody's life. They are proud of the work they do. They have a right to make money and do it. They have an absolute right to make money and do it. I will stand by their right to do that. It is an industry that not just makes money, but we are saving people's lives. We are changing people's lives. We are giving that grandson the opportunity to know his grandma. We should be willing to pay for it.

We should not be blackmailed by other countries that want to use us for their research ground. We have some work to do. In my opinion, we have work to do in the international trade arena to go after these countries that do use us as the funding of their laboratories. But the mistake is not to adopt their policies. It is to get them to change their policies. What this does is adopt a flawed, fatal system for far too many people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, it is hard to know where to begin. I would like to talk about some of the facts and realities for folks who are struggling to pay for those medications that are being developed or being advertised on television.

I hope we will remember in these debates we are not talking about automobiles or tennis shoes or peanut butter or any other optional product. We are talking about lifesaving medicine.

I celebrate the fact we have lifesaving medicine and that we have those who have dedicated their lives to that research. We have a lot of such individuals in Michigan. I am very proud of them and the work they do.

At the end of the line, if you cannot afford the medicine, it does not matter. So price does matter. Affordability does matter. Competition to bring prices down does matter.

I am very pleased a little earlier this evening we voted together in a bipartisan way to close loopholes the brand-name companies have been using to game the system, to keep competition off the market, and generic drugs. We passed a very important amendment to this bill. I commend, again, all who have worked very hard on that. The system has been out of whack. I suggest it is out of whack in a number of other ways.

First, it is absolutely true that the most profitable, successful industry in this country is the pharmaceutical industry. No question about it. It is great they are doing well. Any other business in this country would love to have their situation. They are, arguably, the most highly subsidized industry by taxpayers in this country. They have a set of rules that up to this point have been highly in their favor to allow them to keep the competition off the market. It is a great deal if you can get it.

I know we have hundreds if not thousands of folks working here, lobbyists, making sure we keep that good deal for them. I appreciate that. Unfortunately, that good deal for them, that great deal for them, has been at the expense of every other business trying to provide health care for their employees, every other employee trying to keep their health care and not lose their job because of rising health care costs, every senior, every family in this country. The debate about pricing is about not only making sure we have a healthy pharmaceutical industry but we have other healthy businesses and consumers who help pay the tab for that research and can afford to buy the product at the end of the line.

What do I mean by that? I have said this before. We start with a lot of the basic research in this country being paid for by American taxpayers through the National Institutes of Health. I am proud we have greatly increased the amount of money going into basic research. We have done that on a bipartisan basis. It makes a difference. We are very close on many different illnesses from Parkinson's to Alzheimer's to diabetes, critical research. We need to be doing more. But that is done by American taxpayers, investing our money. Because we benefit, we understand how critical this is.

That information, that research, is then given to the pharmaceutical companies who then develop it. We give them a writeoff for their research, tax deductions, tax credits for new research, all of which I support, as well as deductions for their advertising, their marketing, their administration, their other business expenses. Tax deductions, tax credits, are subsidies from American taxpayers. So we have a real stake in this operation. We are already helping pay for it.

Once the drug has been developed, because it is very expensive for new breakthrough drugs, because it is very expensive, we have a policy of creating a patent for up to 20 years to limit the competition so that company can, in fact, be covered at cost, because with new lifesaving drugs it is very expensive.

We have a stake in this. We have a stake in it. We helped pay for it. We helped create rules that are favorable to the companies, so that, in fact, they can succeed. The deal, though, I believe, is that at the end of that process the American consumer, the American senior should be able to afford to buy that product that they helped pay to develop, to research, to make happen. That should be the deal.

That is the point. In too many cases right now that is just not happening. We get to the end of the line, and there are many ways in which the companies sue currently to keep generics off the market or keep the border closed so we can't buy them from Canada or do a variety of other things to make it difficult for the competition to come in and to keep the prices low. They make sure Medicare doesn't negotiate on behalf of all the seniors of the country to be able to force a group discount. There are a wide variety of methods to make sure the rules stay the way they are and we are all paying a big price for that, I believe.

We certainly want this industry to be successful. I think it is clear by the rules, the subsidies, the support that has been there and will continue to be there. But this is not a pair of tennis shoes. It is not an automobile, as much as coming from Michigan I want everybody to buy a new automobile every single year, an American-made automobile. But if you don't, you will not

lose your life. But if you don't get your cancer medicine, you might. This is very different.

Let me speak to the issue of advertising. Since 1996, the FDA has taken the cap off of direct consumer advertising, as we know, radio and television, other direct consumer advertising. We know, we have seen advertising skyrocket. We do not have to debate that. All you have to do is turn on your television set. If not every commercial, it is every other commercial—they are very nice commercials—but they are commercials for prescription drugs. We do not have to argue about whether advertising has gone up. Every single person in this country knows that advertising has gone up.

You do not have to tell a doctor that marketing has gone up. My doctor talks to me about the line of drug reps at the door to come in and promote particular medicines.

We know from studies that have been done, and FCC filings, that about 2.5 times more is claimed under the line item for ''advertising, marketing, and administration'' than is claimed under research.

What I find very interesting is that I keep hearing that more is spent on research than on advertising and marketing. Last year, I offered legislation to say OK, if that is true, then let's just cap the amount you can write off for advertising and marketing to the same level you can write off for research on your income tax form. It should not matter to anybody because they spend more on research. You would have thought I had proposed the worst thing you could possibly propose. It was adamantly and is still adamantly opposed by industry. It should not matter if they are spending more on research than on advertising and marketing.

I would like to speak to the business at hand here, the question of allowing Americans to buy American-made drugs, subsidized by Americans, the research funded in part by Americans, at the price they are sold in every other part of the world—half the price we pay here.

This particular amendment is a very conservative, cautious amendment. It focuses only on Canada. We know, in fact, there is importation already back and forth from Canada. Drugs are already frequently imported into this country but predominantly by manufacturers. They are already bringing them back across the border. In fact, according to the International Trade Commission, $14.7 billion in drugs were imported into the United States in the year 2000, and $2.2 billion in drugs sold in Canada were originally made in the United States.

It is ironic that the drugmakers are saying drugs cannot safely move between the border between the two countries. What they are saying is they don't want individuals to be able to do it or pharmacists to be able to do it or wholesalers to be able to do it, but they do it every day.

Also, we hear there is a difference in terms of oversight and inspections. According to the CRS, our Food and Drug Administration already inspects pharmaceutical production lines in Canada for 341 prescription drugs run by about 30 drugmakers. So they are already doing it for the pharmaceutical industry. We pay to send FDA inspectors to Canada to inspect already.

Another report dated September 2001, a report by our Congressional Research Service—again, the nonpartisan Congressional Research Service—confirms that:

> The U.S. and Canadian systems for drug approvals, manufacturing, labeling and distribution are similarly strong in all respects. Both countries have similar requirements and processes for reviewing and approving pharmaceuticals, including ensuring compliance with good manufacturing practices. Both countries also maintain closed drug distribution systems [which is very important] under which wholesalers and pharmacists are licensed and inspected by Federal and/or local governments. All prescription drugs shipped in Canada must, by law, include the name and address of each company involved along the chain of distribution.

So that is the reason this amendment is narrowly focused on Canada because we are talking about a system that is very similar, almost exactly the same in terms of the safety and the rigorous oversight. We are also talking about a process that is already going on, it is just going on by the manufacturers and not by licensed pharmacists or by individuals or by wholesalers.

I think this amendment is very conservative because the amendment not only has Senator COCHRAN's provisions in terms of certification, but this is an amendment that would affect 1 year. We are going to affect things for a year, to open the border to Canada. After that 1-year period, the program would stay in effect unless the Secretary submits a certification to Congress that, based on substantial evidence and the experience of the 1 year, the benefits of reimportation do not outweigh the risks. So there are multiple protections in this amendment, and strict FDA oversight is in this amendment.

I think this is particularly important to do in the context of the prescription drug legislation that we are working on and that will be passed by this body because the bill in front of us to provide a Medicare prescription drug benefit does not take effect until 2006. So other than a discount card, which is not new to seniors, those who have been listening to the debate we have been having all week and anticipating help right away are going to be sorely disappointed because there will not be a prescription drug benefit until 2006. In the meantime, we can help not only seniors but families and businesses and everyone who is involved in paying for prescription drugs right away, immediately. It doesn't cost anything to open the border to Canada for prescription drugs for pharmacists and for individuals. We can do it now. If there is an evaluation that there is a problem, it can stop. But we know, based on information about the inspection systems, based on what is already occurring, that it is highly unlikely that there would be a problem.

I think it is critically important that we give major help now. We can cut prices in half; in some cases much more. I have had the opportunity to go with a number of different seniors to Canada where they have met with a Canadian physician and received a prescription and gone to a Canadian pharmacy. We have been shocked at the difference in prices for literally the very same drug. It is particularly significant in Michigan where we can look right across the river which you can swim across, and go from Detroit to Windsor and see that kind of a price difference. We have many seniors now looking to Canada for opportunities to see Canadian doctors because they are so desperate to get help.

Let me mention just a couple of things. Again, we are not talking about some optional product where people are advertising and making good profits. We wish them well. That is the American way. That is the capital system. Good for them. But we are talking about a health care system where we are not seeing doctors being reimbursed, nor hospitals, nor nursing homes, nor home health agencies. The only part of the system that is exploding in cost and which is driving up the cost of the health care system is in the area of pharmaceutical drugs. This is not optional. It is medical. It should be viewed as part of the health care system. That is what we are debating today.

Let me mention Tamoxifen. Tamoxifen is a very important drug in battling breast cancer. I had an opportunity to visit with Barbara Morgan from Michigan when she went to Canada and visited a Canadian doctor and going through the process there where she was able to get her monthly Tamoxifen for $15 instead of $136. That is a huge difference for her. She and her husband are retired on average means. She did not expect to get breast cancer after retirement. They had, like many others, been saving up to do things in their retirement. They now find themselves spending money on her treatment and on her prescription drugs. These are not theoretical discussions about people. This is not a theoretical debate about allowing Americans to get American-made, American-subsidized prescription drugs from Canada. This is very real. It can literally make the difference between life and death for people when they are struggling for critical lifesaving medicines.

That is why I feel so strongly about this amendment. That is why I am hopeful the Secretary will look at the evidence, will look at the narrow construct of this amendment and be willing to work with us, be willing to allow the borders to be opened for 1 year. We

are asking for 1 year with all of the safety precautions that are in this amendment—just 1 year to allow our seniors and others to be able to see a dramatic cut in the prices they have to pay for their medicines; 1 year to try this and to evaluate the issues that have been raised by those who are opposed.

I appreciate the time. This is, I believe, a very serious part of this debate. If we want to make the difference right now for people, right now doesn't involve money in the budget resolution. It doesn't involve waiting until 2006. If we want to help folks right now, the way to do that is to give them the opportunity to get their prescription drugs at the lowest possible price. That is what this amendment will do.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I don't see any more speakers who wish to speak on the second-degree amendment. Am I correct in suggesting that the regular order is now to vote on the second-degree amendment?

The PRESIDING OFFICER. The second-degree amendment is the pending question.

Mr. BAUCUS. Mr. President, I think we are ready to vote.

AMENDMENT NO. 947

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 947) was agreed to.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VOINOVICH. Mr. President, the Finance Committee has laid before the Senate a bipartisan bill that will finally provide every senior access to affordable prescription drugs. Passing this long-awaited legislation is one of the best things we can do right away to help solve the health care crisis in this country.

I applaud the efforts of the committee and specifically commend the leadership of the chairman and ranking member, Senator GRASSLEY and Senator BAUCUS, in developing this critical legislation.

The bill reported out of the Finance Committee, S. 1, is the culmination of years of hard work in the Senate to bridge the gap between the Medicare of 1965 and the Medicare for today and the future.

Currently, seniors are paying too much for their needed prescription drugs out-of-pocket. The cost of these life-saving drugs is increasingly becoming a large burden for seniors, with some even traveling to Canada to find cheaper drugs. Seniors should not have to go to a foreign country to receive the drugs that their doctors prescribe. We need to provide an environment where America's seniors don't have to go to Canada.

The bill reported out of the Finance Committee accomplishes that.

This bill not only provides every senior access to affordable prescription drugs, but it will also provide seniors access to benefits that a modern health plan should have, such as preventive care and disease management—options that Medicare does not currently provide. Moreover, these additional benefits are provided by giving seniors a choice and control over their prescription drug plans and health care providers.

These changes will only improve and strengthen Medicare. As my colleagues know, when Medicare was enacted in 1965, Congress made a commitment to our Nation's seniors and disabled to provide for their health security. Unfortunately, that security is on shaky ground because Medicare has not kept up with the evolving nature of health care.

The delivery of health care has vaulted ahead so dramatically 38 years after the inception of Medicare, that this system which was once sufficient is now antiquated and ineffective.

For example, conditions that used to require surgery or in-patient care can now be treated on an out-patient basis with prescription drugs. But more than the progress that has evolved from the utilization of prescription drugs, medicine has too evolved to the extent that preventive care can now eliminate the need for extensive reliance on the health care system. It is time for Medicare to reflect the realities of today's health care delivery system.

My colleagues from the Finance Committee have found a solution that is a good compromise and is a result that can be agreed to by both Democrats and Republicans. Is this bill a panacea for seniors' health? No. But it is a quantum leap forward from a system that has been stuck in a time when the Ed Sullivan Show and the Dick Van Dyke Show were seen as original programming in America's living rooms.

While the Senate has finally begun its debate on Medicare I would be remiss if I did not take a step back and point out the roadmap that has lead us to this point.

The President deserves great credit in providing in his budget substantial funding to add a prescription drug benefit to Medicare. The amount the President allocated, $400 billion, illustrates his commitment to our nation's seniors. Time and again, the President has called for strengthening and improving Medicare.

Additionally, this year we are operating under a budget resolution. Last year, the Senate operated without one because we never voted on the fiscal year 2003 budget resolution—the first time the Senate has not done so since 1974.

The Senate got the job done this year. Through the leadership of Chairman NICKLES of the Budget Committee, the Senate laid out a blueprint for future spending that has brought us to where we are today.

The Senate is standing at the brink of providing seniors access to affordable prescription drugs. This is long overdue, and we cannot delay any further.

Over the past year, I have traveled throughout Ohio holding health care roundtables to hear what the citizens in my State are saying. These roundtables have included seniors that inevitably tell me it is past time that Congress added a prescription drug benefit to Medicare.

I believe this is the year Congress will deliver on its longstanding promises.

I am ready to go to my constituents in Ohio and say we were finally able to move past partisanship and provide real security for their health.

While it is vital that we pass a prescription drug benefit this year, it is also vital that we pass one that is fiscally responsible. Ideally, seniors would receive the assistance they need to have access to every medicine prescribed by their doctor. Unfortunately, we live in the real world and are subject to limited resources.

I would like to take a few moments to shed some light on our Government's current fiscal condition. As recently as fiscal year 2000, the Federal Government had a combined surplus of more than $100 billion. Every penny of payroll tax was retained in the Social Security trust fund and the General fund was generating enough revenue to fully fund its contribution to Medicare and still pay down the National Debt.

As my colleagues know, this rosy budgetary picture is long gone.

According to the Congressional Budget Office's latest monthly budget estimate, May 2003, the unified deficit for fiscal year 2003 will exceed $400 billion even after borrowing every penny of this year's Social Security trust fund surplus.

With this in mind, it is imperative that we act not only to provide Medicare benefits for today's beneficiaries, but also for the baby boomers that will arrive in 2011.

The Finance Committee bill strikes a balance between providing seniors and the disabled access to needed prescription drugs today and doing so in a fiscally sensible way that would allow benefits to extend to future generations.

Senator GRASSLEY and the Finance Committee have put before the Senate a bill that will cost $400 billion as scored by CGO.

The natural question that I think the American people would like to know is what does $400 billion buy? In my opinion, $400 billion provides a real prescription drug benefit that is affordable to both the beneficiaries and the Federal Government.

First of all, seniors would get assistance immediately through the prescription drug card. And our neediest seniors would receive an additional $600 on top of the discounts Medicare will provide through this card.

When the prescription drug program begins in 2006, under the Finance Committee bill, premiums would average $35 a month.

After a $275 deductible, the government would cover half of all prescription drug costs up to $4,500.

Now, critics of this approach will claim that the so-called ''doughnut hole'' after $4,500 will be the financial ruin of every senior. The truth is that the vast majority of seniors—80 percent—would never even hit the hole.

As a matter of fact, for 2003, the Kaiser Family Foundation estimates that the average Medicare beneficiary will consume approximately $2,300 in pharmaceuticals. And should seniors consume over $5,800 in prescription drugs, the Federal Government would pick up 90 percent of drug costs.

While this benefit will greatly help seniors throughout the Nation, there are still some seniors for whom the $35 per month premium and additional cost-sharing is too high. For those individuals, the bipartisan Finance Committee bill provides protections that will allow access to prescription drugs.

For those seniors under 135 percent of poverty, $12,123 for an individual and $16,362 or a couple, the Finance Committee bill would provide a full subsidy for monthly premiums. In addition, the government would cover 95 percent of their prescription drug costs to the initial benefit limit and 97.5 percent above the stop-loss limit.

And for those seniors between 135 and 160 percent of the poverty level, S. 1 would provide assistance with their monthly premiums on a sliding scale. In addition, these individuals would pay no more than 50 percent of their drug costs once the $250 deductible has been reached.

When we talk about dollars being spent, we should also point out to seniors that they will receive more bang for their buck under the Finance Committee bill through Medicare Advantage.

Under Medicare Advantage, seniors will not just receive direct assistance from the government to cover their prescription drug bills. Rather, private health plans will have to compete for beneficiaries and will attempt to attract seniors by providing the best health care plan—including prescription drugs and possibly preventive care, disease management, vision and dental services.

To the advantage of both Medicare beneficiaries and the Federal Government, this competition will decrease the price of prescription drugs and permit all parties to stretch their dollars further.

This body has been playing this political posturing game with senior's health care for too long.

I am tired of explaining partisanship as the excuse for the Senate's failure to pass a prescription drug benefit, which has forced the least of our brothers and sisters to choose between food and prescription drugs.

I am pleased that the Senate will have the opportunity to show the American people, especially our nation's seniors and disabled that we are serious about enacting legislation to provide a prescription drug benefit this year.

The bill before us seems to have broad support from both sides of the aisle. The President is ready and willing to sign a bill into law this year. It is time to get the job done.

ORDER OF PROCEDURE

Mr. ALEXANDER. Mr. President, I ask unanimous consent that today after the consideration of S. 1, the Senate proceed to the consideration of Calendar No. 140, S. 504, and that it be considered under the following limitation: no amendments be in order, and there be 45 minutes equally divided for debate between Senator ALEXANDER and the ranking member or his designee; provided further that at the expiration of that time, the bill be read a third time, and the bill be set aside; provided that the Senate resume consideration of the bill upon convening on Friday, June 20, and that the time until 9:15 be equally divided for debate; further, that at 9:15 a.m. the Senate proceed to a vote on passage of the bill, with no intervening action or debate.

I also ask unanimous consent that following that vote, the Senate resume consideration of S. 1 and Dorgan amendment No. 946, and there then be 4 minutes of debate equally divided prior to the vote in relation to the amendment, with no further amendments in order to the amendment prior to the vote.

Finally, I ask unanimous consent that following the Harkin amendment, the next sequence of Democratic first-degree amendments be the following: Conrad, 2-year fallback; Pryor, reimportation; Kerry, grant program; Clinton, study; and Graham, premium.

The PRESIDING OFFICER. Is there objection?

The Democratic whip.

Mr. REID. Mr. President, I would ask the Senator to modify the request in this manner: First, I would control the time, rather than the ranking member, on the minority side on this bill.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. ALEXANDER. Mr. President, I have no objection to the modification.

Mr. REID. Secondly, Mr. President, we have checked with the majority, and they have no problem with the fact that Senator PRYOR would offer his amendment on Monday rather than tomorrow. Even though he is in order following Senator CONRAD, I ask that he be allowed to offer his amendment on Monday.

The PRESIDING OFFICER. Is there objection to the modified request?

Mr. REID. No objection.

Mr. ALEXANDER. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICAN HISTORY AND CIVICS EDUCATION ACT OF 2003

Mr. ALEXANDER. Mr. President, I ask that the Senate proceed to S. 504, as under the order.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 504) to establish academies for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes.

The PRESIDING OFFICER. Who yields time?

The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I yield myself such time as I may consume.

Mr. President, this week there was a great celebration of National History Day. There were high school students from all over the country in our offices and at the University of Maryland.

Last Friday, when I was sitting where the distinguished Senator from Minnesota now sits, presiding over the Senate, I had the privilege of hearing Senator BYRD deliver an address about Flag Day.

Since 9/11, President Bush has spoken more regularly about the American character. Suddenly, in our country there is a lot of interest in what it means to be an American.

In the mid-1990s, I read a book by Samuel Huntington, a professor at Harvard, called ''Clash of Civilizations.'' A lot of people read that book in terms of understanding in what conflicts the United States, the West, might find in future years. But I read it for a different reason. It made me think that if the new world order was to be a group of civilizations whose differences began with their cultures, their religions, and a variety of other things that made them unique—it made me think if we were moving into that kind of an era, then maybe we ought to have a better understanding of just what made our culture unique. What did it mean to be an American?

I was invited to hold a professorship at Harvard University and taught in the John F. Kennedy School of Government there. And the course I taught was on the American character and on American Government. In that course, the graduate students applied the great principles which unite us as a country to the great controversies which we in the Senate debate—about race-based scholarships, about military tribunals, about faith-based institutions—and the conflicts of those principles. The students were fascinated by that.

And then suddenly I found myself, last year, in a Senate race that I did

not expect to be in. And like most candidates for the Senate, as the Chair well knows, I spoke about a number of different things. Sometimes I spoke about our colleagues on the other side of the aisle. Sometimes I spoke about taxes, about judges, about education.

But, Mr. President, there was one sentence I could say during that campaign to any audience, anywhere in my State of Tennessee, that brought the greatest response. I could barely get it out of my mouth before there would be some response from the audience—of heads nodding or some kind of applause—and it was this sentence: It is time to put the teaching of American history and civics back in its rightful place in our schools so our children can grow up learning what it means to be an American.

That is why today I stand before you to support S. 504, the American History and Civics Education Act of 2003, which we will be voting on in the morning as the first order of business.

It will help put the teaching of American history and civics back in its rightful place in our schools. It will set up summer residential academies for students and teachers: 2-week academies for teachers—say, at a university—and 4-week academies for students of American history and civics. And it would join the variety of efforts that the President and this Congress on both sides of the aisle have been acting upon with increasing frequency to underscore American history.

It is modeled after the Governor's Schools which exist in the State of Tennessee and many other States across this country. And it is premised on the idea that if 200 teachers go to the University of Tennessee or a university in Nevada or a university in California, and spend 2 weeks with outstanding leaders, talking about the great principles and the great stories and the key events of our history, that they will be inspired to do an even better job of teaching that during the next year to their students.

I introduced this bill and support it on behalf of 36 Senators, including the Democratic whip, who is the chief cosponsor, and has been from the very first day of its introduction, which I, as a new Senator, greatly appreciate. It also includes Republican and Democratic leaders whom I will mention in just a moment: The majority leader; Senator GREGG, the chairman of the relevant committee; Senator BURNS, the chairman of the relevant Appropriations subcommittee; Senator KENNEDY, the ranking member of our committee; and Senator BYRD, who has been a pioneer in supporting this kind of legislation.

Mr. President, we need this bill, and we need additional attention to American history because, first, when our values are under attack, we need to understand clearly what those values are. And, second, we should understand what unites us as Americans.

Our diversity and variety in this country is an enormous strength. It is a tremendous strength. We are a nation of immigrants with people from everywhere, but our greater strength—our greatest accomplishment—is we have been able to take all of that variety and diversity and turn it into one country—''e pluribus unum.''

We need to understand what those values are. And we need to put into context the terror of the time. I have heard a great many people on television say these are the most dangerous times our country has ever faced. Well, only if you have never had 1 minute of American history would you believe that. We need for our young people to know that there have been struggles from the very beginning.

But our young people do not know the story of this country as well as they should. Too many of our children do not know what makes America exceptional. National exams show that three-quarters of our fourth, eighth, and twelfth graders are not proficient in civics knowledge, and one-third do not even have basic knowledge, making them civics illiterates.

Until the 1960s, civics education, which teaches the duties of citizenship, was a regular part of almost every high school's curriculum.

But today's college graduates probably have less civic knowledge than high school graduates of 50 years ago. Reforms have resulted in the widespread elimination of required classes and curricula in civics education. Today, more than half the States have no requirements for students to take a course even for one semester in American government.

That is not the way it has always been. From the beginning of our Nation, we have generally understood what it means to be an American, and that has been a preoccupation of Americans: Think of our Founders, writing those letters, holding those debates, making sure we knew what it meant to be an American; Thomas Jefferson in his retirement years in Monticello taking his guests through his home and pointing to portraits on the wall of the leaders from whom he had gotten many of his ideas so they would understand what he had in mind when he helped create this country.

When we had a huge wave of immigration more than a century ago, just as we do today, our national response was to teach new Americans what it means to be an American. Because you don't become an American by your color or by your ethnicity or by being born here. You become one because you believe a few things. If you move to Japan, you don't become Japanese. If you move to France, you don't become French. If you move to America and want to be a citizen, you must become an American. That is the way our country works.

We created the common school, today's public schools, to teach reading, writing, and arithmetic to immigrant children as well as what it means to be an American, with the hope that they might go home and teach their parents. That was what Albert Shanker, former president of the American Federation of Teachers, said about the creation of common schools.

Then of course in World War II, President Roosevelt made sure that every GI who stormed the beaches at Normandy understood what the four freedoms are. We have not always been complete in our understanding of what it means to be an American. Sometimes we have gone to excess. We didn't teach the stories of African Americans well. We undervalued the contribution of the Spanish to our culture. And in the 1950s, we were embarrassed, as we look back, by McCarthyism. But that is no excuse for what is going on today: dropping civics, squeezing American history out of the curricula, and when it is in, it is watered down. Too often the textbooks are so dull, nobody would want to study them. All the talk is about victims and never about the heroes. The schools have become politically correct. The teachers are reluctant to teach the great controversies. But what is American history if it is not the story of great controversies and great conflicts of principles and great disappointments with not reaching our great dreams and great stories and great heroic efforts?

Our students need to know that Kunta Kinte came to this country in the belly of a slave ship and that his seventh generation grandson, Alex Haley, wrote the story of Roots about the struggle for equality and freedom. They need to know that Thomas Jefferson owned slaves and that he wrote the Declaration of Independence, as it is taught at the Ben Hooks Center at the University of Memphis.

We are a work in progress. We have never been perfect. They need to know about the Pilgrims who were Christians, and they need to know about the Presbyterians, my ancestors, the Scotch Irish who fought a Revolutionary War because they were tired of paying taxes to support the bishop of a church to which they didn't belong. They need to know about the religious character of our country and about the importance of the separation of church and state. They need to know about our love of liberty and about the incarceration of Japanese Americans in World War II.

The response to putting the teaching of American history and civics back in its rightful place in our schools has been overwhelming. Not just the Democratic whip, Mr. REID, has sponsored this, but 36 Senators from both sides of the aisle, leaders of both sides. And in the House of Representatives, ROGER WICKER of Mississippi is the lead sponsor of the same bill. He called tonight and said they have 160 sponsors in the House, Democratic and Republican leaders.

I offer my special thanks to a few Senators in addition to Mr. WICKER for

his leadership. To Senator FRIST, the majority leader, for scheduling the bill in the midst of a lot of other important business and for cosponsoring it. To Senator GREGG, chairman of our committee, for moving it through. Especially to Senator REID, for his understanding of American history, his leadership, his being here tonight, and his serving as the principal cosponsor of the legislation. To Senator KENNEDY, who has gone out of his way not just to support the bill but to attract other cosponsors. He has had a long interest in this subject. To Senator BURNS, on the Appropriations Committee, for his strong support. And to Senator BYRD, who took the time to come to the hearing and to testify. Senator BYRD is, of course, the author of the Byrd grants which are already being used in many of our schools.

The kind of American history we are talking about is the traditional kind, the study of the key persons, the key events, the key ideas, and the key documents that shape the institutions and democratic heritage of the United States of America. We spell out in our legislation that by key documents, we mean the Constitution and its amendments, and the Declaration of Independence, for example. By key events, we mean the encounter of Native Americans with European settlers and the Civil War and the civil rights movement and the wars. By key ideas, we mean the principles that we almost all agree on in this body: Liberty, equal opportunity, individualism, laissez-faire, the rule of law, federalism, e pluribus unum, the free exercise of religion, the separation of church and state, a belief in progress. We agree on those principles.

Our politics is about applying those principles. That is what our politics is about. The key persons, the heroes, the men and women of this country from its founding until today, the scientists, inventors, pioneers, the advocates of equal rights, and artists who have made this United States of America.

There are a great many efforts heading in the same direction. This is only one part. The President's efforts, the Library of Congress' efforts, the Byrd grants, the James Madison study, the National Endowment for Humanities which would award these to residential academies, to educational institutions, and nonprofit organizations. All are working hard in this way. We are adding to that.

In conclusion, I will mention two things. I was in a Foreign Relations Committee hearing the other day. We were talking about what we might expect with the reconstruction of Iraq. One witness said that we would be fortunate in our nation building there if the three grand divisions of Iraq, the Kurds, the Sunnis, and the Shiites, the geographical areas, could agree on two things: One would be how to split up the oil money, and two would be on a federation that would basically keep them safe and independent in their own areas. And maybe we would have some semblance of democracy so they could choose their leaders.

I was thinking about how much we take for granted, how much more we are able to look forward to. There is no chance in Iraq of e pluribus unum, not for the foreseeable future. There is no general agreement on those principles I just read.

We have a marvelous country and a great story. We should be teaching it.

The last thing I would like to say is the first thing I mentioned: We need to put the terror in which we find ourselves today in context. Those who say this is the most dangerous time in our history have had no American history. What about the Pilgrims who died in the first winter? What about the soldiers at Valley Forge who walked across the ice with their bare feet? What about the Native Americans and the European settlers killing each other's children? That was terror. What about the African Americans who came in the slave ships? What about the brothers who killed each other in the Civil War? What about the millions who stood in line in the Depression? What about in the 1950s and 1960s, when we all stood within 30 minutes of a nuclear missile from the Soviet Union?

We have had greater terrors face the United States. This is a time of struggle. It is a time when we should stop and think about what it means to be an American so that we can teach our children and so that we can continue our country.

I yield the floor.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, I can remember when I served in the House of Representatives on the Foreign Affairs Committee. Mr. Kissinger came before the committee. The chairman of the committee, Mr. Solarz from New York, said: I don't know how to refer to you. Dr. Kissinger, is it Mr. Ambassador? Is it Mr. Secretary? Kissinger didn't hesitate a second, and he said: Your Excellency would be fine.

I am reminded of this when I think of Governor ALEXANDER, Secretary ALEXANDER, and Senator ALEXANDER—a man with a great resume who is now a Senator. The background certainly is one where this legislation came, as a matter of fact, from somebody who served our country as the Governor of a very important State, who served as Secretary of Education, and now as a Senator. When this distinguished Senator came forward with this legislation, I knew right away that it was good, based on his experience and background. I felt inclined to move on this legislation to be a prime cosponsor of it. I am happy to do that.

It is important to the point where we are now. Tomorrow we will pass this bill, and it will become law. I think we have such momentum here that this isn't something we are going to just issue a press release on as having authorized this legislation. We have support so that we are going to appropriate the money. As the Senator from Tennessee has announced, Senator ROBERT BYRD, the ranking member and long-time chairman of the Appropriations Committee, supports this legislation. We are going to move forward and not only authorize but appropriate money for this most important program.

The bill itself, if you look at it—and then read this bill, we have a Medicare bill here that is some 700 pages long—is just a few pages long, seven or eight pages. It may not seem like much, but for me it is very important. For the American people, it will be very important because this little bill will allow as many as 7,200 teachers every summer, every year, to be updated on what they should be teaching their young folks. The 7,200 teachers each were under this legislation—the Chairman of the National Commission on Humanity has the ability to select 12 different academies, 1 for teaching history and civics congressionally, the other with a Presidential background. Each of these academies will be chosen, 12 in each category, and they could have up to 300 teachers to participate. That is 7,200. It adds up quickly. In 10 years, that is 72,000. I think that is remarkable.

It is important because teachers have so many burdens. They have paperwork, and now with Leave No Child Behind, they are so immersed in teaching children how to pass tests that they don't have a lot of time to teach sort of outside the box. This allows them to do that, to be reinvigorated and take a look at what is happening around the world, what has happened that they have missed.

So this little bill that is going to become law very quickly—because the House already has over a hundred cosponsors—is important legislation. I commend and applaud my distinguished friend, the Senator from Tennessee, for his work in this area. I hope this is the first of many pieces of legislation the Senator introduces, based on his experience and background as Secretary of Education for this wonderful country.

As my friend has indicated, the education of America's children has to be one of our priorities. It is one of our priorities. We have to make sure that children are our future. In order for them to be our future, we need to give the people who are teaching them the tools they need to teach them to be good leaders.

Teachers and administrators have many important responsibilities to achieve that end, including providing students with the basis to pursue higher education, helping them develop their individual potential, and preparing them for successful careers.

As has been indicated in the introductory remarks by my friend from Tennessee, America is a nation of immigrants. Our schools have helped instill in our diverse population a sense of what it means to be American, and

we have prepared our youth for the responsibilities of citizenship. But we can do better. That is what this legislation is all about.

We need to reaffirm the importance of learning American history and maintaining the civic understanding, recognizing that diversity and tolerance are at the core of that understanding.

Many individual districts and schools within those districts, such as those in the State of Nevada, have recognized the importance of civics education and have designed curricular programs to highlight students' knowledge of civics and history.

One young man who has the unusual name of Trey Delap, a fine young man from Boulder City, which is right near Hoover Dam—where growth has slowed slightly, unlike the surrounding area—describes himself as an average high school kid from a small town. Boulder City is not too small, but the school isn't really big. He dreamed of doing other things all of his life, but certainly never, ever thought about anything dealing with government, until he participated in a program called We The People. It is a program offered through the Center for Civic Education that allows students to study civics and then share their knowledge through competitions such as the one held in Washington. They have State competition and, if they do well there, they can come to Washington.

His first assignment as part of this We The People program began with the question: What is the role of a citizen in a democracy? He pondered this question, and he discovered that his true passion was government.

Defining the role of a citizen led him to question his own responsibility as a citizen and the importance of understanding what our Constitution stands for. This is a high school kid.

In this program, Trey was able to celebrate his 18th birthday in our Nation's Capital, while he voiced his opinion about the role of being a citizen in front of lawyers, judges, and congressional staff during a congressional debate. We The People is a great program, but only a few are allowed to participate in it.

What we are talking about tonight with this legislation is that schools all over America would have similar programs, in effect, because we would have teachers who are having a shot of adrenaline, updating the education they received going through their educational programs in college. This bill would establish a network of teachers sharing ideas about history and civics programs.

S. 504 would accomplish these goals that I have talked about by creating grants for teachers, and the students would come and participate in the program. With teachers in so many areas not sharing information among themselves, they teach information not consistent with prescribed curriculum. So we should have networks like the one proposed here for all students.

Another reason, frankly, that I jumped aboard this program was that Senator Paul Simon and I—we served as Lieutenant Governors together, served in the House of Representatives together, and we served here together—had the idea that what we needed to work on was to do something about science and math. We lose so many science and math teachers because they cannot make enough money teaching in high school. It has to be for the love of teaching that they stay, because math and science is so acceptable by outside industry. That is the only reason they stay in teaching—they love it.

Senator Simon and I had the idea of creating summer workshop programs so that math and science teachers during the summer, or with year-round school systems, whenever there was a break, had summer workshops to attend to update their skills but be paid for doing so. This would also give them some extra money.

Math and science teachers make the same as somebody who teaches PE. PE is important, and we have good teachers teaching physical education. But realistically, we need more math and science teachers than we do physical education teachers.

Well, Senator Simon and I worked hard, but we could never get the program funded.

This program, while it is not like the program Senator Simon and I sponsored, it is as I feel about this Medicare bill. This Medicare bill is not something I love, but it is, as we heard so many times, the proverbial camel with his nose under the tent. We can make this Medicare bill better.

With this program I am confident we are going to pass and fund, maybe we can go back to what Senator Simon and I wanted to do: to do something to enrich math and science teachers' lives, not only enrich them academically but also monetarily. I hope that is something my friend from Tennessee will take a look at and work with me.

As we work to make sure all schoolchildren—and especially I am concerned about those in Nevada—are connected to the Internet—and we have programs doing that—and are connected to the future, I also want them to be connected to America's past and to know the common values of histories binding together all who live in this great Nation.

We learn from history. I love history. I love to study history, and I want young people also to have a love of history. That can come about with one good teacher. One good teacher can change a young person's life, just like Trey's life in Boulder City. His life was changed by having someone telling him that Government is important. Government is important, history is important, this legislation is important, and I hope we have a resounding vote, which I am confident we will, tomorrow morning.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the Senator from Nevada for his leadership and for his comments. I look forward to working with him on math and science and other education issues. I especially appreciate his commenting on the teachers.

He noted perhaps 72,000 teachers. Even though this is just a pilot program for a few years, if for 10 years 72,000 teachers of American history and civics went to summer residential academies, called Presidential Academies of American History and Civics, they should be inspired to be even better teachers.

One of the things I most enjoyed doing as Governor was creating the Governor's School for Teachers of Writing which was run by Richard Marius of Harvard. Every summer 200 teachers would gather at the University of Tennessee. He would lead them. He taught Harvard freshmen in their writing program.

What happened was, if you put the teachers together, they taught one another. They became inspired. They developed better lesson plans, and they went back to their classrooms fired up and much better teachers.

I have great confidence in our teachers. I believe if we afford an opportunity for them to come together in many places across the country, and for 2 weeks focus on how to teach the great stories of American history, that by itself will help put it in its rightful place. When we add to that 4-week schools that students of American history and civics will attend, it will double our punch.

I appreciate that sponsorship. I look forward to the Presidential Academies for Teachers of American History and Civics and the Congressional Academies for Students of American History and Civics.

Mr. President, I yield the floor.

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

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

Mr. ALEXANDER. I suggest the absence of a quorum.

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. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BIRTHDAY OF AUNG SAN SUU KYI

Mr. McCONNELL. Mr. President, on June 19, 1945, Burmese democracy leader Aung San Suu Kyi was born in Rangoon, Burma, to Ma Khin Kyi and Aung San.

Some speculate that she was destined to be a defender of freedom in Burma, as her father was the commander of the Burma Independence Army. Tragedy struck the family exactly 1 month after Suu Kyi's second birthday when General Aung San was assassinated. The family's loss was mourned by the entire nation.

As Burma's military leaders were to find out decades later, Suu Kyi has freedom and justice coursing through her veins. She has been a tireless advocate for the rights and welfare of the Burmese people and has sacrificed—along with other Burmese democrats—much in struggle for democracy in Burma.

Suu Kyi is a symbol of courage and determination for the world's oppressed. She is a shining example that principles are stronger than repression. Suu Kyi and other democrats have yet to surrender to the State Peace and Development Council, SPDC, despite relentless attempts by the junta to bend and break their will.

How is Suu Kyi celebrating her 58th birthday? Most likely, she is not. I suspect she is alone and in Insein prison.

In the wake of a violent ambush by the junta on her convoy on May 30, Suu Kyi was arrested by the SPDC. Although U.N. Special Envoy Razali briefly saw her 2 weeks ago—and conveyed to an anxious world that she was not physically injured in the attack—we haven't seen or heard from her since.

The International Committee of the Red Cross, ICRC, requested a meeting with Suu Kyi, but the thugs in Rangoon refused. Unbelievable, outrageous—but not surprising considering the regime's track record.

It should not be lost on anyone that the denial of an ICRC visit means Suu Kyi is being treated worse than a prisoner of war.

The best gift the free world can give Suu Kyi on her birthday is a full court press on the junta. Sanctions, import bans, and statements condemning the SPDC's outrageous actions will help buoy the spirits of the Burmese people and confirm that the international community is on their side.

The best gift the administration can give Suu Kyi is an import ban and the downgrading of diplomatic relations with the SPDC. The White House should not wait for the House to act on its legislation but should implement a ban on imports immediately.

Finally, the best gift I can give Suu Kyi is a commitment to continue to stand with her and the people of Burma for as long as it takes for freedom's triumph. She and her compatriots continue to be in my thoughts and prayers.

TRIBUTE TO JANINE JOHNSON

Mr. REID. Mr. President, we make many different kinds of speeches on the Senate floor. Some of those speeches seek to advance legislation and amendments and some aim to commemorate historic events. None are as sad as those we make in the memory of a member of the Senate family who has left us. On May 29, 2003, Janine Johnson, Assistant Counsel in the Senate's Office of Legislative Counsel, passed away. Janine was 37 years old.

Many of us and our staffs knew Janine personally. Some of us only knew her only by her initials that appeared on the legislation and amendments we introduce here on the floor. She served the Senate for nearly 13 years, doing much of her work for the Senate Committee on Environment and Public Works, the Agriculture Committee and the Energy Committee.

Over the years, Janine prepared thousands of bills for me and for the other members of the Environment Committee. Her expertise in those matters made my job easier and the jobs of the staff easier on countless bills. Janine was an expert drafter on matters of critical concern to the committee. She drafted several generations of Water Resources Development Acts. She drafted our last transportation bill, the mammoth Transportation Equity Act for the 21st Century, and was in the process of drafting a new transportation bill when she fell ill. She drafted many parts of the last Farm bill, including the nutrition title of that bill. I mention that because I am told that no one has found a single drafting error in the hundreds of pages of that title.

That is very rare, but I am told by her colleagues that Janine's way was the way of a perfectionist.

And to her about Janine's history is to hear that it was a way of life. Janine was a native of Winchester, MA. She graduated first in her class from Winchester High School and ultimately graduated with high honors from Harvard Law School in 1986. She went on to clerk for the Honorable Cecil Poole on the U.S. Court of Appeals for the Ninth Circuit. Following her clerkship, she came to the Senate Office of Legislative Counsel. In addition to serving as Assistant Counsel, she was active in shaping the office itself. She interviewed new attorneys for the office, and she had an unparalleled ability to recognize those who would maintain the high standards of the Senate. That legacy will live on in the colleagues and friends she helped to bring into the Senate family.

According to Janine's friends here in the Senate, she loved life outside the Senate as much as her work within it. Janine loved theater, music and swing dancing. I am told that she loved living here in Washington, DC, where one of her favorite times of year was the spring because of her love of our cherry trees and the Cherry Blossom Festival.

The cherry blossom Janine admired is the most beautiful flower in Japanese culture. It symbolizes the Japanese values of simplicity, purity and fleeting beauty. Many poets have described the pink and white blossoms as a metaphor for life, beautiful and simple, yet at the same time sadly ephemeral and fleeting.

Janine's friends in the Senate would say that she was like the flowers she loved to see, but that her memory will not be ephemeral to the Senate, to her work here, or to the many friends and family she leaves behind.

Mr. WARNER. Mr. President, I come to the floor this morning to pay tribute to a very talented, kind and generous member of our Senate family, Janine Johnson. Sadly, at the far too young age of 37, Janine passed away. For the past 13 years, Janine served as Assistant Counsel in the Senate's Office of Legislative Counsel. Some of us were privileged to work with her directly and benefit from her skill and keen intellect.

While many of us over the years have recognized the well-deserved contributions of our staff in our personal offices or on committees, we all know that we depend highly on the exceptional professional judgment and tireless efforts of the staff in the Senate Legislative Counsel's office. While Janine did not work for an individual Senator or Committee, it is without question that Janine was devoted to the institution of the Senate, skilled in the intricacies of the law, and served the Senate with distinction.

Janine was the primary Legislative Counsel for many issues under the jurisdiction of the Committee on Environment and Public Works. It was during my tenure as Chairman of the Transportation Subcommittee that my staff and I were privileged to work with Janine. She was our counsel for the development of the National Highway System Act of 1995, and later on the landmark Transportation Equity Act for the 21st Century, commonly referred to as TEA–21. Also, during my chairmanship, Janine guided us on the development of several Water Resource Development Acts, that were enacted on a biennial cycle.

It was during those long days and weeks in working in committee, on the Senate floor and later in conference on TEA–21 that we witnessed the exceptional skill, thoroughness and professionalism that Janine brought to every issue. The surface transportation bill expired in the fall of 1997. The Congress passed a 6-month extension bill and we came back in early 1998 to renew our efforts on a full 6-year reauthorization bill. Janine was there with the committee every step of the way.

The staff recollections of Janine's contributions to the development of TEA–21 are unmistakable. I hear of her deep commitment to the law, to turning vague concepts into statute, and faithfully executing the views of the committee and Senator's agreements on complex policy issues. Most importantly, I hear staff use heartfelt words

to describe Janine's grace, her delicate nature, her respect for her colleagues, her genuine kindness, and her commitment to the work at hand. I'm told that on many occasions when staff completed work for the night, usually past midnight, and left sections for Janine to draft that often her work was on their desks by 9:00 the next morning. She was always willing to stay long past when the Metro closed, as long as she had a ride home.

We, in the committee, relied heavily on Janine's legal abilities, her legislative drafting precision and we were fortunate to have her as a star on our team—although for far too short a time.

Janine's academic achievements are superior, graduating with high honors from Harvard Law School in 1986 and then clerking for the Honorable Cecil Poole on the U.S. Court of Appeals for the Ninth Circuit. With her exceptional qualifications, I'm confident that she would have been successful in any career path she chose. Fortunately, for us, she came to the Senate and for 13 years we have all been more successful because of her.

The poet Albert Pike has said:

> What we have done for ourselves alone dies with us; what we have done for others and the world remains and is immortal.

Janine has certainly touched many of us in lasting ways. The Senate is grateful for her service and we share our condolences with her friends and family.

Mr. JEFFORDS. Mr. President, as Senators, we are accustomed to the glare of the public spotlight and there are even some members of Congress who crave such attention. In general though, we are here because we share a deep desire to serve our country and to help ensure that our government and its laws are true to the spirit of America.

We sometimes forget that we are also part of a Senate community filled with people who believe in that same kind of public service. Though they do not share the spotlight with us, we could not do our jobs without them and the nation would suffer.

So, I want to recognize the contributions made by all staff, and in particular the experts in the Office of Senate Legislative Counsel that help keep us true to the law, its structure and its functioning. They help put our ideas into real form and maintain the integrity of the code.

That is why it is very very difficult today to note the passing of Janine Johnson, Assistant Counsel in Office of Legislative Counsel. She was an integral and crucial part of that office.

Her professionalism, her deft grasp of complicated statutes, her work ethic, and above all, her pleasant manner and bearing, will be sorely missed by that office, but also by me, my office and in particular, my Environment and Public Works Committee staff.

Many of my staff have worked with Janine for a decade or more and have been uniformly impressed by her unparalleled skill and commitment to her job.

Janine had a knack for taking even the most complicated concepts and proposals and breaking them down into manageable parts. Then, she found ways to integrate them into existing statutes. To many staff, she was a legislative magician.

One did not need to know Janine for very long to see that she shone with a pure and intense inner light that made the way clearer and easier for others. But, the memory of her kindness and delicate humor will live on and inspire those who follow her.

Janine was a talented woman and a lawyer's lawyer. She had a green thumb and many days brought one of her prized amaryllis plants in to brighten the front office. She also spoke many languages, including beginning Russian which I believe she started in Middlebury, VT.

The Senate has suffered a great loss with the passing of Janine Louise Johnson. I wish her family and friends all the best in coping with the pain. However, I want to note that her significant contributions to the Senate and to the nation will not be forgotten and that she should serve as a model for us all.

Mr. COCHRAN. Mr. President, it is with sadness that I join my colleagues to mourn the premature passing of a dedicated member of the Senate staff.

Ms. Janine Johnson was an Assistant Counsel in the Office of the Legislative Counsel. She was a 1986 graduate of Harvard College and a 1989 graduate of Harvard Law School.

Her responsibilities included drafting legislation in areas that are within the Agriculture Committee's jurisdiction. Her thoughtful work and dedicated service to members of the Senate are reflected in legislation such as the 1996 and 2002 farm bills and the 1998 child nutrition reauthorization.

The work of the Office of the Legislative Counsel often goes unnoticed and under appreciated, but it is talented attorneys like Ms. Janine Johnson who provide such a valuable service to the Senate. I extend my sympathies to Ms. Johnson's family and friends.

VOTE EXPLANATION

Mrs. DOLE. I want to explain why I was necessarily absent from the June 13 vote on the confirmation of R. Hewitt Pate to be an Assistant Attorney General for Antitrust. At the time the vote took place, I was speaking to the Flue Cured Tobacco Stabilization Corporation, a group of more than 500 North Carolina tobacco farmers, in Raleigh, NC. My attendance at the event was important in order to listen to the major concerns of our State's tobacco farmers, as well as to address one of North Carolina's top priorities, a tobacco quota buyout, which is critical to the livelihood of all tobacco farmers and the economic security of our State.

Had I been present, I would have voted for Mr. Pate.

HONORING OUR ARMED FORCES

Mr. LUGAR. Mr. President, 2 months ago when President Bush declared an end to combat operations in Iraq, I rose to pay tribute to the seven service members with Indiana roots who sacrificed their lives in Operation Iraqi Freedom. I observed that while these seven fine young men were engaged in a noble and worthy cause—making the world safer for all freedom-loving peoples—their deaths again showed us that freedom never comes without a heavy price in human lives.

At the time I delivered those remarks, I and all Americans understood that there would still be dangerous times ahead for our service members, but we sincerely hoped there would be no more reports of American service members killed in combat operations.

Today, I am sad to report, our troops in Iraq are still very much at risk of injury or the ultimate sacrifice as they work to restore order and a civil society in this troubled country. It seems that almost every day we receive news of soldiers being ambushed or attacked in hit-and-run type incidents. More than 40 American troops have fallen since May 1st. We are still suffering combat casualties, and it is obvious that reconstruction of Iraq is going to be a lengthy and difficult process.

During these past 2 months, three of those who fell were brave young men with Indiana roots. Three more Indiana families have been devastated by the loss of a loved one. Today, I would like to pay tribute to these three fine young men.

Marine Lance Corporal Matthew R. Smith of Anderson, IN, was killed on May 10 in Kuwait when the Humvee he was riding in struck a trailer in a military convoy. Matthew, a Marine Corps Reservist, was 20 years old and a sophomore at Indiana University. He went overseas with his unit in February and had traveled all the way to Baghdad while providing support to Marine combat forces.

On the day Matthew died, his father, David Smith, received the first letter from his son since he went overseas. Matthew wrote that he was proud to be in Iraq as a marine fighting for his country's freedom.

Matthew Smith will be missed.

Army Private Jesse Halling of Indianapolis was killed on June 10 in the city of Tikrit when his military police squad became engaged in a firefight after being ambushed. Jesse was in the turret of a Humvee firing a machine gun at their attackers when a rocket-propelled grenade struck the vehicle. His commander has recommended him for a Silver Star Medal for bravery under fire.

Jesse was 19 years old and had enlisted in the Army right after his graduation from Ben Davis High School, where he had participated in Junior

ROTC. His friends remember him as a fun-loving teenager with a passion for motorcycles. His fellow soldiers will remember him as a hero whose quick actions may well have saved the lives of others.

Jesse Halling will be missed.

Army Private Shawn Pahnke of Shelbyville was killed on June 16 in Baghdad, felled by a sniper round fired in the dead of night at the Humvee he was riding in. Shawn was 25 years old. He had joined the Army to become a crew member on an M–1 Abrams tank and was serving with the 1st Armored Division in Germany before deploying to Iraq.

Shawn leaves behind a wife, Elisha, and a 3-month-old son, Dean Patrick, whom he never had a chance to see. Shawn was in Germany when the baby was born, but the staff at Major Hospital in Shelbyville hooked up a phone connection to the delivery room so that Shawn could hear his child's first cries.

Shawn Pahnke will be missed.

All of Indiana mourns for the loss of these brave young men. Our hearts go out to these families.

HONORING COMPANY A, 8TH TANK BATTALION, MARINE FORCES RESERVE

Mr. BAYH. Mr. President, on behalf of the State of Indiana, I wish to recognize Maj. William P. Peeples of the U.S. Marine Corps Reserves and his fellow marines of Company A, 8th Tank Battalion, on the successful completion of their mission while serving in Operation Iraqi Freedom. Major Peeples is from Indianapolis, IN, and it is with sincere pride that I congratulate him on a successful tour of duty leading his division through its service in Iraq.

The unit was among the first involved in fighting when Operation Iraqi Freedom began this March. Some members from the 3rd Platoon also assisted special forces with the rescue and recovery of PFC Jessica Lynch and other remembers of her unit.

We are indebted for the many contributions and tremendous sacrifices, past and present, that the men and women of the Marine Corps have made in service to our great Nation. The strength, courage, and character they exemplify can only inspire the admiration and appreciation of all Americans.

Through their rapid mobilization and superior performance in the line of duty, the marines of Company A, 8th Tank Battalion, serve as shining examples of the Corps' motto ''First to Fight.'' I know I speak for all Hoosiers when I thank the returning members, and welcome them back home.

HONORING PRIVATE SHAWN D. PAHNKE

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Shelbyville, IN. Private Shawn D. Pahnke, twenty-five years old, was killed in Baghdad on June 17, 2003 when he was shot in the back by an Iraqi sniper. Shawn joined the Army with his entire life before him, with a young wife and a newborn son at home. He chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Shawn was the eighth Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. Today, I join Shawn's family, his friends, and the entire Shelbyville community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is this courage and strength of character that people will remember when they think of Shawn, a memory that will burn brightly during these continuing days of conflict and grief.

Shawn Pahnke wrote to his family only weeks before his death, telling them that he was proud to serve in the Army and to follow in the footsteps of his father, a Vietnam War veteran, and his grandfather, a World War II veteran. Shawn grew up in Manhattan, IL and graduated form Lincoln Way High School in New Lenox, IL. He then joined the Army and served as part of the 1st Armored Division's 1st Brigade. Shawn leaves behind a wife, Elisha and their three-month-old son, Dean Patrick, who was born after Shawn was sent to Friedberg Army Base in Germany. He also leaves behind his parents, Tom and Linda Pahnke and two older brothers.

As I search for words to do justice in honoring Shawn Pahnke's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say her, but it can never forget what they did here.'' This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Shawn Pahnke's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Shawn D. Pahnke in the official record of the United States Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Shawn's can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

May God grant strength and peace to those who mourn, and may Gold bless the United States of America.

THE BUDGET DEFICIT

Mr. HOLLINGS. Mr. President, it is said that editorialists can editorialize but can't take criticism. Not true. Chairman Donald Graham and editorial page editor Fred Hiatt readily accepted the following Washington Post editorial this morning for which I profoundly thank them. Otherwise, since I referred to Pete Peterson, in fairness let me also include his column in the RECORD.

I ask unanimous consent the articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 8, 2003]

DEFICITS AND DYSFUNCTION

(By Peter G. Peterson)

I have belonged to the Republican Party all my life. As a Republican, I have served as a cabinet member (once), a presidential commission member (three times), an all-purpose political ombudsman (many times) and a relentless crusader whom some would call a crank (throughout). Among the bedrock principles that the Republican Party has stood for since its origins in the 1850's is the principle of fiscal stewardship—the idea that government should invest in posterity and safeguard future generations from unsustainable liabilities. It is a priority that has always attracted me to the party. At various times in our history (especially after wars), Republican leaders have honored this principle by advocating and legislating painful budgetary retrenchment, including both spending cuts and tax hikes.

Over the last quarter century, however, the Grand Old Party has abandoned these original convictions. Without every renouncing stewardship itself—indeed, while talking incessantly about legacies, endowments, family values and leaving ''no child behind''—the G.P.O leadership has by degrees come to embrace the very different notion that deficit spending is a sort of fiscal wonder drug. Like taking aspirin, you should do it regularly just to stay healthy and do lots of it whenever you're feeling out of sorts.

With the arrival of Ronald Reagan in the White House, this idea was first introduced as part of an extraordinary ''supply-side revolution'' in fiscal policy, needed (so the thinking ran) as a one-time fix for an economy gripped by stagflation. To those who worried about more debt, they said, Relax, it won't happen—we'll ''grow out of it.'' Over the course of the 1980's, under the influence of this revolution, what grew most was federal debt, from 26 to 42 percent of G.D.P. During the next decade, Republican leaders became less conditional in their advocacy. Since 2001, the fiscal strategizing of the party has ascended to a new level of fiscal irresponsibility. For the first time ever, a Republican leadership in complete control of our national government is advocating a huge and virtually endless policy of debt creation.

The numbers are simply breathtaking. When President George W. Bush entered office, the 10-year budget balance was officially projected to be surplus of $5.6 trillion—a vast boon to future generations that Republican leaders ''firmly promised'' would be committed to their benefit by, for example, prefinancing the future cost of Social Security. Those promises were quickly forgotten. A large tax cut and continued spending growth, combined with a recession, the shock of 9/11 and the bursting of the stock-market bubble, pulled that surplus down to a mere $1 trillion by the end of 2002. Unfazed by this turnaround, the Bush administration proposed a second tax-cut package in 2003 in the face of huge new fiscal demands, including a war in Iraq and an urgent ''homeland

security'' agenda. By midyear, prudent forecasters pegged the 10-year fiscal projection at a deficit of well over $4 trillion.

So there you have it: in just two years there was a $10 trillion swing in the deficit outlook. Coming into power, the Republican leaders faced a choice between tax cuts and providing genuine financing for the future of Social Security. (What a landmark reform this would have been!) They chose tax cuts. After 9/11, they faced a choice between tax cuts and getting serious about the extensive measures needed to protect this nation against further terrorist attacks. They chose tax cuts. After war broke out in the Mideast, they faced a choice between tax cuts and galvanizing the nation behind a policy of future-oriented burden sharing. Again and again, they chose tax cuts.

The recent $10 trillion deficit swing is the largest in American history other than during years of total war. With total war, of course, you have the excuse that you expect the emergency to be over soon, and thus you'll be able to pay back the new debt during subsequent years of peace and prosperity. Yet few believe that the major drivers of today's deficit projections, not even the war on terror, are similarly short-term. Indeed, the biggest single driver of the projections, the growing cost of senior entitlements, are certain to become much worse just beyond the 10-year horizon when the huge baby-boom generation starts retiring in earnest. By the time the boomer age wave peaks, workers will have to pay the equivalent of 25 to 33 percent of their payroll in Social Security and Medicare before they retire just to keep those programs solvent.

Two facts left unmentioned in the deficit numbers cited above will help put the cost of the boomer retirement into focus. First, the deficit projections would be much larger if we took away the ''trust-fund surplus'' we are supposed to be dedicating to the future of Social Security and Medicare; and second, the size of this trust fund, even if we were really accumulating it—which we are not—dwarfed by the $25 trillion in total unfinanced liabilities still hanging over both programs.

A longer time horizon does not justify near-term deficits. If anything, the longer-terms demographics are an argument for sizable near-term surpluses. As Milton Friedman put it, if you cut taxes without cutting spending, you aren't really reducing the tax burden at all. In fact, you're just pushing it off yourself and onto your kids.

You might suppose that a reasoned debate over this deficit-happy policy would at least be admissible within the ''discussion tent'' of the Republican Party. Apparently, it is not. I've seen Republicans get blackballed for merely observing that national investment is limited by national savings; that large deficits typically reduce national savings; or that higher deficits eventually trigger higher interest rates. I've seen others get pilloried for picking on the wrong constituency—for suggesting, say, that a tax loophole for a corporation or wealthy retiree is no better, ethically or economically, than a dubious welfare program.

For some ''supply side'' Republicans, the pursuit of lower taxes has evolved into a religion, indeed a tax-cut theology that simply discards any objective evidence that violates the tenets of the faith.

So long as taxes are cut, even dissimulation is allowable. A new Republican fad is to propose that tax cuts be officially ''sunsetted'' in 2 or 5 or 10 years in order to minimize the projected revenue loss—and then to go out and sell supporters that, of course, the sunset is not to be taken seriously and that rescinding such tax cuts is politically unlikely. Among themselves, in other words, the loudly whispered message is that a setting sun always rises.

What's remarkable is how so many elected Republicans go along with the charade. The same Republican senators who overwhelmingly approved (without a single nay vote) the Sarbanes-Oxley Act to crack down on shady corporate accounting of investments worth millions of dollars see little wrong with turning around and making utterly fraudulent pronouncements about tax cuts that will cost billions, or indeed, even trillions of dollars.

For some Republicans, all this tax-cutting talk is a mere tactic. I know several brilliant and partisan Republicans who admit to me, in private, that much of what they say about taxes is of course not really true. But, they say it's the only way to reduce government spending: chop revenue and trust that the Democrats, like Solomon, will agree to cut spending rather than punish our children by smothering them with debt.

This clever apologia would be more believable if Republicans—in all matters other than cutting the aggregate tax burden—were to speak loudly and act decisively in favor of deficit reductions. But it's hard to find the small-government argument persuasive when, on the spending front, the Republican leaders do nothing to reform entitlements, allow debt-service costs to rise along with the debt and urge greater spending on defense—and when these three functions make up over four-fifths of all federal outlays.

The starve-government-at-the-source strategy is not only hypocritical, it is likely to fail—with great injury to the young—once the other party decides to raise the ante rather than play the sucker and do the right thing. When the Democratic presidential contender Dick Gephardt proposed in April a vast new national health insurance plan, he justified its cost, which critics put at more than $2 trillion over 10 years, by suggesting that we ''pay'' for it by rescinding most of the administrative tax legislation. Oddly, it never occurred to these Republican strategists that two can play the spend-the-deficit game.

Not surprisingly, many Democrats have thrown a spotlight on the Republicans' irresponsible obsession with tax cutting in order to improve their party's image with voters, even to the extent of billing themselves as born-again champions of fiscal responsibility. Though I welcome any newcomers to the cause of genuine fiscal stewardship.

I doubt that the Democratic Party as a whole is any less dysfunctional than the Republican Party. It's just dysfunctional in a different way.

Yes, the Republican Party line often boils down to cutting taxes and damning the torpedoes. And yes, by whipping up one-sided popular support for lower taxes, the Republicans pre-empt responsible discussion of tax fairness and force many Democrats to echo weakly, ''Me, too.'' But it's equally true that the Democratic Party line often boils down to boosting outlays and damning the torpedoes. Likewise, Democrats regularly short-circuit any prudent examination of the single biggest spending issue, the future of senior entitlements, by castigating all reformers as heartless Scrooges.

I have often and at great length criticized the free-lunch games of many Republican reform plans for Social Security—like personal accounts that will be ''funded'' by deficit-financed contributions. But at least they pretend to have reform plans. Democrats have nothing. Or as Bob Kerrey puts it quite nicely, most of his fellow Democrats propose the ''do-nothing plan,'' a blank sheet of paper that essentially says it is O.K. to cut benefits by 26 percent across the board when the money runs out. Assuming that Democrats would feel genuine compassion for the lower-income retirees, widows and disabled parents who would be most affected by such a cut, I have suggested to them that maybe we ought to introduce an ''affluence test'' that reduces benefits for fat cats like me.

To my amazement, Democrats angrily respond with irrelevant cliches like ''programs for the poor are poor programs'' or ''Social Security is a social contract that cannot be broken.'' Apparently, it doesn't matter that the program is already unsustainable. They cling to the mast and are ready to go down with the ship. To most Democratic leaders, federal entitlements are their theology.

What exactly gave rise to this bipartisan flight from integrity and responsibility—and when? My own theory, for what it's worth, is that it got started during the ''Me Decade,'' the 1970's, when a socially fragmenting America began to gravitate around a myriad of interest groups, each more fixated on pursuing and financing, through massive political campaign contributions, its own agenda than on safeguarding the common good of the nation. Political parties, rather than helping to transcend these fissures and bind the country together, instead began to cater to them and ultimately sold themselves out.

I'm not sure what it will take to make our two-party system healthy again. I hope that in the search for a durable majority, Republicans will sooner or later realize that it won't happen without coming to terms with deficits and debts, and Democrats will likewise realize it won't happen for them without coming to terms with entitlements.

Whether any of this happens sooner or later, of course, ultimately depends upon the voters. Perhaps we will soon witness the emergence of a new and very different crop of young voters who are freshly engaged in mainstream politics and will start holding candidates to a more rigorous and objective standard of integrity. That would be good news indeed for the future of our parties.

In any case, I fervently hope that America does not have to drift into real trouble, either at home or abroad, before our leaders get scared straight and stop playing chicken with one another. That's a risky course, full of possible disasters. It's not a solution that a great nation like ours ought to be counting on.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 19, 2003]

DELUSIONAL ON THE DEFICIT

(By Ernest F. Hollings)

Nobody is paying any attention to the budget deficit. Last month the House Budget Committee's Democrats forecast a deficit of nearly $500 billion, and The Post reported the story on Page A4. Last week the Congressional Budget Office reported that the deficit would balloon to a record $400 billion-plus, and The Post again buried the story on A4. Spending trust funds, such as Social Security, is what keeps the estimate at $400 billion. The actual deficit will be approximately $600 billion.

That's a win for Mitch Daniels. The goal of the departed Office of Management and Budget director was to keep any news that could hurt President Bush's reelection prospects off the front page, and The Post willingly aided and abetted him. In fact, when Daniels left two weeks ago to run for governor of Indiana, he told The Post that the government is ''fiscally in fine shape.'' Good grief! During his 29-month tenure, he turned a so-called $5.6 trillion, 10-year budget surplus into a $4 trillion deficit—a mere $10 trillion downswing in just two years. If this is

good fiscal policy, thank heavens Daniels is gone.

Congress is no better than the press. Republicans, totally in control of this town, just casually raised the limit on the national debt by a record trillion dollars so the president could borrow more money to pay for tax cuts. I say casually because the seriousness of this move was passed over and hardly debated. In The Post, this story wasn't even worthy of A4. It was relegated to A8.

Bush and Daniels used to talk about how they would repay the nation's debt more quickly than any administration in history. Before Sept. 11, 2001, the president bragged that his budget reserved $1 trillion for unforeseen circumstances. Perish the thought that the war on terrorism, Afghanistan and Iraq cost $1 trillion. Those factors had an impact, but the real culprit, according to the nonpartisan Concord Coalition, is that this president has cut $3.12 trillion in revenue since taking office. These are the largest tax cuts in history, yet the administration claims they have no relationship to the record deficits reported on Page A4. Amazingly, he asks for more.

The London-based Financial Times, in a front-page lead story, recently reported the Treasury Department projection that at the present rate, fixing the deficit would require ''the equivalent of an immediate and permanent 66 percent across-the-board income tax increase.'' The White House deep-sixed the Treasury study. The Post ignored it.

Former commerce secretary Peter Peterson, a lifelong Republican, says that every time this administration faces a choice, it chooses tax cuts. Between fiscal responsibility and tax cuts, it picks tax cuts. Between preserving Social Security and tax cuts, it picks tax cuts. Between providing necessary funds to fight the war on terrorism and tax cuts, it picks tax cuts. ''Again and again,'' Peterson says, ''they choose tax cuts.''

The question: How huge must the deficit grow for this A4 story to make the front page, and for the public to scream for relief? Across the country teachers are being laid off, there are more kids per classroom, the school year is shorter, and tuition is up at state colleges. Bus service is being cut off, volunteers are running park systems, prisoners are being released, and subsidies for the working poor are being slashed.

How much more must we dismantle before the public cannot stomach this? Will it take a shutdown of all the national parks? Or the release of all federal prisoners because we can't afford to guard them? Or will workers need to pay half their salaries to keep Social Security and Medicare from the chopping block?

I dread to think how bad it has to get before Bush makes some changes. But the Republican leadership in Congress is in lockstep. They've just passed a budget calling for a $600 billion deficit each year, every year, for the next 10 years.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Hamilton, NJ. On September 16, 2001, an Arab-American man and his son were verbally accosted and attacked by a man shouting ethnic slurs and wielding a knife. The victim was able to use his cane to protect himself and his son until he was able to wrestle the knife away from the attacker. The perpetrator was eventually arrested by the police.

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 is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

WHIZ KIDS

• Mr. ALLARD. Mr. President, I rise to tell my colleagues about an extraordinary volunteer program that is dramatically impacting the lives of underprivileged, underachieving students in Denver, CO.

It is called Whiz Kids and, frankly this program is a classic example of what happens when men and women of faith, who love kids, decide to make things happen.

Each week, over 700 volunteers tutor elementary students in the Denver, Aurora, and Jefferson County school districts. Most of the tutoring takes place at urban churches, but at each of 44 sites, Whiz Kids provides books, computers, snacks, club time-spiritual values, a sense of community and, most of all, the love of men and women who care enough about the kids to invest a few hours a week to help them read.

The results have been nothing short of fantastic—the average youngster in Whiz Kids improves his or her reading ability by 1–3 grades each year, according to tracking by Denver Public Schools. The target for Whiz Kids is schools and students with scores below average in CSAP, Colorado's statewide student testing program.

Whiz Kids is an 11-year-old, nonprofit organization which is supported by over 700 volunteer tutors and more than 80 other key volunteer leaders. Each tutor make a 1-year commitment to the program and the tutor retention rate is an amazing 95 percent with 60 percent of volunteer tutors re-upping from one year to the next.

Whiz Kids operates on a shoestring—the total cash budget is only $360,000 per year. But the dramatic results of this tutoring program, and its commendable cost efficiency, have called forth tremendous support from over 150 churches of many denominations.

The Colorado business community has also pitched in to help by donating 120 computers and other in-kind contributions and financial support from companies such as AV Hunter, Best Buy, Janis, JD Edwards, Kinder Morgan, King Soopers, Houghton Mifflin, Western Union, and others.

Additional support comes from the Anschutz Family Foundation, Coors Foundation, Daniels Foundation, El Pomar, Fund for Colorado's Future, Jack A. Vickers Foundation, PK Foundation, Sam S. Bloom Foundation, the Schlessman Family Foundation, Schramm Foundation and TYL Foundation.

The Denver Nuggets donated the entire Pepsi Center to Whiz Kids for a 1-day Slam Dunk Saturday event at which 2,000 mentors and kids gather for basketball clinics and drills. Then, mentors and kids are guests of the Nuggets for the evening game. This is the largest gathering of its kind in the NBA. The Nuggets donate additional tickets for tutors, kids, and their parents throughout the season.

The Denver Broncos donate tickets to their kids camp. Whiz Kids has received the Denver Broncos Quarterback Award 2 years in a row. The Colorado Rapids annually donate game tickets for kids and tutors.

Each year, Whiz Kids holds its year end Run to Read event at Denver's City Park. More than a thousand tutors and kids gather for games, music, and fun to celebrate achievements of the year. Last year, this event also raised pledges of more than $20,000 from tutors to buy additional supplies for the following school year.

From start to finish, kids and tutors have a lot of fun, but the main purpose is completely serious—to get kids who are falling behind in reading back on track. It is a program that is working.

Whiz Kids has been called one of the top three faith-based tutoring programs in America by Tony Campbell of America's Promise. And no wonder, it is already being copied in eight other States.

I hope my colleagues will take a moment to read a recent letter from the Denver Public Schools which describes why Whiz Kids is such an ''excellent model of collaboration'' between the public schools and the private sector.

''To Whom It May Concern: In support of the Whiz Kids Tutoring Program, this letter shall serve to detail the collaborative relationship between our organizations. Whiz Kids Tutoring operates in partnership with the Denver Public Schools Office of Community Partnerships, as an independent agency providing services to our students. Because of this partnership by acting as the interface between the program and the principals and teachers of our district. At the beginning of each school semester, we assist the program by identifying students and facilitating student participation, and by coordinating the participation of DPS liaison teachers. Our office provides additional salary compensation for liaison teachers, based upon the number of sessions attended in a given school year. This compensation totaled over $29,000 for the 2001–02 school year. In addition, our office provides Colorado Bureau of Investigations background screening for all incoming volunteers to the program, and we assist

Whiz Kids with $500 in vouchers for books and other materials for each new study hall session that opens. We also conducted an evaluation of the program (1998/99) in conjunction with the Graduate School of Education at the University of Denver. This study showed us that students engaged with Whiz Kids tutors gained between one and three academic grade levels in reading competencies over a 1-year time frame.

''For their part, Whiz Kids Tutoring provides Denver Public Schools with a wonderful benefit each school year. Nearly 600 of our students receive one-on-one academic support and mentoring each year, making Whiz Kids the largest single provider of such services to the district. The agency provides excellent support and training to its volunteers, which is reflected by the extremely high commitment level the volunteers exhibit. Recruitment, training, and management of all volunteers are provided by Whiz Kids, eliminating any costs to DPS in these areas. Also, by partnering with neighborhood churches and community centers to provide space for group activities, Whiz Kids greatly reduces the overhead costs of the program, which might otherwise be incurred by the district in a school-based operation.

''The relationship between Whiz Kids Tutoring and Denver Public Schools is an excellent model of collaboration and provides a vital service to the children of our district. I appreciate your consideration of the Whiz Kids Tutoring grant proposal and give it my full endorsement as a partner. Should you require additional details regarding our partnership, please feel free to contact me at 303–764–3580. Sincerely, Christine Smith, Director, Denver Public Schools Office of Community Partnerships and Enterprise Activity.''

Mr. President, Whiz Kids is a great program which enriches the lives of students, provides a fulfilling opportunity for volunteers, and gives them a wonderful opportunity to put their faith into action. Every community ought to have a program like this.●

IN RECOGNITION OF THE 100th ANNIVERSARY OF THE VILLAGE OF SOUTH RANGE

● Mr. LEVIN. Mr. President, I am pleased to recognize the Village of South Range, located in the beautiful upper peninsula of my home State of Michigan, as it celebrates its 100th anniversary. South Range is located in the middle of the Keweenaw Peninsula, which makes up the northernmost point of my home State.

The Village of South Range derives its name and much of its history from the copper mining industry that operated in that area from 1840 until the closing of the last mine in 1970. In 1903, the Wheal Kate Mining Company sold off land from its failing copper mining business and created the town of South Range. During the early 1900s, much of the Keweenaw Peninsula was controlled by the copper mining industry. The creation of South Range provided miners the opportunity to individually purchase property that had formerly been owned by the large mining companies.

Over the next 100 years, the residents of South Range watched many of their neighboring towns disappear as American industry declined and no longer needed the resources that this region could provide. However, South Range survived because of the perseverance of the families who lived there and the businesses that grew to support them.

Today, the Village of South Range and its 800 residents enjoy a year-round tourism industry as well as the beautiful surroundings of the Keewenaw Peninsula. People travel from all over the Midwest to enjoy the vibrant fall colors, winter snow sports, and calm summer nights of northern Michigan.

I take great pride in congratulating the Village of South Range as it celebrates its centennial anniversary. The beauty and history of the central Keweenaw Peninsula is truly something to be proud of. I know my Senate colleagues will join me in saluting the Village of South Range and wish its citizens luck as they head into their next 100 years.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:41 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 8. An act to make the repeal of the estate tax permanent.

ENROLLED BILL SIGNED

At 2:59 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 703. An act to designate the regional headquarters building for the National Park Service under construction in Omaha, Nebraska, as the ''Carl T. Curtis National Park Service Midwest Regional Headquarters Building''.

MEASURE REFERRED

The Committee on Environment and Public Works was discharged from further consideration of the following measure which was referred to the Committee on Energy and Natural Resources:

H.R. 856. An act to authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 8. An act to make the repeal of the estate tax permanent.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–165. A joint resolution adopted by the Legislature of the State of Utah relative to issues relating to undocumented individuals in the United States; to the Committee on the Judiciary.

JOINT RESOLUTION 28

Whereas, the Federal Immigration and Naturalization Service has not addressed the issue of undocumented workers from Mexico and Latin American nations;

Whereas, this is an issue of great concern in the state of Utah;

Whereas, children born in the United States to undocumented individuals are American-born citizens;

Whereas, undocumented workers have been in the United States for five years to 50 years without being deported by the Federal Immigration and Naturalization Service;

Whereas, some American citizens have married undocumented individuals, and some undocumented workers have joined the United States Armed Services;

Whereas, many undocumented individuals have paid taxes; and

Whereas, issues related to undocumented individuals raise complex questions that need to be resolved on the national level:

Now, therefore, be it *Resolved*, That the Legislature of the state of Utah strongly urge the United States Congress to review and consider whether to permit parents of American-born children to become American citizens; whether to permit undocumented individuals who have married American citizens to become American citizens, whether to permit undocumented individuals that have been in the United States for more than five years to be given the opportunity to become an American citizen, and whether to permit undocumented individuals who have joined the United States Armed Services to become American citizens.

Be it further *Resolved*, That the Legislature strongly urges the United States Congress to review and determine the appropriate disposition of family and financial affairs in cases where an undocumented parent purchases a home and is then deported.

Be it further *Resolved*, That the Legislature urges Utah's congressional delegation to work with Congress in resolving these issues and to provide guidance and support in the resolution of these issues.

Be it further *Resolved*, That a copy of this resolution be sent to the President of the United States Senate, the Speaker of the United States House of Representatives, the

Federal Immigration and Naturalization Service, and the members of Utah's congressional delegation.

POM–166. A joint resolution adopted by the Legislature of the State of Utah relative to establishing a wolf management plan, to the Committee on Environment and Public Works.

JOINT RESOLUTION 12

Whereas, wolves have become well established in the Northern Rocky Mountain states of Idaho, Montana, and Wyoming, and dispersing young wolves from these expanding populations are traveling into and attempting to recolonize parts of Utah;

Whereas, the biological status of wolves in the Northern Rocky Mountain Recovery Area has recently exceeded criteria for full recovery under the Northern Rocky Mountain Wolf Recovery Plan;

Whereas, the United States Fish and Wildlife Service has stated that the presence of wolves in Utah is not necessary for the recovery of wolves in the Northern Rocky Mountain Recovery Area;

Whereas, Utah is not a participating state in the Northern Rocky Mountain recovery effort for Gray Wolves;

Whereas, the wolf is currently protected in Utah by state statute as well as by the Federal Endangered Species Act;

Whereas, the state of Utah has a legislated, public process for the purpose of developing policy for the management of protected wildlife, which includes the Regional Advisory Councils and the Utah Wildlife Board;

Whereas, the Utah Wildlife Board has been recognized by the Western Association of Fish and Wildlife Agencies for its ability to resolve complex, controversial wildlife management issues;

Whereas, the Utah Wildlife Board has approved a Policy on Managing Predatory Wildlife Species that provides direction to the Division of Wildlife Resources in managing predatory populations;

Whereas, recent biological assessments recognize that lands within the original boundaries of the Uintah and Ouray Reservation in the Uinta Basin of Utah contain suitable wolf habitat;

Whereas, the state of Utah and the Ute Indian Tribe are party to a Cooperative Management Agreement which recognizes the need for cooperation in the management of wildlife within the original boundaries of the Reservation;

Whereas, citizens and conservation organizations in Utah have invested significant resources to restore populations of wildlife in Utah; and

Whereas, hunting, ranching, and livestock production contribute significantly to the economy, heritage, and quality of life in Utah:

Now, therefore, be it *Resolved,* That the Legislature of the state of Utah urges the United States Fish and Wildlife Service to expedite the delisting process for wolves in the Western Gray Wolf Distinct Population Segment, thereby transferring authority to manage wolves to the states.

Be it further, *Resolved,* That the Legislature urges the United States Fish and Wildlife Service to reject requests to establish additional recovery areas that would include the state of Utah, leaving the entire state in the Western Gray Wolf Distinct Population Segment.

Be it further, *Resolved,* That the Legislature strongly urges the Utah Division of Wildlife Resources to draft a wolf management plan for review, modification, and adoption by the Utah Wildlife Board through the Regional Advisory Council process.

Be it further, *Resolved,* That the Legislature urges that the objectives and strategies of the plan, to the extent possible, be consistent with the wildlife management objectives of the Ute Indian Tribe, prevent livestock depredation, and protect the investments made in wildlife management efforts while being consistent with United States Fish and Wildlife Service regulations and other Utah species management plans.

Be it further, *Resolved,* That the Legislature strongly urges the Division of Wildlife Resources to prepare a grant proposal for consideration by the Department of Natural Resources, within the department's species protection line item, to fully compensate private landowners for losses not covered by other mitigation sources and resulting from depredation to livestock by wolves.

Be it further, *Resolved,* That a copy of this resolution be sent to the United States Fish and Wildlife Service Region Six, the United States Secretary of the Interior, the Utah Wildlife Board, the Utah Division of Wildlife Resources, and the members of Utah's congressional delegation.

POM–167. A concurrent resolution adopted by the Legislature of the State of Utah relative to the space shuttle Columbia; to the Committee on Commerce, Science, and Transportation.

CONCURRENT RESOLUTION

Whereas, at approximately 9:00 a.m. EST on February 1, 2003, the crew of space shuttle mission STS–107 aboard space shuttle Columbia was lost during re-entry into Earth's atmosphere;

Whereas, the nation and the world mourns the loss of Americans Colonel Rick D. Husband, Commander William C. McCool, Lt. Colonel Michael P. Anderson, Dr. Kalpana Chawla, Captain David M. Brown, Commander Laurel Blair Salton Clark, and Israeli Colonel Ilan Ramon;

Whereas, these astronauts were crew members on a space shuttle with a unique and historic heritage;

Whereas, the space shuttle Columbia's maiden voyage was April 12–14, 1981;

Whereas, the space shuttle Columbia has flown 28 flights between 1981 and 2003;

Whereas, the space shuttle Columbia was the first Space Shuttle to fly into Earth's orbit in 1981 and the oldest orbiter in the Shuttle fleet;

Whereas, the space shuttle Columbia became the first reusable spaceship;

Whereas, the space shuttle Columbia was named after the Boston, Massachusetts-based sloop captained by American Robert Gray, who on May 11, 1792 maneuvered the Columbia past the dangerous sandbar at the mouth of a river extending more than 1,000 miles through what is today south-eastern British Columbia, Canada, and the Washington-Oregon border, which river now bears the ship's name;

Whereas, this same 18th century sailing vessel became the first American ship to circumnavigate the globe;

Whereas, the first United States Navy Ship to circle the globe also bore the name Columbia;

Whereas, the command module of Apollo 11, the first lunar landing mission, also bore the name Columbia;

Whereas, the name ''Columbia'' is derived from the name of the famous explorer, Christopher Columbus;

Whereas, Commander Rick D. Husband, 45, was a colonel in the U.S. Air Force, a test pilot and veteran of one spaceflight, was selected by NASA in December 1994 to serve as pilot of the STS–96 and had logged more than 235 hours in space;

Whereas, Pilot William C. McCool, 41, a commander in the U.S. Navy and former test pilot, was selected by NASA in April 1996 and was making his first spaceflight;

Whereas, Payload Commander Michael P. Anderson, 43, a lieutenant colonel in the U.S. Air Force, was a former instructor pilot and tactical officer with over 211 hours in space, having flown on STS–89;

Whereas, Mission Specialist 1 David M. Brown, 46, a captain in the U.S. Navy and a naval aviator and flight surgeon, was selected by NASA in April 1996 and was making his first spaceflight;

Whereas, Mission Specialist 2 Kalpana Chawla, 41, an aerospace engineer and an FAA Certified Flight Instructor, was selected by NASA in December 1994 and had logged more than 376 hours in space, having flown on STS–87;

Whereas, Mission Specialist 4 Laurel Blair Salton Clark, 41, a commander (captain-select) in the U.S. Navy and a naval flight surgeon, was selected by NASA in April 1996 and was making her first spaceflight;

Whereas, Payload Specialist 1 Ilan Ramon, 48, a colonel in the Israeli Air Force and a fighter pilot, was the only payload specialist on STS–107, was approved by NASA in 1998, was making his first spaceflight, and was the first Israeli in space;

Whereas, these men and women knew the dangers and faced them willingly;

Whereas, their courage, daring, and idealism, in service to all humanity, will make us miss them all the more;

Whereas, the crew had eagerly prepared for many years to explore the universe and expand the boundaries of knowledge, establishing new frontiers in research and exploration;

Whereas, these crew members will always be remembered as heroes, pioneers, and valiant explorers on behalf of all;

Whereas, the full impact of this tragedy is only borne by the families of those seven;

Whereas, the tragic loss of the Columbia crew is a painful part of the process of exploration, discovery, and the expanding of man's horizons, and a sobering reminder that the future doesn't belong to the faint-hearted, but to the brave;

Whereas, not since that tragic loss of the crew of the space shuttle Challenger, almost 17 years ago to the day, has America's space program suffered such a great loss;

Whereas, President George W. Bush stated that although the crew did not return safely to Earth, we pray that all are safely home;

Whereas, the flight path of the space shuttle Columbia crossed southern Utah for the intended destination of Kennedy Space Center, Florida;

Whereas, many Utahns witnessed the space shuttle Columbia as it streaked over southern Utah on its eastwardly landing approach; and

Whereas, many Utah citizens have contributed to a wide array of service to the success of the U.S. space program:

Now, therefore, be it *Resolved,* That the Legislature of the state of Utah, the Governor concurring therein, recognize the tragic loss of the crew of the space shuttle Columbia.

Be it further *Resolved,* That the Legislature and the Governor express deep gratitude for the crew's courage and willingness to serve all mankind.

Be it further *Resolved,* That the Legislature and the Governor express sincere condolences to the families of the crew of the space shuttle Columbia, President Bush, Prime Minister Sharon, and the entire U.S. space program family.

Be it further *Resolved,* That a copy of this resolution be sent to the families of the space shuttle Columbia's crew, NASA Administrator Sean O'Keefe, the President of the United States, the Prime Minister of Israel, the Governor of Texas, the Governor of Louisiana, the Governor of Florida, and to

the members of Utah's congressional delegation.

POM–168. A concurrent resolution adopted by the Legislature of the State of Utah relative to the modification of census data collection procedures for the 2010 Census to account for United States Citizens who are living out of the country on a temporary basis; to the Committee on Governmental Affairs.

CONCURRENT RESOLUTION 1

Whereas, in 2000, and every preceding ten years, the United States Census Bureau collected data on the citizens of the United States;

Whereas, census data is used for many purposes, including the apportionment of congressional districts among the states based on population;

Whereas, if 857 more individuals had been approved to be included in the population data collected for Utah in the 2000 Census, the state would have been allocated an additional congressional seat;

Whereas, the United States Census Bureau's technical documentation manual for the 2000 Census states that Americans temporarily overseas are to be enumerated at their usual residence in the United States;

Whereas, U.S. military personnel and federal civilian employees stationed outside the United States and their dependents living with them, were included in the 2000 Census apportionment count;

Whereas, among the several groups and individual citizens from Utah that lived out of the country at the time of the 2000 Census were 11,176 members of the Church of Jesus Christ of Latter-day Saints, serving temporarily as missionaries as evidenced by the Affidavit of Robert B. Swensen, Director of the Missionary Department at the international headquarters of the Church of Jesus Christ of Latter-day Saints which affidavit is attached as Appendix A;

Whereas, members of the church from every state in the union serve these mission;

Whereas, although young females can serve 18-month missions and elderly couples may also serve anywhere from six-month to two-year missions for the church, the vast majority of missionaries are young males ages 19–21 who serve two-year missions;

Whereas, as illustrated in Appendix B, data from Census 2000 Summary File 3 show that male representation in the Utah population ranges from 50–53 percent from birth through 18 years of age;

Whereas, the percentage of males in the Utah population who are 19 years of age drops to just below 46 percent, reaches a low of 42.4 percent at age 20, and increases to 47.7 percent at age 21;

Whereas, beginning at age 22, the male representation in Utah returns to the 50–53 percent range, where it remains through age 49;

Whereas, using the Census 2000 Summary File 3 data, it is estimated that over 17,000 young males ages 19 through 21 were not included in Utah's census count, some of whom were counted in other states' census counts but the vast majority of whom were not counted as they were out of the country temporarily serving missions overseas;

Whereas, the Census 2000 Summary File 3 data clearly demonstrates the impact on the state's population of the many young male members of the Church of Jesus Christ of Latter-day Saints from Utah who temporarily leave the country for mission service and then return;

Whereas, the present questionnaire does not provide for those Americans temporarily living overseas to be enumerated at their usual residence in the United States;

Whereas, the impact of the temporary nature of this missionary service is not being factored into the determination of state population for purposes of allocating congressional seats; and

Whereas, the United States Census Bureau should reexamine the census data collection procedures in order to collect data that captures this portion of the state's population whose absence from the state is only temporary and should not be overlooked when determining the apportionment of congressional seats:

Now, therefore, be it *Resolved*, That the Legislature of the state of Utah, the Governor concurring therein, strongly urge the United States Census Bureau to review its census data collection procedures and make corrections for the 2010 Census, including the census questionnaire, to allow for the collection of data that recognizes the temporary nature of missionary service and permits those individuals out of the country for this purpose to be included in the calculation of state population.

Be it further *Resolved*, That this revised system be used in future census years so that all the states, including Utah, may be granted fair representation when future congressional seats are allocated.

Be it further *Resolved*, That a copy of this resolution be sent to Charles Louis Kincannon, Director, United States Census Bureau; Cathy McCully, Chief, Redistricting Data Office; Donald L. Evans, United States Secretary of Commerce; the House and Senate Congressional Committees chaired by the following: Dan Burton, Chairman, House Committee on Government Reform, Dave Weldon, Chairman, Subcommittee on Civil Service, Census, and Agency Organization, and Susan Collins, Chairman, Senate Committee on Government Affairs; and to the members of Utah's congressional delegation.

POM–169. A joint resolution adopted by the Legislature of the State of Utah relative to the compensation for the impact of federal land ownership on the state's ability to fund public education; to the Committee on Energy and Natural Resources.

JOINT RESOLUTION 14

Whereas, for many years western states have grappled with the challenge of providing the best education for their citizens;

Whereas, western states face unique challenges in achieving this goal;

Whereas, from 1979 to 1998 the percent change in expenditures per pupil in 13 western states was 28%, compared to 57% in the remaining states;

Whereas, in 2000–01, the pupil per teacher ratio in 13 western states averaged 17.9% to one compared with 14.8% to one in the remaining states;

Whereas, the conditions in western states are exacerbated by projections that enrollment will increase by an average of 7.1%, compared to an average decrease of 2.6% in the rest of the nation;

Whereas, despite the wide disparities in expenditures per pupil and pupil per teacher ratio, western states tax a comparable rate and allocate as much of their budgets to public education as the rest of the nation;

Whereas, the ability of western states to fund education is directly related to federal ownership of lands;

Whereas, the federal government owns an average of 51.9% of the land in 13 western states, compared to 4.1% in the remaining states;

Whereas, the enabling acts of most western states promise that 5% of the proceeds from the sale of federal lands will go to the states for public education;

Whereas, a federal policy change in 1976 ended these sales resulting in an estimated $14 billion in lost public education funding for western states;

Whereas, the ability of western states to fund public education is further impacted by the fact that state and local property taxes, which public education relies heavily upon to fund education, cannot be assessed on federal lands;

Whereas, the estimated annual impact of this property tax prohibition on western states is over $4 billion;

Whereas, the federal government shares only half of its royalty revenue with the states;

Whereas, royalties are further reduced because federal lands are less likely to be developed and federal laws often place stipulations on the use of state royalty payments;

Whereas, the estimated annual impact of royalty payment policies on western states is over $1.86 billion;

Whereas, much of the land that the federal government transferred to states upon statehood as a trust for public education is difficult to administer and to make productive because it is surrounded by federal land;

Whereas, federal land ownership greatly hinders the ability of western states to fund public education;

Whereas, the federal government should compensate western states for the significant impact federal land ownership has on the ability of western states to educate its citizens; and

Whereas, just compensation will allow western states to be on equal footing with the rest of the nation in their efforts to provide education for their citizens:

Now, therefore, be it *Resolved*, That the Legislature of the state of Utah urges the United States Congress to appropriate just compensation to the state of Utah for the impact of federal land ownership on the state's ability to find public education.

Be it further *Resolved*, That a copy of this resolution be sent to the President of the United States Senate, the Speaker of the United States House of Representatives, the President of the United States, and the members of Utah's congressional delegation.

POM–170. A joint resolution adopted by the Legislature of the State of Nevada relative to wilderness areas and wilderness study areas; to the Committee on Energy and Natural Resources.

SENATE JOINT RESOLUTION NO. 3

Whereas, The provisions of 16 U.S.C. §§1131 et seq., commonly referred to as the Wilderness Act, establish the National Wilderness Preservation System, which consists of areas of federal public land that are designated by Congress as wilderness areas; and

Whereas, Congress has designated approximately 2 million acres of certain federal public lands in Nevada as wilderness areas; and

Whereas, If an area of federal public land is designated as a wilderness area, it must be managed in a manner that preserves the wilderness character of the area and ensures that the area remains unimpaired for future use and enjoyment as a wilderness area; and

Whereas, A reasonable amount of wilderness area in this state provides for a diverse spectrum of recreational opportunities in Nevada, promotes tourism and provides a place for Nevadans to escape the pressures of urban growth; and

Whereas, In conjunction with the provisions of the Wilderness Act, the Bureau of Land Management of the Department of the Interior in the late 1970s conducted an initial inventory of approximately 49 million acres of federal public lands in Nevada to determine the suitability of such lands for designation as wilderness areas or identification as wilderness study areas and, in 1980, recommended that approximately 5.1 million acres of those lands be identified as wilderness study areas; and

Whereas, Until a wilderness study area is designated by Congress as a wilderness area or released for multiple use, the wilderness study area must be managed in a manner that does not impair its suitability or preservation as a wilderness area; and

Whereas, In 1991, the Bureau of Land Management recommended that Congress designate as wilderness areas approximately 1.9 million acres of the 5.1 million acres of wilderness study areas in Nevada and release the remainder of the wilderness study areas for multiple use; and

Whereas, Although Congress recently enacted the Clark County Conservation of Public Land and Natural Resources Act of 2002, Public Law 107–282 (2002), which released approximately 224,000 acres in Clark County from its current status as wilderness study areas, the recommendations made by the Bureau of Land Management in 1991 have largely not been acted upon by Congress, and the Bureau continues to manage approximately 3.86 million acres of federal public lands in Nevada identified as wilderness study areas; and

Whereas, It is important that decisions concerning whether to designate wilderness study areas as wilderness areas or release those areas for multiple use are made in a timely manner without any unnecessary delays as the identification of federal public lands as wilderness study areas is believed to impose significant restrictions on the management and use of those lands; and

Whereas, It is also important to protect the ecological health and existing and potential economic and recreational benefits of wilderness areas and wilderness study areas in this state by using reasonable and effective methods of fire suppression in those areas; and

Whereas, Because approximately 2 million acres of federal public land in Nevada have been designated as wilderness areas and approximately 8.6 percent of the federal public land in Nevada that is managed by the Bureau of Land Management has been identified as wilderness study areas and because such designation or identification is believed to impose significant restrictions concerning the management and use of such land, including land used for mining, ranching and recreation, the Legislative Commission appointed in 2001 to conduct an interim study of wilderness areas and wilderness study areas in this state; and

Whereas, During the 2001–2002 legislative interim, the subcommittee met several times throughout this state and facilitated important and wide-ranging discussions among many agencies, organizations and persons with diverse interests, perspectives and expertise concerning wilderness areas and wilderness study areas; and

Whereas, The subcommittee received a great deal of valuable input from those agencies, organizations and persons, including many valuable recommendations for Congress to consider in addressing the issues concerning wilderness areas and wilderness study areas in a responsible, reasonable and fair manner; now, therefore, be it

Resolved by the Senate and Assembly of the State of Nevada, jointly, That the members of the Nevada Legislature urge Congress to:

1. Support efforts to ensure that adequate access to wilderness areas and wilderness study areas is afforded to the appropriate agencies and persons so that those agencies and persons may effectively combat fires in wilderness areas and wilderness study areas;

2. Support the use of all reasonable and effective fire suppression efforts in wilderness areas and wilderness study areas without strictly confining such efforts only to the tools determined by the federal agencies which manage federal public lands to be the minimum tools necessary;

3. Accept the recommendation of the Bureau of Land Management to designate 1.9 million acres of certain wilderness study areas in Nevada as wilderness areas while also incorporating in the designation process flexibility to consider relevant information such as growth to ensure the establishment of appropriate boundaries for those areas and recognizing that such consideration may result in a reasonable adjustment of those boundaries;

4. Oppose any efforts to conduct another inventory of the federal public lands in Nevada for purposes of creating wilderness areas or wilderness study areas without first releasing wilderness study areas determined to be unsuitable for designation as wilderness areas;

5. Ensure that more current information is considered before acting on the recommendations of the Bureau of Land Management concerning the designation of wilderness areas in Nevada as the surveys of the Bureau were performed with limited time, resources and technology; and

6. Avoid any unnecessary delays in releasing wilderness study areas for multiple use by establishing a plan for addressing the release of wilderness study areas in a timely manner that includes a schedule or plan for the timely consideration of important issues concerning wilderness study areas; and be it further

Resolved, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

Resolved, That this resolution becomes effective upon passage.

POM–171. A joint resolution adopted by the Legislature of the State of Nevada relative to wilderness areas and wilderness study areas; to the Committee on Energy and Natural Resources.

SENATE JOINT RESOLUTION 4

Whereas, The provisions of 16 U.S.C. §§1131 et seq., commonly referred to as the Wilderness Act, established the National Wilderness Preservation System, which consists of areas of federal public land that are designated by Congress as wilderness areas; and

Whereas, Congress has designated approximately 2 million acres of certain federal public lands in Nevada as wilderness areas; and

Whereas, If an area of federal public land is designated as a wilderness area, it must be managed in a manner that preserves the wilderness character of the area and ensures that the area remains unimpaired for future use and enjoyment as a wilderness area; and

Whereas, A reasonable amount of wilderness area in this state provides for a diverse spectrum of recreational opportunities in Nevada, promotes tourism and provides a place for Nevadans to escape the pressures of urban growth; and

Whereas, In conjunction with the provisions of the Wilderness Act, the Bureau of Land Management of the Department of the Interior manages approximately 3.86 million acres of federal public lands in Nevada identified as wilderness study areas; and

Whereas, Until a wilderness study area is designated by Congress as a wilderness area or released, the wilderness study area must be managed in a manner that does not impair its suitability for preservation as a wilderness area; and

Whereas, Because approximately 2 million acres of federal public land in Nevada have been designated as wilderness areas and approximately 8.6 percent of the federal public land in Nevada that is managed by the Bureau of Land Management has been identified as wilderness study areas and because such designation or identification is believed to impose significant restrictions concerning the management and use of such land, including land used for mining, ranching and recreation, the Legislative Commission appointed a subcommittee in 2001 to conduct an interim study of wilderness areas and wilderness study areas in this state; and

Whereas, During the 2001–2002 legislative interim, the subcommittee met several times throughout this state and facilitated important and wide-ranging discussions among many agencies, organizations and persons with diverse interests, perspectives and expertise concerning wilderness areas and wilderness study areas; and

Whereas, The subcommittee received a great deal of valuable input from those agencies, organizations and persons, including many valuable recommendations for the Nevada Congressional Delegation and Congress to consider in addressing the issues concerning wilderness areas and wilderness study areas in a responsible, reasonable and fair manner; now, therefore, be it

Resolved by the Senate and Assembly of the State of Nevada, jointly, That the members of the Nevada Legislature urge the Nevada Congressional Delegation to work with all interested Nevadans, land managers, affected parties, local governments, special interest organizations and members of the American public in a spirit of cooperation and mutual respect to address issues concerning the designation of wilderness areas in Nevada; and be it further

Resolved, That the members of the Nevada Legislature urge Congress to:

1. Encourage education at all levels of government and of all affected parties to ensure that facts are accurately presented when wilderness issues are debated and that the applicable laws are properly interpreted when officials carry out legislation concerning wilderness areas and wilderness study areas;

2. Require the development of accurate, consensus-vased maps for boundaries of wilderness areas and wilderness study areas using technologies such as Geographic Information Systems;

3. Oppose the creation of buffer zones around wilderness areas and instead support the requirement of clear and concise boundaries based on recognizable features on the ground, including, without limitation, roads and established drainage routes;

4. Support efforts to ensure that existing roads are not closed to create wilderness areas;

5. Support the implementation of appropriate measures, including, without limitation, the use of roads, to ensure that persons who are elderly or have a disability have continued access to wilderness areas;

6. Support the preservation of roads that do not appear on a map and may not have been documented but that have historically been used to allow persons access to private property;

7. For the purpose of allowing ranchers access to water diversions located near wilderness areas or wilderness study areas, support the use of ''cherry-stem'' roads, which are dead-end roads that would geographically extend into wilderness areas but are excluded from designation as parts of wilderness areas because the boundaries of the wilderness areas are drawn around and just beyond the edges of such roads;

8. Specifically outline and guarantee all preexisting rights of ranchers concerning grazing permits, water permits and access to land and water necessary for ranching via ''cherry-stem'' roads in any legislation concerning wilderness areas and wilderness study areas;

9. Support the use of appropriately managed techniques for managing vegetation, including, without limitation, grazing, and the use of appropriately managed logging as integral tools for reducing potential fire danger in wilderness areas and wilderness study areas;

10. Consider future population growth and urban expansion when designating wilderness areas in Nevada, as Nevada has been the state with the highest percentage population growth in recent years and public lands in Nevada are increasingly impacted by human activity and development;

11. Support the designation of the area of approximately 1,800 acres of land known as Marble Canyon, which is adjacent to the Mt. Moriah Wilderness Area and which appears to have been inadvertently excluded from the Nevada Wilderness Protection Act of 1989, Public Law 101–195, as a wilderness area;

12. Support national and state legislation which explicitly requires that when a decision is made in the public land use planning process which will affect economic activity on public land, consideration must be given as to the effects of the decision on communities that are dependent on natural resources;

13. Hold extensive hearings in Washington, DC., and in Nevada before making any changes to the designation of wilderness areas in Nevada or the identification of wilderness study areas in Nevada or any other changes concerning public lands in Nevada;

14. Use a collaborative process when designating a wilderness study area as a wilderness area; and

15. Support precise specification of the activities that are authorized within wilderness areas and wilderness study areas; and be it further

Resolved, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

Resolved, That this resolution becomes effective upon passage.

POM–172. A concurrent resolution adopted by the Legislature of the State of Hawaii relative to migration issues and citizens of the Freely Associated States who reside in the State of Hawaii; to the Committee on Health, Education, Labor, and Pensions.

HOUSE CONCURRENT RESOLUTION 62

Whereas, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau (collectively, Freely Associated States), formerly part of the Trust Territory of the Pacific Islands under the United Nations Charter, entered into an agreement with the government of the United States known as the Compact of Free Association (Compact); and

Whereas, the Compact was entered into with these nations in part to terminate the trusteeship, recognize their independence, provide them with critical economic development aid, and allow their people to immigrate freely to the United States; and

Whereas, under the Compact, the United States provides direct economic assistance, federal services, and military protection to these nations, in exchange for defense rights; and

Whereas, the Compact, codified as Title II of Public Law 99–239, was established in 1986 between the United States and the Republic of the Marshall Islands and the Federated States of Micronesia, and in 1994 with the Republic of Palau, codified as Title II of Public Law 99–658; and

Whereas, section 104(e)(1) of Title I, Public Law 99–239, regarding the interpretation of and United State policy regarding the Compact, states that in approving the Compact, ''it is not the intent of the Congress to cause any adverse consequences for . . . the States of Hawaii''; and

Whereas, section 104(e)(4) of Title I, Public Law 99–239, provides that ''if any adverse consequences to . . . the State of Hawaii result from implementation of the Compact of Free Association, the Congress will act sympathetically and expeditiously to redress those adverse consequences''; and

Whereas, section 104(e)(5) of Title I, Public Law 99–239, appropriated funds beginning after September 30, 1985, to cover the costs, if any, incurred by Hawaii ''resulting from any increased demands placed on educational and social services by immigrants from the Marshall Islands and the Federated States of Micronesia''; and

Whereas, section 104(e)(2) of Title I, Public Law 99–239, requires the President of the United States to report annually to the Congress on the impact of the Compact on the State of Hawaii, identifying any adverse consequences resulting from the Compact and making recommendations for corrective action, focusing on such areas as trade, taxation, immigration, labor, and environmental regulations; and

Whereas, section 104(e)(3) of Title I, Public Law 99–239, further provides that in preparing these reports to Congress, the President shall request the views of the government of the State of Hawaii and transmit the full text of those views to Congress as part of those reports; and

Whereas, the interpretation of and United States policy regarding the Compact as set forth in section 104 of Title I, Public Law 99–239, with respect to the Federated States of Micronesia and the Republic of the Marshall Islands, also applies to the Republic of Palau, pursuant to section 102(a) of Title I, Public Law 99–658, thereby making the State of Hawaii eligible for additional funds resulting from increased demands placed on the educational and social services of the State of Hawaii by immigrants from the Freely Associated States; and

Whereas, payments from the United States to the Republic of the Marshall Islands and the Federated States of Micronesia under the Compact of Free Association will end on October 1, 2003, and Compact re-negotiation talks have been continuing; and

Whereas, instead of mitigating the incentive for Freely Associated States citizens to migrate by improving the overall quality of life in the Freely Associated States through increased economic aid, the United States has proposed giving additional funds to regions affected by ''Compact impacts,'' while creating ''various mechanisms'' to ensure that migrants from Freely Associated States are eligible for admission; and

Whereas, although the renegotiated Compacts with the Republic of the Marshall Islands and the Federated States of Micronesia will most likely continue to provide islanders with visa-free entry to the United States, the United States Congress should review the migration issue and increase the amount of aid available for the Compact's educational and social impact on Hawaii; and

Whereas, many residents of the Freely Associated States are attracted to the State of Hawaii due to the State's increased employment and educational opportunities, as well as similar Pacific Island culture and lifestyle; and

Whereas, drawn by the promise of better medical care and a better education for their children, over six thousand Freely Associated States citizens have migrated to and are currently residing in Hawaii; and

Whereas, Freely Associated States citizens that enter the United States may have contagious diseases, criminal records, or chronic health problems—conditions that are normally grounds for inadmissibility into the United States; and

Whereas, the 1996 federal Welfare Reform Act cut off access to federal welfare and medical assistance programs, forcing citizens of the Freely Associated States residing in Hawaii to rely on state aid; and

Whereas, the cost of supporting Freely Associated States citizens residing in Hawaii, largely in healthcare and education, totaled more than $101,000,000 between 1998 and 2002; and

Whereas, Freely Associated States students have higher costs than other students due to poor language and other skills, and because such students enter and leave school a few times each year, their integration into the school system has been difficult; and

Whereas, since the Compact went into effect in 1986 until 2001, Hawaii has spent over $64,000,000 to educate Freely Associated States citizens and their children in public schools, $10,000,000 in 2000 alone; and

Whereas, last year, the number of Freely Associated States students in primary and secondary public schools in Hawaii increased by twenty-eight percent, resulting in costs to the State of over $13,000,000 for school year 2001–2002, and bringing the total costs for education, since 1988, to about $78,000,000; and

Whereas, during the academic school year 2001–2002, the University of Hawaii lost over $1,200,000 in tuition revenue systemwide, as a result of students from the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau paying resident rather than non-resident tuition; and

Whereas, inadequate and delayed federal compensation to Hawaii's education system results in a cost to Hawaii's own children and contributes to Hawaii being substantially below many other states in per pupil expenditures for public school children in kindergarten through grade twelve; and

Whereas, state medical assistance payments for Freely Associated States citizens from 1998 to 2002 totaled $14,961,427, and financial assistance payments during the same period totaled $13,378,692, with costs borne solely by the State of Hawaii; and

Whereas, the financial stability and viability of private hospitals and medical providers is threatened by staggering debts and write-offs for medical services provided to Freely Associated States citizens residing in Hawaii, in spite of state Medicaid reimbursements; and

Whereas, between 1998 and 2002, $10.1 million in operating losses attributable to healthcare for Freely Associated States citizens residing in Hawaii were incurred at three Honolulu hospitals (the Queen's Medical Center, Straub Clinic and Hospital, and Kapiolani Medical Center for Women and Children), and these types of losses were also incurred at the twenty other hospitals in the State; and

Whereas, community health centers estimate an annual cost of $420,000 for services to Freely Associated States citizens residing in Hawaii; and

Whereas, the Department of Health has also been significantly impacted by the cost of public health services to Freely Associated States citizens residing in Hawaii, with $967,000 spent on screening vaccination and treatment of communicable diseases and $190,000 spent for immunization and outreach by public health nurses; and

Whereas, inadequate and delayed federal compensation threaten to overwhelm Hawaii's health care systems, leading to potential cutbacks in services and personnel that would impact all of Hawaii's citizens; and

Whereas, it is imperative that Hawaii be granted immediate and substantial federal assistance to meet these mounting costs; and

Whereas, the fact that Micronesians should qualify for federal benefits, while residing in Hawaii and the rest of the United States, can best be summed up by the resolution which was adopted September 9, 2001, in Washington, D.C., by Grassroots Organizing for Welfare Leadership, supporting the insertion of language in all federal welfare, food, and housing legislation, because Micronesians are eligible for these and other benefits as ''qualified non-immigrants'' residing in the United States; and

Whereas, the United States government is not owning up to its responsibility for what the United States did to the Micronesian people by refusing them food stamps and other federal benefits when they came to Hawaii and the rest of the United States seeking help; and

Whereas, the excuse by the United States government to deny any aid to the Micronesians in the United States is the word ''non-immigrant'' used in the Compact of Free Association to describe Micronesians who move to Hawaii and the United States; and

Whereas, Micronesians have also developed high rates of diabetes, high blood pressure, and obesity as a result of American dietary colonialism; and

Whereas, it is the intent of this Resolution to encourage the responsible entities to implement the provisions of the Compact of Freely Associated States, which authorizes compact impact funds to be made available to states that welcome and provide services to the people of the Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau, because most of the Freely Associated States citizens who migrate to Hawaii do so for medical problems related to the United States' military testing of nuclear bombs; now, therefore,

Be it *Resolved by the Senate of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2003,* the *House of Representatives concurring*, That the Bush Administration and the United States Congress are requested to appropriate adequate financial impact assistance for health, education, and other social services for Hawaii's Freely Associated States citizens; and

Be it further *Resolved*, That the Bush Administration and the United States Congress are requested to insert language in all federal welfare, food, and housing legislation which says that Micronesians are eligible for federal food stamps, welfare, public housing, and other federal benefits as ''qualified non-immigrants'' residing in the United States; and

Be it further *Resolved,* That the Bush Administration and the United States Congress are requested to restore Freely Associated States citizens' eligibility for federal public benefits, such as Medicaid, Medicare, and food stamps; and

Be it further *Resolved,* That Hawaii's congressional delegation is requested to introduce legislation in the United States Congress calling for further review of the migration issue and for increased aid for the educational and social impact of the Compact of Free Association, and any newly renegotiated Compact, on the State of Hawaii; and

Be it further *Resolved*, That Hawaii's congressional delegates are requested to assure financial reimbursements, through the establishment of a trust, escrow, or set-aside account, to the State of Hawaii for educational, medical, and social services and to Hawaii's private medical providers who have provided services to Freely Associated States citizens; and

Be it further *Resolved*, That certified copies of this Concurrent Resolution be transmitted to the President of the United States; U.S. Secretary of State; President of the U.S. Senate; Speaker of the U.S. House of Representatives; members of Hawaii's congressional delegation, the Presidents of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, and their respective Honolulu Offices; the national negotiating teams of the Compact of Free Association; the Governor; State Attorney General; Directors of Health and Human Services; President of the University of Hawaii; Superintendent of Education; Chair of the Board of Agriculture; Grassroots Organizing for Welfare Leadership; Micronesians United; the United Church of Christ; Hawaii Conference of Churches; and the United Methodist Church of Honolulu.

POM–173. A concurrent resolution adopted by the Legislature of the State of Utah relative to the establishment of requirements that clinical study sponsors perform subgroup analysis of their studies to ensure that the health concerns of women are addressed in clinical trial results; to the Committee on Health, Education, Labor, and Pensions.

CONCURRENT RESOLUTION 2

Whereas, there is a pressing need to collect and assess more accurate data regarding the health of women;

Whereas, subgroup analysis, a statistical procedure, takes data from a general group of study subjects and looks for differences within a subset of those subjects that share a specific characteristic, such as sex, age, or state of disease;

Whereas, studies have shown that, to improve the quality and appropriateness of health services, the gender of those participating in clinical trials must be factored into all levels of biomedical research, creating a new paradigm for data analysis;

Whereas, despite the mounting evidence of the need for subgroup data analysis based on gender, recent reports show that analysis is either not being conducted or not being reported;

Whereas, although a 1993 policy guideline and a 1998 regulation by the Food and Drug Administration recommends that study sponsors perform subgroup analysis of their studies, it is clear that these recommendations are not being followed;

Whereas, a July 2001 report of the General Accounting Office found that about one-third of new drug applications submitted to the Food and Drug Administration by study sponsors failed to provide gender-specific data from subgroup-analysis conducted during the clinical trials; and

Whereas, without subgroup analyses, researchers and clinicians cannot truly assess the safety and efficacy of new drugs for women, and the development of potentially life saving drugs may be abandoned if early trials fail to show efficacy in one gender:

Now, therefore, be it *Resolved*, That the Legislature of the State of Utah, the Governor concurring therein, strongly urge the Food and Drug Administration to strictly enforce requirements that clinical study sponsors perform subgroup analysis of their studies to ensure that the health concerns of women are appropriately addressed in clinical trial results.

Be it further *Resolved*, that a copy of this resolution be sent to the Food and Drug Administration, the Utah Department of Health, and the members of Utah's congressional delegation.

POM–174. A resolution adopted by the House of the General Assembly of the Commonwealth of Pennsylvania relative to pensions and individual retirement accounts; to the Committee on Finance.

HOUSE RESOLUTION NO. 38

Whereas, Under Federal tax relief legislation passed in 2001, pension and Individual Retirement Account (IRA) provisions will sunset on December 31, 2010; and

Whereas, Although the tax-deductible contribution limit for IRA contributions will increase through December 31, 2010, IRA funding limits will actually shrink by 60% in 2011 if pension and IRA provisions sunset as provided in the 2001 tax relief legislation; and

Whereas, People 50 years of age and older have been allowed tax benefits for investing additional funds in their retirement accounts annually as ''catch-up'' contributions, and this practice should continue because it maximizes ''nest eggs''; and

Whereas, Pensions should be portable because the average American changes jobs ten times throughout his career span; and

Whereas, Minimum distribution rules for pensions and retirement accounts should be adjusted to reflect the increase in work years and life expectancy because the population of this country enjoys a longer, more active life than that of a few generations ago and tends to spend more years in the work force; therefore be it

Resolved, That the House of Representatives urge the Congress of the United States to continue to grant pension moneys and Individual Retirement Accounts favorable tax treatment and to repeal the provisions of the 2001 tax relief legislation which impede such favorable treatment; and be it further

Resolved, that copies of this resolution be transmitted to the presiding officers of each House of Congress and to each Member of Congress from Pennsylvania.

POM–175. A resolution adopted by the House of the General Assembly of the Commonwealth of Pennsylvania relative to the repeal of the death tax; to the Committee on Finance.

HOUSE RESOLUTION NO. 70

Whereas, Under tax relief legislation passed in 2001, the ''death tax'' was temporarily phased out but not permanently eliminated; and

Whereas, Farmers and other small business owners will face losing their farms and businesses if the Federal Government resumes the heavy taxation of citizens at death; and

Whereas, Employees suffer layoffs when small and medium businesses are liquidated to pay death taxes; and

Whereas, If the death tax had been repealed in 1996, the United States economy would have realized billions of dollars each year in extra output and an average of 145,000 additional new jobs would have been created; and

Whereas, Having repeatedly passed in the United States House of Representatives and Senate, repeal of the death tax holds wide bipartisan support; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge Congress to vote for the permanent repeal of the death tax; and be it further

Resolved, That copies of this resolution be transmitted to the Pennsylvania Congressional Delegation.

POM–176. A resolution adopted by the House of the General Assembly of the Commonwealth of Pennsylvania relative to limits on the refinancing of long-term debt and on the advance refunding of private activity bonds by state and local government; to the Committee on Finance.

HOUSE RESOLUTION NO. 98

Whereas, As state and local governments begin working on their annual budgets, they are faced with weighing the unpalatable

choices of program cuts, tax hikes or both to make up budget shortfalls as a result of the sluggish economy; and

Whereas, In 1986 the Congress of the United States added a limitation to the Internal Revenue Code of 1986 providing that state and local governments can refinance long-term debt (municipal bonds) only once so that a flood of tax-exempt municipal bonds would not deprive the United States Treasury of tax revenue; and

Whereas, Many state and local governments refinanced their long-term debt during the 1990s to take advantage of the lower interest rates at that time; and

Whereas, The slowdown in the economy has led to even lower interest rates and provides the potential for state and local governments to refinance currently outstanding debt at historically low-interest rates and may hold the answer governments are looking for in an attempt to save badly needed funds; and

Whereas, By Federal law, those same governments now have only one opportunity to take advantage of favorable market conditions and achieve lower borrowing costs; and

Whereas, Section 149(d) of the Internal Revenue Code of 1986 also prohibits the advance refunding of all private activity bonds, other than qualified section 501(c)(3) bonds, if the bonds are to maintain their tax-exempt status; and

Whereas, Private activity bonds are commonly used by state agencies and local governments to finance important initiatives such as housing and redevelopment projects; and

Whereas, Current economic uncertainties increasingly pinch state and local government budgets compounded by the increased and unforeseen burdens of funding safeguards against terrorism; and

Whereas, In order to provide state and local governments with the tools and flexibility they need to face these changing circumstances, additional opportunities are needed to advance the refunding of outstanding debt; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge the President and the Congress of the United States to restructure the requirement in section 149(d) of the Internal Revenue Code of 1986, either legislatively or by regulation, to afford state and local governments the flexibility they need to take advantage of favorable market conditions by providing additional opportunities to advance the refunding of outstanding long-term debt; and be if further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM 177. A resolution adopted by the House of the General Assembly of the Commonwealth of Pennsylvania relative to a tariff on the importation of milk protein concentrates; to the Committee on Finance.

HOUSE RESOLUTION NO. 106

Whereas, Agriculture is the number one industry in the Commonwealth of Pennsylvania; and

Whereas, Dairy farmers are confronted with the lowest market prices for milk in 20 years as a result of low-cost importing of milk protein concentrates; and

Whereas, Milk protein concentrate is a highly filtered form of dried milk protein; and

Whereas, Milk protein concentrates are imported to make cheese products at a lower cost and with less milk; and

Whereas, There are currently no restrictions on imports of milk protein concentrates; and

Whereas, The influx of milk protein concentrates is a large contributor to the current dairy crisis; and

Whereas, Milk protein concentrates are being imported into the Commonwealth of Pennsylvania and being used in dairy products; and

Whereas, Dairy farmers across the country and especially in the Commonwealth of Pennsylvania are affected by the large amount of imported milk protein concentrates; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge the Congress of the United States to impose a tariff on the importation of milk protein concentrates; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress, to the Pennsylvania congressional delegation and to Governor Edward G. Rendell.

POM–178. A joint resolution adopted by the Legislature of the State of Utah relative to the repeal of the individual and permanent Alternative Minimum Tax; to the Committee on Finance.

JOINT RESOLUTION 24

Whereas, in 1969 the United States Congress created the Alternative Minimum Tax to prevent wealthy Americans and corporations from using otherwise available deductions to reduce their income tax liability;

Whereas, today the Alternative Minimum Tax has placed an onerous burden on working middle-class families and productive companies;

Whereas, any family making over $49,000 and deducting their state and local taxes, mortgage interest, children, and college education will be subject to the Alternative Minimum Tax;

Whereas, the Corporate Alternative Minimum Tax targets capital intensive industries that create jobs, raises the incomes of workers, and increases the standard of living for all Americans

Whereas, corporations become subject to the Alternative Minimum Tax during recessions which forces employee layoffs; and

Whereas, it is important to protect working middle-income families and productive companies from tax burdens that only reduce the possibility of economic prosperity instead off encourage it:

Now, therefore, be it *resolved,* That the Legislature of the state of Utah urges the members of Utah's congressional delegation to vote to repeal the individual and permanent Alternative Minimum Tax.

Be it further *Resolved,* That a copy of this resolution be sent to the members of Utah's congressional delegation.

POM–179. A joint resolution adopted by the Legislature of the State of Utah relative to a free trade agreement between the Republic of China on Taiwan and the United States; to the Committee on Finance.

JOINT RESOLUTION 7

Whereas, the United States should promote the values of freedom, democracy, and a commitment to open markets and the free exchange of both goods and ideas at home and abroad;

Whereas, the Republic of China on Taiwan shares these values with the United States and has struggled throughout the past 50 years to create what is today an open and thriving democracy;

Whereas, the United States must continue to support the growth of democracy and ongoing market opening in Taiwan if this relationship is to evolve and reflect the changing nature of the global system in the 21st Century;

Whereas, despite the fact that Taiwan only recently became a member of the World Trade Organization and that it has no formal trade agreement with the United States, Taiwan has nevertheless emerged as the United States' eighth largest trading partner;

Whereas, American businesses and workers have benefitted greatly from this dynamic trade relationship, most recently in the computer and electronics sector;

Whereas, Taiwan is a gateway to other Pacific Rim markets for United States exports, helping to preserve peace and stability within the entire region;

Whereas, United States agricultural producers have been particularly under represented in the list of United States exports to the region, despite the importance of the market for growers of corn, wheat, and soybeans;

Whereas, a free trade agreement would not only help Taiwan's economy dramatically expand its already growing entrepreneurial class, but it would also serve an important political function;

Whereas, the United States needs to support partner countries that are lowering trade barriers;

Whereas, Taiwan has emerged over the past two decades as one of the United States' most important allies in Asia and throughout the world;

Whereas, in the interest of supporting, preserving, and protecting the democratic fabric of the government of Taiwan, it is made clear that the United States supports the withdrawal of missiles deployed as a threat against Taiwan by the People's Republic of China;

Whereas, Taiwan has forged an open, market-based economy and a thriving democracy based on free elections and the freedom of dissent;

Whereas, it is in the interest of the United States to encourage the development of both these institutions;

Whereas, the United States has an obligation to its allies and to its own citizens to encourage economic growth, market opening, and the destruction of trade barriers as a means of raising living standards across the board;

Whereas, a free trade agreement with Taiwan would be a positive step toward accomplishing all of these goals; and

Whereas, the United States should also support the entry of Taiwan into the World Health Organization, the United Nations, and other relevant international organizations:

Now, therefore, be it *Resolved*, That the Legislature of the state of Utah urges the Bush Administration to support a free trade agreement between the United States and Taiwan.

Be it further *Resolved*, That United States policy should include the pursuit of some initiative in the World Trade Organization which will give Taiwan meaningful participation in a manner that is consistent with the organization's requirements.

Be it further *Resolbed*, That a copy of this resolution be sent to the President of the United States, the United States Secretary of State, the Secretary of Health, Education, and Welfare, the Speaker of the United States House of Representatives, the President of the United States Senate, the Government of Taiwan, the World Trade Organization, and the members of Utah's congressional delegation.

POM–180. A resolution adopted by the Senate of the Legislature of the State of Wisconsin relative to the Medicare system; to the Committee on Finance.

SENATE RESOLUTION 7

Whereas, the archaic and complex Medicare reimbursement formula rewards Medicare providers in areas with high historic

health costs while penalizing those providers in low-cost areas for the same services; and

Whereas, Wisconsin and other upper midwestern states have traditionally been paid less per Medicare enrollee due to our efficient, low-cost management of health care services; and

Whereas, Wisconsin receives the 8th lowest Medicare payments per enrollee in the nation; and

Whereas, if Wisconsin received Medicare payments at the national average, an additional $1,000,000,000 in benefits would flow to our seniors and their health care providers; and

Whereas, Wisconsin should no longer be a ''donor'' state by contributing its fair share to the federal program while receiving fewer benefits and lower reimbursements in return; and

Whereas, the failure of Wisconsin Medicare to cover the cost of health care for its beneficiaries shifts the cost burden to employers and the privately insured, translating into a hidden tax increase that contributes to rising health insurance premiums and the uninsured population; and

Whereas, an increase in the uninsured would have a detrimental impact on the health of many Wisconsin citizens, would drive up health care costs, and could lead to a significant rise in the use of government programs such as BadgerCare or Medical Assistance, thus requiring additional funding from Wisconsin taxpayers; and

Whereas, another practical result of this payment inequity is that Wisconsin's seniors are denied access to the broad range of affordable benefits and services that seniors in many other states take for granted; and

Whereas, in places where reimbursement rates are high, such as Florida, Medicare health maintenance organizations can offer their plans without a premium, while in Wisconsin the Medicare population has limited access to health maintenance organization care; and

Whereas, Wisconsin's hospitals are paid 14% less than their costs and thus rank 45th nationally in percentage of costs paid for providing services to Medicare beneficiaries; and

Whereas, Wisconsin physicians are paid approximately one-third less of their costs, and Wisconsin consistently ranks nationally as one of the 10 lowest states in Medicare reimbursement for medical services provided; and

Whereas, the impact of this inequity has not translated into the delay, by 50% of Wisconsin physicians who treat Medicare patients, in the purchase of new and needed equipment; and

Whereas, 15% of physicians have started restricting the number of new Medicare patients that they will accept while another 9% can no longer afford to accept new Medicare patients, despite an aging Wisconsin population; and

Whereas, physicians who are still currently seeing Medicare patients have reduced their number of weekly appointments by 18%; and

Whereas, the Medicare cuts cost Wisconsin physicians $40,000,000 last year, forcing 6% of physicians to close their private practices because they could no longer cover their overhead costs and pay their staff; and

Whereas, the impact of this inequity means the poor, disabled, and elderly will face serious challenges trying to access care; and

Whereas, the impact of this inequity threatens the viability of our health care providers, especially in rural Wisconsin where Medicare enrollees typically constitute over 50% of a hospital's costs; and

Whereas, allowing Medicare reimbursement formula to exist in its current form will guarantee even greater cost-shifting, unending double-digit health insurance premium increases, an increase in the uninsured, a continued decrease in physicians accepting Medicare patients, and fewer hospitals; and

Whereas, Wisconsin hospitals, physicians, and insurers stand united in their effort to ensure that Wisconsin providers receive the payments that they deserve, and that patients receive the benefits that they deserve; now, therefore, be it

Resolved by the senate, That the Wisconsin senate urges the members of the congressional delegation from this state to work to enact legislation that would reform the current Medicare system and create a funding method that will dispense equal benefits regardless of geography; and, be it further

Resolved, That the senate chief clerk shall send copies of this resolution to the President of the United States, the speaker of the U.S. house of representatives, the president of the U.S. senate, and all of the members of the congressional delegation from this state.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 724. A bill to amend title 18, United States Code, to exempt certain rocket propellants from prohibitions under that title on explosive materials.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1233. A bill to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. McCAIN for the Committee on Commerce, Science, and Transportation.

*Annette Sandberg, of Washington, to be Administrator of the Federal Motor Carrier Safety Administration.

Coast Guard nomination of Rear Adm. (lh) Duncan C. Smith.

Coast Guard nominations beginning Rear Adm. (lh) Sally Brice-O'Hara and ending Rear Adm. (lh) David B. Peterman, which nominations were received by the Senate and appeared in the Congressional Record on May 22, 2003.

Coast Guard nomination of Mary Ann C. Gosling.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRAHAM of Florida:

S. 1289. A bill to name the Department of Veterans Affairs Medical Center in Minneapolis, Minnesota, after Paul Wellstone; to the Committee on Veterans' Affairs.

By Mr. HOLLINGS:

S. 1290. A bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of tax-exempt bonds issued for the purchase or maintenance of electric generation, transmission, or distribution assets; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 1291. A bill to authorize the President to impose emergency import restrictions on archaeological or ethnological materials of Iraq until normalization of relations between the United States and the Government of Iraq has been established; to the Committee on Finance.

By Ms. LANDRIEU:

S. 1292. A bill to establish a servitude and emancipation archival research clearinghouse in the National Archives; to the Committee on Governmental Affairs.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. SCHUMER, Mr. GRASSLEY, Mrs. FEINSTEIN, Mr. DEWINE, and Mr. EDWARDS):

S. 1293. A bill to criminalize the sending of predatory and abusive e-mail; to the Committee on the Judiciary.

By Mrs. MURRAY (for herself, Mrs. BOXER, Ms. CANTWELL, Mr. KENNEDY, Mr. LEAHY, and Mr. PRYOR):

S. 1294. A bill to authorize grants for community telecommunications infrastructure planning and market development, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. MURKOWSKI:

S. 1295. A bill to clarify the definition of rural airports; to the Committee on Finance.

By Ms. MURKOWSKI:

S. 1296. A bill to exempt seaplanes from certain transportation taxes; to the Committee on Finance.

By Mr. HATCH (for himself and Mr. TALENT):

S. 1297. A bill to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance to the Flag; to the Committee on the Judiciary.

By Mr. AKAKA (for himself, Mr. LEAHY, and Mrs. BOXER):

S. 1298. A bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. SNOWE (for herself and Ms. MURKOWSKI):

S. 1299. A bill to amend the Trade Act of 1974 to provide trade readjustment and development enhancement for America's communities, and for other purposes; to the Committee on Finance.

By Ms. CANTWELL:

S. 1300. A bill to prohibit a health plan from contracting with a pharmacy benefit manager (PBM) unless the PBM satisfies certain requirements, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. SCHUMER):

S. 1301. A bill to amend title 18, United States Code, to prohibit video voyeurism in the special maritime and territorial jurisdiction of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself, Mr. WARNER, Mrs. CLINTON, Mr. BIDEN, Mr. DASCHLE, Mr. BYRD, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEVIN, Mrs. FEINSTEIN, Mr. REID, Ms. STABENOW, Mrs. LINCOLN, Mr. KOHL, Mr. BAYH, Mr. BREAUX, Mrs. MURRAY, Mr. CARPER, Mr. DODD, Ms. MIKULSKI,

Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. WYDEN, Mr. BINGAMAN, Mr. BAUCUS, Mr. FEINGOLD, Mr. CORZINE, Mr. REED, Mr. AKAKA, Mr. PRYOR, Mr. JEFFORDS, Mrs. BOXER, Mr. DURBIN, and Mr. LEAHY):

S. 1302. A bill to provide support for the Daniel Patrick Moynihan Global Affairs Institute; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. Res. 176. A resolution recognizing the National Hockey League's New Jersey Devils and National Basketball Association's New Jersey Nets for their accomplishments during the 2002–2003 season; considered and agreed to.

By Mr. DODD:

S. Res. 177. A resolution to direct the Senate Commission on Art to select an appropriate scene commemorating the Great Compromise of our forefathers establishing a bicameral Congress with equal State representation in the United State Senate, to be placed in the lunette space in the Senate reception room immediately above the entrance into the Senate chamber lobby, and to authorize the Committee on Rules and Administration to obtain technical advice and assistance in carrying out its duties; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 189

At the request of Mr. WYDEN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S . 189, a bill to authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, and for other purposes.

S. 300

At the request of Mr. MCCAIN, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

S. 321

At the request of Mr. MCCAIN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 321, a bill to provide for the establishment of a scientific basis for new firefighting technology standards, improve coordination among Federal, State, and local fire officials in training for and responding to terrorist attacks and other national emergencies, and for other purposes.

S. 346

At the request of Mr. LEVIN, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 346 , a bill to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements.

S. 451

At the request of Ms. SNOWE, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from Illinois (Mr. DURBIN), the Senator from New Mexico (Mr. DOMENICI) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 451, a bill to amend title 10, United States Code , to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 491

At the request of Mr. REID, the names of the Senator from Maryland (Mr. SARBANES), the Senator from Maine (Ms. COLLINS) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 504

At the request of Mr. ALEXANDER, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from Rhode Island (Mr. REED), the Senator from Massachusetts (Mr. KERRY), the Senator from Nevada (Mr. ENSIGN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Michigan (Mr. LEVIN), the Senator from Hawaii (Mr. INOUYE), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Minnesota (Mr. DAYTON), the Senator from Washington (Mrs. MURRAY), the Senator from New York (Mrs. CLINTON), the Senator from Wisconsin (Mr. KOHL) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 504, a bill to establish academies for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes.

S. 518

At the request of Ms. COLLINS, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 564

At the request of Ms. LANDRIEU, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 564, a bill to facilitate the deployment of wireless telecommunications networks in order to further the availability of the Emergency Alert System, and for other purposes.

S. 569

At the request of Mr. ENSIGN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 668

At the request of Mr. REED, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 668, a bill to amend the Child Care and Development Block Grant Act of 1990 to provide incentive grants to improve the quality of child care.

S. 778

At the request of Mr. ENSIGN, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 778, a bill to amend title XVIII of the Social Security Act to provide medicare beneficiaries with a drug discount card that ensures access to affordable prescription drugs.

S. 847

At the request of Mr. SMITH, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 882

At the request of Mr. BAUCUS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 882, a bill to amend the Internal Revenue Code of 1986 to provide improvements in tax administration and taxpayer safe-guards, and for other purposes.

S. 982

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 982 , a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 982

At the request of Mrs. BOXER, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 982, supra.

S. 1019

At the request of Mr. DEWINE, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 1019, a bill to amend titles 10 and 18, United States Code, to protect unborn victims of violence.

S. 1020

At the request of Mr. KOHL, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1020, a bill to amend the Child Nutrition Act of 1966 and the Richard B. Russell National School Lunch Act to improve the school breakfast program.

S. 1021

At the request of Mr. KOHL, the name of the Senator from Michigan (Ms.

STABENOW) was added as a cosponsor of S. 1021, a bill to amend the Richard B. Russell National School Lunch Act to improve the summer food service program for children.

S. 1022

At the request of Mr. KOHL, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1022, a bill to amend the Richard B. Russell National School Lunch Act to improve the child and adult care food program.

S. 1129

At the request of Mrs. FEINSTEIN, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1129, a bill to provide for the protection of unaccompanied alien children , and for other purposes.

S. 1131

At the request of Mr. SPECTER, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1131, a bill to increase, effective December 1, 2003, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 1200

At the request of Ms. CANTWELL, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1200, a bill to provide lasting protection for inventoried roadless areas within the National Forest System.

S. 1284

At the request of Mrs. CLINTON, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 1284, a bill to provide for the establishment of the Kosovar-American Enterprise Fund to promote small business and micro-credit lending and housing construction and reconstruction for Kosova.

S. CON. RES. 25

At the request of Mr. VOINOVICH, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S . Con. Res. 25, a concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an ''American Jewish History Month'', and for other purposes.

S. RES. 151

At the request of Mr. WYDEN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 151, a resolution eliminating secret Senate holds.

S. RES. 153

At the request of Mrs. MURRAY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 153, a resolution expressing the sense of the Senate that changes to athletics policies issued under title IX of the Education Amendments of 1972 would contradict the spirit of athletic equality and the intent to prohibit sex discrimination in education programs or activities receiving Federal financial assistance.

S. RES. 164

At the request of Mr. ENSIGN, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. Res. 164, 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.

S. RES. 169

At the request of Mrs. CLINTON, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of S. Res. 169, a resolution expressing the sense of the Senate that the United States Postal Service should issue a postage stamp commemorating Anne Frank.

S. RES. 170

At the request of Mr. DODD, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Indiana (Mr. LUGAR), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. Res. 170, a resolution designating the years 2004 and 2005 as ''Years of Foreign Language Study''.

AMENDMENT NO. 930

At the request of Mrs. HUTCHISON, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. BOND) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of amendment No. 930 intended to be proposed to S. 1, a bill to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes.

AMENDMENT NO. 932

At the request of Mr. ENZI, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Georgia (Mr . CHAMBLISS), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Oregon (Mr. SMITH) and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of amendment No. 932 proposed to S. 1, a bill to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes.

AMENDMENT NO. 932

At the request of Mr. MILLER, his name was added as a cosponsor of amendment No. 932 proposed to S. 1, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM of Florida:

S. 1289. A bill to name the Department of Veterans Affairs Medical Center in Minneapolis, Minnesota, after Paul Wellstone; to the Committee on Veterans' Affairs.

Mr. GRAHAM. Mr. President, I rise today to give due recognition to a colleague whose tragic passing is still fresh in our thoughts. Senator Paul Wellstone served 12 honorable years in the Senate for the State of Minnesota before suddenly perishing with his dear wife, Sheila, their daughter, Marcia, three of his staffers, and two pilots in a plane crash last October.

The bill I am proposing today seeks to rename the Department of Veterans Affairs Medical Center in Minneapolis, MN, after Paul Wellstone. His distinguished record of service for veterans clearly demands such distinction. Indeed last October, just weeks before the crash that took his life, Senator Wellstone proclaimed on the Senate floor, ''It has been a labor of love for me working with veterans.''

Paul Wellstone served our Nation's veterans with passion and commitment as a distinguished member of the Senate Committee on Veterans' Affairs. His legacy includes the many veterans today whose lives have been turned around due to his unyielding service on their behalf, such as veterans who are or have been homeless; veterans who are now receiving treatment for their service-related disabilities from exposure to radiation from atomic and nuclear weapons testing; and veterans who suffer from symptoms associated with Persian Gulf War Syndrome.

Year after year, Senator Wellstone rose in this very chamber to try to increase the VA health care budget. In 2000, the Senator was part of an effort to secure the largest one year increase ever for veterans' health care benefits. In 2001, Paul Wellstone successfully pushed through an amendment to the Budget Resolution that provided $17 billion over 10 years to boost health care funding for veterans. And just last June, Senator Wellstone fought to include $417 million for veterans' health care in the Supplemental Appropriations Bill for FY 2002.

In recognition of his tireless advocacy, he was awarded a number of distinctions by various veterans' service organizations, including: the 1995 Legislator of the Year Award from the Vietnam Veterans of America; the 1995 Patriot Award from the Paralyzed Veterans of America; the Congressional Leadership Award from the Forgotten 216th; the 1997 Distinguished Citizen Award from the Minnesota Veterans of Foreign Wars; the 2002 Distinguished Science Award from the Disabled American Veterans; the 2002 Legislative Leadership Award from the National Coalition for Homeless Veterans; and the Vanguard Award for Legislative Achievement by the Non-Commissioned Officers Association.

George Washington once remarked, ''The willingness with which our young people are likely to serve in any war,

no matter how justified, shall be directly proportional to how they perceive the veterans of earlier wars were treated and appreciated by their nation.'' Senator Wellstone knew this all too well and worked to make the Department of Veterans Affairs a more responsive organization.

The Minneapolis VA Medical Center was a source of great pride for Paul. He once described the facility as having become ''the pride and joy of the U.S. Department of Veterans Affairs, and more important, of veterans throughout the region.'' The naming of the Paul Wellstone Department of Veterans Affairs Medical Center will forever honor his commitment to our veterans by distinguishing the very institution that carries on his ''labor of love.'' Mr. President, this is only a small mark of the appreciation that we all owe to an individual who served veterans with such compassion and conviction.

Finally, I thank Frederick ''Rock'' Rochelle—a past President of the St. Paul Chapter of the Vietnam Veterans of America—for working with me on this legislation to honor the memory of Paul Wellstone. I have compiled a list of statements made by friends and colleagues in remembrance of Senator Wellstone.

I ask unanimous consent that the text of the bill and the above mentioned list of statements be printed in the RECORD.

There being no objection, the bill and list of statements was ordered to be printed in the RECORD, as follows:

FRIENDS AND COLLEAGUES REMEMBER SENATOR PAUL WELLSTONE

''As a member of the Senate Veterans Affairs Committee, Senator Wellstone was a tireless crusader for America's veterans, an issue of paramount importance to him. I greatly respected and admired him for his passion, his character and his commitment for the causes in which he believed.''—Secretary of Veterans Affairs Anthony Principi

''His unwavering support year after year of adequate funding for veterans health care, in particular, was something we could always count on. Similarly, he championed the cause of homeless veterans to ensure that they were not forgotten and that their needs were addressed by the nation they served. Though not a veteran himself, he brought energy and commitment to issues important to veterans and their families. He was a fighter and leading voice and, if ever there was a true friend of America's veterans, Senator Wellstone was it.''—W.G. ''Bill'' Kilgore, national commander of AMVETS

''Senator Wellstone has been a strong and vocal supporter of veterans' issues. His leadership will be missed, and all veterans are grateful for his passionate support over the years.''—Thomas H. Corey, national president of Vietnam Veterans of America

''The Veterans of Foreign Wars of the United States are stunned and saddened by the untimely death of Senator Paul Wellstone and his family. When it came to advocacy on behalf of America's veterans, he was second to none. He constantly and consistently crusaded and championed for the many issues that were of vital interest to our veteran population. He was tenacious in his efforts to assure passage of legislation that would provide for those veterans suffering from radiation exposure, Gulf War illness and those in need of VA health care. He will be sorely missed. Our veterans have lost a true hero. Our hearts and prayers are with the Wellstone family.''—Ray Sisk, Commander-in-Chief, Veterans of Foreign Wars

''I always knew on Veterans Day that I would see the senator on that day. We would always go out to the veterans hospital. I would be there, and I never had any doubt that when I got there Senator Wellstone would be there. He was a great advocate for veterans and veteran causes and veterans benefits.''—Former Minneosta Governor Jesse Ventura

''The last speech he gave on the Senate floor, I was there. He said, 'You can call me soft if you want, but I care about veterans in this country.' That was Paul Wellstone. He is someone that looked out for those who didn't have someone representing them and he wasn't afraid. He traveled a road that was less traveled, but he traveled that road with his shoulders back.''—Sen. Harry Reid

''Paul Wellstone was one of the most courageous men I have ever known. He was a distinguished member of the Senate Veterans Affairs Committee, and he fought hard for those who fought for our country.''—Former Sen. Max Cleland

''Paul and I shared many of the same passions in the Senate. We fought together side by side in the fight to save our steel industry and together we were committed to providing our nation's veterans with the benefits they deserve. That was his style. He took on the toughest battles, the ones that required years of effort and diligence, and he always made a difference.''—Sen. Jay Rockefeller

''Paul was a caring, persistent and passionate advocate for veterans, children, the mentally ill, working families, and all those who too often feel that no one in Washington hears their voice. Paul Wellstone was their voice; he was their champion.''—Sen. Daniel Akaka

''Senator Wellstone believed deeply in causes that transcended political lines, partisanship and ideology. I had the privilege of working with him on legislation to end homelessness among our nation's veterans. In our battle to see this legislation enacted, time and time again we were called up on to confront our own parties and colleagues. Each and every time Paul Wellstone proved that his first concern was to help those less fortunate than himself, even if it put his political career at risk.''—Rep. Christopher Smith

''Paul Wellstone was my closest friend in the Senate. He was the most principled public servant I've ever known. Paul truly had the courage of his convictions and his convictions were based on the principles of hope, compassion, the Good Samaritan, helping those left on the roadside of life. His courage is an example for all.''—Sen. Tom Harkin

''Paul Wellstone was the soul of the Senate. He was one of the most noble and courageous men I have ever known. He was a gallant and passionate fighter, especially for the less fortunate. I am grateful to have known Paul and Sheila as dear and close friends.''—Sen. Tom Daschle

''He didn't look ahead to the next election; he looked ahead to the next generation. The women of the Senate called him our Galahad. He supported us and fought with us for child care, access to health care, and better schools.''—Sen. Barbara Mikulski

''In his public service and private friendship, Paul Wellstone embodied the Hebrew ideal of 'tikkun olam,' which means 'to repair the world.' He was one of the most passionate and principled people I've ever known. I feel privileged to have worked with him.''—Sen. Joe Lieberman

''Paul Wellstone had a passion for justice that was evident to all of his colleagues. Throughout his life, Paul was a fighter for the good cause. His passion for justice was only matched by his charm, wit and kindness to his political friends and foes alike.''—Sen. John McCain

''He was a man of enormous ability but most of all, he was a caring person. He was really a special person, a very unique man.''—Sen. Ted Kennedy

''He was a model and an inspiration to all of us who followed in his footsteps. He was my close personal friend and political ally for over 20 years. I will miss him terribly.''—Sen. Mark Dayton

''As fellow members of the Senate health and education committee, I saw firsthand how passionate Paul could be on the issues that were important to him. Paul had a remarkable ability to maintain good relations with colleagues with whom he disagreed.''—Sen. Jeff Sessions

''Paul Wellstone was a passionate public servant who was committed to helping average Americans. His enormous energy, determination and passion made him one of our most respected senators. America will miss a great senator, and I will miss a good friend.''Sen. Bill Nelson.

''He unfailingly represented his views eloquently and emphatically. Paul Wellstone was a courageous defender of his beliefs.''—Former Sen. Jesse Helms

''He was the pied piper of modern politics—so many people heard him and wanted to follow him in his fight. His loss is monumental. I loved his passion, his spirit, and his zest for making peoples' lives better. This is sad beyond any words.''—Sen. John Kerry

''His only interest in power was to help the powerless. He was a happy warrior in the tradition of another great Minnesota senator, Hubert Humphrey. He loved people and he loved campaigning.''—Sen. Patrick Leahy

''Paul Wellstone loved politics and never shied away from a fight for what he believed. I admired that quality greatly. We didn't always agree on issues, but we always walked away from the debate as friends. We enjoyed and respected each other. I'll miss him. This is a great loss.''—Sen. Chuck Grassley

''Nothing was trivial to Paul and no person was unimportant. He was a thoughtful, sensitive, and caring with people as he was astute and serious about ideas.''—Sen. Herb Kohl

''The people of Minnesota, America and the world have lost a friend and a champion of working families, the poor, the disenfranchised and the disabled. Paul's public life was a profile in courage. He spoke, stood and voted on his principles, even at the risk of his political career.''—Former President Bill Clinton

''He was a profoundly decent man, a man of principle, a man of conscience. His passing is a loss not only for his family, friends and constituents, but also for friends of the United Nations.''—UN Secretary General Kofi Annan

''Paul Wellstone was a stand-up guy. He used the power of his office for good. His memory will forever be a blessing to all of us who knew him. And his work will continue to be a blessing to countless thousands of people across the globe who never met him, but whose lives will be forever bettered by his work.''—Secretary of State Colin Powell

''He loved his job because it was the best way he could serve the people of his state and his country. To cite one example among many, Paul was by far the biggest and most energetic champion of quality mental health coverage for all Americans who need it. We worked with him closely on this issue and on behalf of the mental health community has passing leaves us with an irreplaceable loss.''—Former Vice President Al Gore

''Paul Wellstone was one of the most valiant public servants I have ever known. He had a very good mind, but he also had an honest mind. And he served what be believed in, no matter what the challenge.''—Former President Walter Mondale

''Many noted changes in his manner and method after years in Washington, but not much changed at the core of the man. He remained an idealist and an optimist. He laughed easily, often at himself and his 5-foot-5 stature. He always remembered to thank the cooks and servers at a banquet, and to greet the guards at office doors. He remembered names with a facility that reminded old-timers of Hubert Humphrey. Indeed, Wellstone had Humphrey's zeal for politics, policy and—most of all—people.''—Minneapolis Star Tribune.

S. 1289

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

SECTION 1. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, MINNEAPOLIS, MINNESOTA, AS PAUL WELLSTONE DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

The Department of Veterans Affairs Medical Center located in Minneapolis, Minnesota, shall after the date of the enactment of this Act be known and designated as the ''Paul Wellstone Department of Veterans Affairs Medical Center''. Any reference to such medical center in any law, regulation, map, document, or other paper of the United States shall be considered to be a reference to the Paul Wellstone Department of Veterans Affairs Medical Center.

By Mr. HOLLINGS:

S. 1290. A bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of tax-exempt bonds issued for the purchase or maintenance of electric generation, transmission, or distribution assets; to the Committee on Finance.

Mr. HOLLINGS. Mr. President, I am introducing legislation today that would improve the Internal Revenue Code of 1986 by allowing an additional advanced refunding of tax exempt bonds issued for the purchase or maintenance of electric generation, transmission, or distribution assets. This bill will give municipal utilities additional flexibility in refinancing their debts, so they can respond to favorable market conditions. I ask that the text of this bill be printed in the RECORD.

There being no objections, the bill was ordered to be printed in the RECORD, as follows:

S. 1290

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

SECTION 1. ADDITIONAL ADVANCE REFUNDING OF ELECTRICITY BONDS.

(a) IN GENERAL.—Subsection (d) of section 149 of the Internal Revenue Code of 1986 (relating to advance refunding) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (7) the following new paragraph:

''(7) SPECIAL RULE FOR CERTAIN ELECTRICITY BONDS.—

''(A) GENERAL RULE.—In the case of a bond described in subparagraph (B), one additional advance refunding after the date of the enactment of this paragraph shall be allowed under paragraph (3)(A)(i) if the requirements of subparagraph (C) are met.

''(B) BOND DESCRIBED.—A bond is described in this subparagraph if such bond is issued as part of an issue the net proceeds of which are used to finance the costs of electric generation, transmission, or distribution assets owned by the issuer or by a consortium of State or local governments which includes the issuer and which jointly own such assets.

''(C) REQUIREMENTS.—The requirements of this subparagraph are met with respect to any advance refunding of a bond described in subparagraph (B) if—

''(i) no advance refundings of such bond would be allowed under any provision of law after the date of the enactment of this paragraph,

''(ii) the advance refunding bond is the only other outstanding bond with respect to the refunded bond, and

''(iii) the requirements of section 148 are met with respect to all bonds issued under this subsection.

''(D) INAPPLICABILITY TO CERTAIN BONDS.—Subparagraph (A) shall not apply with respect to a bond described in section 1400L(e).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to advance refunding bonds issued after the date of the enactment of this Act.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 1291. A bill to authorize the President to impose emergency import restrictions on archaeological or ethnological materials of Iraq until normalization of relations between the United States and the Government of Iraq has been established; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, today I rise to introduce the Emergency Protection for Iraqi Cultural Antiquities Act of 2003, the EPIC Antiquities Act of 2003. I am pleased that Senator BAUCUS joins me as an original cosponsor of this important legislation. The EPIC Antiquities Act of 2003 authorizes the President to impose immediate emergency import restrictions on the archaeological and ethnological materials of Iraq. The purpose of this bill is simple—to close a legal loophole which could allow looted Iraqi antiquities to be brought into the United States. Allow me to explain how this might happen.

When Iraq invaded Kuwait in August of 1990, former President Bush issued Executive Orders 12722 and 12744, which declared a national emergency with respect to Iraq. Those orders imposed economic sanctions against Iraq, including a complete trade embargo which automatically prohibited trade in Iraqi antiquities as of that time. The United Nations Security Council adopted Resolution 661 on August 6, 1990, which also imposed economic sanctions on Iraq. The sanctions imposed under the Executive Orders are spelled out in the Iraqi Sanctions Regulations. These regulations are administered by the Treasury Department's Office of Foreign Assets Control, OFAC.

Now until recently, the Iraqi Sanctions Regulations continued to restrict trade with Iraq, including trade in Iraqi antiquities. However, on May 22, 2003, the UN Security Council adopted Resolution 1483, which lifted most sanctions on Iraq. Resolution 1483 also provided that Member States should establish a prohibition on trade in archaeological, cultural, historical, religious, and rare scientific items of Iraq, that may have been illegally removed from the country since the adoption of Resolution 661 back in 1990. On May 23, 2003, OFAC implemented UN Resolution 1483 and issued a General License which lifted most of our trade sanctions with respect to Iraq. Importantly, OFAC's general license continues to ban trade in looted Iraqi antiquities. However, this legal structure that is currently in place is vulnerable to a potential loophole.

It is important to recognize that the legal authority for OFAC's continuing restrictions on trade in Iraqi antiquities derives from the Executive Orders issued in 1990, which are themselves premised upon the existence of emergency conditions with respect to Iraq. It is possible that once an interim government is in place, the President may determine that emergency conditions no longer exist with respect to Iraq and relations between the United States and Iraq will be normalized. At that point, the legal authority for the OFAC restrictions will be terminated. This bill is designed to bridge a potential gap in the protections afforded Iraqi antiquities by allowing the President to impose emergency import restrictions without delay. These emergency restrictions would be authorized for an interim period to extend beyond any termination of the OFAC restrictions, and would remain in place until such time as other, more lengthy, legal mechanisms for the protection of cultural antiquities can be completed. I will elaborate on these other legal mechanisms in a moment.

If Congress does not act to provide the means for establishing the interim ban on trade contained in this bill, the door may be opened to imports of looted Iraqi antiquities into the United States. Already the press has reported allegations that European auction houses have traded in looted Iraqi antiquities. The last thing that we in Congress want to do is to fail to act to prevent trade in looted Iraqi artifacts here in the United States.

The stopgap authority in this bill derives from legislation implementing the U.N. Convention on the protection of cultural property. This bill amends the Convention on Cultural Property Implementation Act, Implementation Act, to allow the President to impose immediate emergency import restrictions with respect to Iraqi antiquities. The Implementation Act already authorizes the President to restrict imports of cultural antiquities, but there is a somewhat lengthy process called for under the Implementation Act before the President may impose such restrictions. Since we passed the Implementation Act in 1983, we have imposed import restrictions on archaeological

or ethnological materials from ten countries to assist in the protection of their cultural property.

Unfortunately, the Implementation Act does not address the unique conditions that prevail in Iraq today. Normally, under the Implementation Act a country formally requests that the United States prohibit stolen or illegally exported cultural antiquities from entering into the United States. The State Department will then publish a Federal Register notice announcing the request. Following publication, a Cultural Property Advisory Committee will investigate and review the request and report its recommendation to the President. With the benefit of the Committee's report, the President can then proceed to negotiate a bilateral agreement with the foreign country. In the past, this entire process has taken at least a year before import restrictions are put in place.

There are two major deficiencies with the current process which necessitate the bill we are introducing today. First, the Implementation Act requires a foreign government to make a formal request to the United States. Right now, there is no Government of Iraq to request such a bilateral agreement with the United States. The second problem is that, even if there were an Iraqi Government in place to make such a request, the administrative process called for under the Implementation Act just takes too long given the present circumstances—although the extent of looting of museums, libraries, and archaeological sites in Iraq may not be as great as was first feared, the fact remains that such looting has occurred and that illicit trade in such antiquities could spread if there is even a temporary lifting of import restrictions.

Now granted, the Implementation Act does authorize the President to impose emergency import restrictions even before a bilateral agreement is finalized. However, before the President can do so, all of the other administrative processes under the Implementation Act must be completed; this includes a three month period for the preparation of a report to the President by the Cultural Property Advisory Committee. Again, the problem here is that the normal process for imposing even emergency import restrictions could take too long.

If the Administration were to normalize relations between the United States and the next Government of Iraq, thereby terminating the OFAC import restrictions, it is possible that looted Iraqi antiquities could begin entering the United States while we sit and wait for a possible bilateral agreement to be finalized. The EPIC Antiquities Act of 2003 solves this problem. This legislation provides a uniquely and narrowly tailored amendment to the Implementation Act which closes the potential legal loophole between the time when relations are normalized and the time when we can undertake and complete the normal processes for the protection of cultural antiquities contained in the Implementation Act.

By extending the President's authority under the Implementation Act for an interim period, this bill is narrowly designed to meet the unique circumstances in Iraq today. The EPIC Antiquities Act of 2003 provides that this extension of the President's authority will terminate one year after relations are normalized, or by September 30, 2004, so that the next Iraqi Government can determine for itself whether to seek a bilateral agreement with the United States, and if so, the President can negotiate such an agreement with the benefit of input from the Cultural Property Advisory Committee—as envisioned by the Implementation Act. In short, our bill does not seek to supplant the established process for protecting cultural antiquities under the Implementation Act; instead, it permits an extra guarantee of protection for Iraq's cultural antiquities in the short term while Iraq completes its transition back into the community of nations.

I thank Senator BAUCUS for his support, and I hope our colleagues can also support this important and timely bill. I hope we are able to move this legislation quickly, perhaps as part of the Miscellaneous Trade and Technical Corrections Act of 2003, which is waiting for full Senate approval.

As we work to reestablish the free flow of trade with a liberated Iraq, I believe it is very important that we in Congress remain mindful of the need to take steps to protect Iraq's cultural heritage. Our bill will ensure that going forward we continue to adhere to the full spirit of Resolution 1483 and avoid any break in the protections afforded to Iraqi antiquities. Our bill also provides an important signal of our commitment to preserving Iraq's resources for the benefit of the Iraqi people. It is time to close the potential gap in protections, and pass the EPIC Antiquities Act of 2003.

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. 1291

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 ''Emergency Protection for Iraqi Cultural Antiquities Act of 2003''.

SEC. 2. EMERGENCY IMPLEMENTATION OF IMPORT RESTRICTIONS.

(a) AUTHORITY.—The President may exercise the authority of the President under section 304 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2603) with respect to any archaeological or ethnological material of Iraq as if Iraq were a State Party under that Act, except that, in exercising such authority, subsection (c) of such section shall not apply.

(b) DEFINITION.—In this section, the term ''archaeological or ethnological material of Iraq'' means cultural property of Iraq and other items of archaeological, historical, cultural, rare scientific, or religious importance illegally removed from the Iraq National Museum, the National Library of Iraq, and other locations in Iraq, since the adoption of United Nations Security Council Resolution 661 of 1990.

SEC. 3. TERMINATION OF AUTHORITY.

The authority of the President under section 2 shall terminate upon the earlier of—

(1) the date that is 12 months after the date on which the President certifies to Congress that normalization of relations between the United States and the Government of Iraq has been established; or

(2) September 30, 2004.

By Ms. LANDRIEU:

S. 1292. A bill to establish a servitude and emancipation archival research clearinghouse in the National Archives; to the Committee on Governmental Affairs.

Ms. LANDRIEU. Mr. President, I rise today on the 138th anniversary of the day that Major General Gordon Granger and his Union soldiers arrived in Galveston, TX. They brought the news that the war had ended and that the enslaved were now free. Since its origin in 1865, the observance of June 19th as African American Emancipation Day, or Juneteenth, is the oldest known celebration of the ending of slavery.

It took two and a half years after the effective date of the Emancipation Proclamation set forth by President Lincoln for the news of freedom to arrive in Texas. Of course, this kind of delay in finding out about new national policy, especially a bold new initiative set forth by Executive Order, would be absurd in our present society. We are now part of the information age and access to the most up-to-date news is commonplace. Unfortunately, African Americans who attempt to trace their genealogy face undue delay in obtaining the necessary documents to try and piece together their unique heritage. For this reason, I am proposing the Servitude and Emancipation Archival Research Clearinghouse, SEARCH, Act of 2003. This bill establishes a national database within the National Archives and Records Administration, NARA, housing various documents that would assist those in search of a history that because of slavery, can not easily be found in the most commonly searched registered and census records.

Traditionally, someone researching their genealogy would try looking up wills and land deeds; however, enslaved African Americans were prohibited from owning property. In fact, African Americans were considered property, so the name of former slave owners would have to be identified with the hopes that the owner kept record of pertinent information, such as births and deaths. In most cases, If records exist, many African Americans were not associated with last names, thus making them more difficult to trace. With slaves not being listed by name, this also precludes the use of the most popular and major source of genealogical research, the United States

Census. Even the use of letters, diaries, and other first-person recordings of slave simply do not exist because slaves could not legally learn to read or write.

We may think after 1865, African Americans could then begin to use traditional genealogical records like voter registrations and school records. However, African Americans did not immediately begin to participate in may of the privileges of citizenship, including voting and attending school. Discrimination meant the prevention of African American siting on juries or owning businesses. Segregation meant segregated neighborhoods, schools, churches, clubs, and fraternal organizations. Therefore, many of the records were also segregated. For example, some telephone directories in South Carolina did not include African Americans in the regular alphabetical listing, but at the end of the book. An African American must maneuver these distinctive nuances in order to conduct proper genealogical research. In my own State of Louisiana, descendants of the 9th Calvary Regiment and the 25th Infantry Regiment, known as the Buffalo Soldiers, would have to know to look in the index of the United States Colored Troops and not the index of the State Military Regiments.

Abraham Lincoln said, ''a man who cares nothing about his past can care little about his future.'' In 1965, Alex Haley stumbled upon the names of his maternal great-grandparents while going through post-Civil War records at the National Archives here in Washington, D.C. This discovery led to an 11-year journey that resulted in the milestone of literary history, Roots. By providing $5 million for the National Historical Publications and Records Commission to establish and maintain a national database, the SEARCH Act proposes to significantly reduce the time and painstaking efforts of those African Americans who truly care about their American past, and care enough to contribute to the American future. This bill also seeks to authorize $5 million for States, colleges, and universities to preserve, catalogue, and index records locally.

In a democracy, records matter. The mission of NARA is to ensure that anyone can have access to the records that matter to them. The SEARCH Act of 2003 helps to fulfill that mission by helping African Americans to navigate the genealogical process, given the circumstances unique to the African American experience. No longer should any American have to wait to find out about information leading to freedom.

I hope my colleagues will join me in celebrating Juneteenth this year by passing this measure, 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. 1292

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 ''Servitude and Emancipation Archival Research ClearingHouse Act of 2003'' or the ''SEARCH Act of 2003''.

SEC. 2. ESTABLISHMENT OF DATABASE.

(a) IN GENERAL.—The Archivist of the United States shall establish, as a part of the National Archives, a national database consisting of historic records of servitude and emancipation in the United States to assist African Americans in researching their genealogy.

(b) MAINTENANCE.—The database established by this Act shall be maintained by the National Historical Publications and Records Commission.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $5,000,000 to establish the national database authorized by this Act; and

(2) $5,000,000 to provide grants to States and colleges and universities to preserve local records of servitude and emancipation.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. SCHUMER, Mr. GRASSLEY, Mrs. FEINSTEIN, Mr. DEWINE, and Mr. EDWARDS):

S. 1293. A bill to criminalize the sending of predatory and abusive e-mail; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise to introduce, with Senators LEAHY, SCHUMER, GRASSLEY, FEINSTEIN, DEWINE, and EDWARDS, the Criminal Spam Act of 2003. This legislation, which enjoys bipartisan support, targets the most egregious types of spammers—those who hijack computer systems and those who use other fraudulent means to send unsolicited commercial electronic mail.

Over the course of the past several years, the amount of unsolicited commercial email, or spam, has grown at an exponential rate. During a recent Senate hearing before the Committee on Commerce, Science and Transportation, Brightmail Inc., a provider of spam filtering software that serves six of the ten largest U.S. Internet service providers, estimated that in April 2003, 46 percent of all email traffic was spam. This figure represented a nearly five fold increase in spam in merely 18 months. At the same hearing, America Online testified that on any given day, it blocks approximately 2.3 billion spam messages.

This tremendous growth rate is due in large part to sophisticated spammers who use abusive tactics to send millions of email messages quickly, at an extremely low cost. By using deceptive methods, these spammers conceal their identities, evade Internet service provider filters, and exploit the Internet by advertising and promoting pornographic web sites, illegally pirated software, questionable health products, pyramid schemes and other ''get rich quick'' or ''make money fast'' scams. The extraordinary volume of spam generated by their schemes imposes significant costs on Internet users, threatens to disrupt Internet services, and undermines the public's confidence in online commerce.

A recent study conducted by the Federal Trade Commission demonstrates the alarming frequency with which spammers are using the Internet to conceal their true identities and the electronic paths of their messages. This study found that 40 percent of email messages contain indicia of falsity in the body of the message; approximately 33 percent contain indicia of falsity in the ''from'' lines of the spam; 22 percent contain indicia of falsity in the ''subject'' line; and some 66 percent contain at least one form of deception.

The Criminal Spam Act of 2003 targets fraudulent and deceptive spam by enhancing the ability of federal law enforcement authorities to prosecute and punish the most egregious wrongdoers. Specifically, the Act makes it a crime to hack into a computer, or to use a computer system that the owner has made available for other purposes, as a conduit for bulk commercial email. The Act also prohibits sending bulk commercial email that conceals the true source, destination, routing or authentication information of the email, or is generated from multiple email accounts or domain names that falsify the identity of the actual registrant.

The Act subjects violators to stiff criminal penalties of up to 5 years' imprisonment where the offense is committed in furtherance of any felony, or where the defendant has previously been convicted of a similar Federal or state offense, and up to 3 years' imprisonment where other aggravating factors exist. It also contains criminal forfeiture provisions and directs the Sentencing Commission to consider enhancements for offenders who obtain email addresses through illegal means, such as harvesting.

The strong deterrent effect of the legislation is further enhanced by civil enforcement provisions that authorize the Department of Justice and aggrieved Internet service providers to bring suit for violations of the Act. In appropriate cases, courts may grant injunctive relief, impose civil fines, and award damages of up to $25,000 per day of violation, or between $2 and $8 per email initiated in violation of the Act.

Recognizing that spammers can send their fraudulent and deceptive messages from any location in the world, the Act directs the Department of Justice and the Department of State to work through international fora to gain the cooperation of other countries in investigating and prosecuting spammers worldwide and to report to Congress about their efforts and any recommendations for addressing international predatory spam.

The Criminal Spam Act represents an important legislative step toward curbing predatory and abusive commercial email. However, broader legislative measures, coupled with technological

solutions, are also needed. Any effective solution to the spam problem requires cooperative efforts between the government and the private sector, as well as the assistance of our international partners.

Recent years have witnessed extraordinary technological advances. These innovations, and electronic communications in particular, have significantly increased the efficiencies, productivity and conveniences of our modern world. The abusive practices of fraudulent spammers threaten to choke the lifeblood of the electronic age. This is a problem that warrants swift but deliberative legislative action. I am committed to working with my colleagues in both Houses to address the spam problem on all fronts.

I ask unanimous consent that a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

SEC. 1. SHORT TITLE

This bill may be cited as the ''Criminal Spam Act of 2003''.

SEC. 2. PROHIBITION AGAINST PREDATORY AND ABUSIVE COMMERCIAL EMAIL

This section targets the four principal techniques that spammers use to evade filtering software and hide their trails. It creates a new federal crime that prohibits hacking into a computer, or using a computer system that the owner has made available for other purposes, to send bulk commercial email. It also prohibits sending bulk commercial email that either conceals the true source, destination, routing and authentication information of the email, or is generated from multiple email accounts or domain names that falsify the identity of the actual registrant. Penalties range from up to 5 years' imprisonment where the offense was committed in furtherance of any felony, or where the defendant was previously convicted of a similar federal or state offense, and up to 3 years' imprisonment where other aggravating factors exist. The U.S. Sentencing Commission is directed to consider sentencing enhancements for offenders who obtained email addresses through improper means, such as harvesting.

In addition, this section provides for civil enforcement by the Department of Justice and aggrieved Internet service providers against spammers who engage in the conduct described above. In appropriate cases, courts may grant injunctive relief, impose civil penalties, and award damages.

SEC. 3. REPORT AND SENSE OF CONGRESS REGARDING INTERNATIONAL SPAM.

Recognizing that an effective solution to the spam problem requires the cooperation and assistance of our international partners, this section asks the Administration to work through international fora to gain the cooperation of other countries in investigating and prosecuting spammers worldwide, and to report to Congress about its efforts.

Mr. LEAHY. Mr. President, I am pleased to be introducing, with Senators HATCH, SCHUMER, GRASSLEY, FEINSTEIN, DEWINE, and EDWARDS, the Criminal Spam Act of 2003. This bill is designed to counter the most objectionable forms of email marketing. In an effort to clear electronic channels for legitimate communications, the bill targets those spammers who deceive Internet Service Providers, ''ISPs'', and email recipients into thinking that messages come from someone other than a spammer—a ploy many spammers use to increase the likelihood that their unwanted ads will evade filtering software and be opened.

Without a doubt, spam is a serious problem today, one that is threatening to undermine the vast potential of the Internet to foster the free exchange of information and commerce. Businesses and individuals currently wade through tremendous amounts of spam in order to access email that is of relevance to them—and this is after ISPs, businesses, and individuals have spent time and money blocking a large percentage of spam from reaching its intended recipients.

Email users are having the online equivalent of the experience of the woman in the Monty Python skit, who seeks to order a spam-free breakfast at a restaurant. Try as she might, she cannot get the waitress to bring her the meal she desires. Every dish in the restaurant comes with Spam; it's just a matter of how much. There's ''egg, bacon and Spam''; ''egg, bacon, sausage and Spam''; ''Spam, bacon, sausage and Spam''; ''Spam, egg, Spam, Spam, bacon and Spam''; ''Spam, sausage, Spam, Spam, Spam, bacon, Spam, tomato and Spam''; and so on. Exasperated, the woman finally cries out: ''I don't like Spam! . . . I don't want ANY Spam!''

Individuals and businesses are reacting similarly to electronic spam. A Harris poll taken late last year found that 80 percent of respondents view spam as ''very annoying,'' and fully 74 percent of respondents favor making mass spamming illegal. They are fed up.

ISPs are doing their best to shield customers from spam, blocking billions of spam each day, but the spammers are winning the battle. Millions of unwanted, unsolicited commercial emails are received by American businesses and individuals each day, despite their own, additional filtering efforts. A recent study by Ferris Research estimates that spam costs U.S. businesses $8.9 billion annually as a result of lost productivity and the need to purchase more powerful servers and additional bandwidth; to configure and run spam filters; and to provide help-desk support for spam recipients. The costs of spam are significant to individuals as well, including time spent identifying and deleting spam, inadvertently opening spam, installing and maintaining anti-spam filters, tracking down legitimate messages mistakenly deleted by spam filters, and paying for the ISPs' blocking efforts.

And there are other less prominent but equally important costs of spam. It may introduce viruses, worms, and Trojan Horses into personal and business computer systems, including those that support our national infrastructure. It is also fertile ground for deceptive trade practices. The FTC recently estimated that 96 percent of the spam involving investment and business opportunities, and nearly half of the spam advertising health services and products, and travel and leisure, contains false or misleading information.

This rampant deception has the potential to undermine Americans' trust of valid information on the Internet. Indeed, it has already caused some Americans to refrain from using the Internet to the extent that they otherwise would. For example, some have chosen not to participate in public discussion forums, and are hesitant to provide their addresses in legitimate business transactions, for fear that their email addresses will be harvested for junk email lists. And they are right to be concerned. The FTC found spam arriving at its computer system just nine minutes after posting an email address in an online chat room.

At a recent FTC forum on spam, experts agreed that the issue is ripe for Federal action. Some 30 States now have anti-spam laws, but the nature of email makes it difficult to discern where any given piece of spam originated, and, thus, what State has jurisdiction and what State law applies. This may explain why spammers continue to flout State laws. For example, several States require that spam begin the subject line with ''ADV,'' but the FTC has found that only 2 percent of spam contains this label.

Technology will undoubtedly play a key role in fighting spam. However, a technological solution to the problem is not predicted in the foreseeable future. In addition, given the adroitness with which spammers adapt to anti-spam technologies, the development and implementation of technological fixes to spam entail constant vigilance and substantial financial investment. This raises the question: Why should individuals and businesses be forced to invest large amounts of time and money in buying, installing, and maintaining generation after generation of anti-spam technologies?

I have often said that the government should regulate the Internet only when absolutely necessary. Unfortunately, spammers have caused this to be one of those times. Congress needs to address the spam problem quickly and prudently, and the Criminal Spam Act, by targeting the most injurious types of spam, is a good start.

The bill that Senator HATCH and I introduce today would prohibit the four principal techniques that spammers use to evade filtering software and hide their trails.

First, our bill would prohibit hacking into another person's computer system and sending bulk spam from or through that system. This would criminalize the common spammer technique of obtaining access to other people's email accounts on an ISP's email network, whether by password theft or by inserting a ''Trojan horse'' program—that is, a program that unsuspecting users

download onto their computers and that then takes control of those computers—to send bulk spam.

Second, the bill would prohibit using a computer system that the owner makes available for other purposes as a conduit for bulk spam, with the intent of deceiving recipients as to the spam's origins. This prohibition would criminalize another common spammer technique—the abuse of third parties' ''open'' servers, such as email servers that have the capability to relay mail, or Web proxy servers that have the ability to generate ''form'' mail. Spammers commandeer these servers to send bulk commercial email without the server owner's knowledge, either by ''relaying'' their email through an ''open'' email server, or by abusing an ''open'' Web proxy server's capability to generate form emails as a means to originate spam, thereby exceeding the owner's authorization for use of that email or Web server. In some instances the hijacked servers are even completely shut down as a result of tens of thousands of undeliverable messages generated from the spammer's email list.

The bill's third prohibition targets another way that outlaw spammers evade ISP filters: falsifying the ''header information'' that accompanies every email, and sending bulk spam containing that fake header information. More specifically, the bill prohibits forging information regarding the origin of the email message, the route through which the message attempted to penetrate the ISP filters, and information authenticating the user as a ''trusted sender'' who abides by appropriate consumer protection rules. The last type of forgery will be particularly important in the future, as ISPs and legitimate marketers develop ''white list'' rules whereby emailers who abide by self-regulatory codes of good practices will be allowed to send email to users without being subject to anti-spamming filters. There is currently substantial interest among marketers and email service providers in ''white list'' technology solutions to spam. However, such ''white list'' systems would be useless if outlaw spammers are allowed to counterfeit the authentication mechanisms used by legitimate emailers.

Fourth and finally, the Criminal Spam Act prohibits registering for multiple email accounts or Internet domain names, and sending bulk email from those accounts or domains. This provision targets deceptive ''account churning,'' a common outlaw spammer technique that works as follows. The spammer registers, usually by means of an automatic computer program, for large numbers of email accounts or domain names, using false registration information, then sends bulk spam from one account or domain after another. This technique stays ahead of ISP filters by hiding the source, size, and scope of the sender's mailings, and prevents the email account provider or domain name registrar from identifying the registrant as a spammer and denying his registration request. Falsifying registration information for domain names also violates a basic contractual requirement for domain name registration.

Penalties for violations of these provisions are tough but measured. Recidivists and those who send spam in furtherance of another felony may be imprisoned for up to five years. Large-volume spammers, those who hack into another person's computer system to send bulk spam, and spam ''kingpins'' who use others to operate their spamming operations may be imprisoned for up to three years. Other offenders may be fined and imprisoned for no more than one year. Convicted offenders are also subject to forfeiture of proceeds and instrumentalities of the offense.

In addition to these criminal penalties, offenders are also subject to civil enforcement actions, which may be brought by either the Department of Justice or by an ISP. Civil remedies are important as a supplement to criminal enforcement for several reasons. First, bringing cases against outlaw spammers is very resource intensive because of the extensive forensic work involved in building a case; providing for civil enforcement will allow ISPs to assemble evidence to make prosecutors' jobs easier. Second, although criminal prosecutions are a critical deterrent against the most egregious spammers, the Justice Department is unlikely to prosecute all outlaw spam cases; civil enforcement, backed by strong financial penalties, will serve as a second layer of deterrence. Third, criminal penalties may not be appropriate in all cases, as for example in the case of teenagers hired by professional outlaw spammers to send out email for them; civil enforcement gives the Justice Department a more complete and refined range of tools to address specific outlaw spam problems.

That describes the main provisions of our bill. In addition, because commercial email can be, and is being, sent from all over the world into the virtual mailboxes of Americans, the bill directs the Administration to report on its efforts to achieve international cooperation in the investigation and prosecution of outlaw spammers.

Again, the purpose of the Criminal Spam Act is to deter the most pernicious and unscrupulous types of spammers—those who use trickery and deception to induce others to relay and view their messages. Ridding America's inboxes of deceptively delivered spam will significantly advance our fight against junk email. But the Criminal Spam Act is not a cure-all for the spam pandemic.

The fundamental problem inherent to spam—its sheer volume—may well persist even in the absence of fraudulent routing information and false identities. In a recent survey, 82 percent of respondents considered unsolicited bulk email, even from legitimate businesses, to be unwelcome spam. Given this public opinion, and in light of the fact that spam is, in essence, cost-shifted advertising, it may be wise to take a broader approach to our fight against spam.

One approach that has achieved substantial support is to require all commercial email to include an ''opt out'' mechanism, that is, a mechanism for consumers to opt out of receiving further unwanted spam. At the recent FTC forum, several experts expressed concerns about this approach, which permits spammers to send at least one piece of spam to each email address in their database, while placing the burden on email recipients to respond. People who receive dozens, even hundreds, of unwanted emails each day would have little time or energy for anything other than opting-out from unwanted spam.

According to one organization's calculations, if just one percent of the approximately 24 million small businesses in the U.S. sent every American just one spam a year, that would amount to over 600 pieces of spam for each person to sift through and opt-out of each day. And this figure may be conservative, as it does not include the large businesses that also engage in online advertising.

A second possible approach to spam—a national ''Do Not Spam'' registry—raises a different but no less difficult set of concerns. The two FTC Commissioners who testified last month at the Senate Commerce Committee's hearing on spam both questioned the potential of a national registry to alleviate the spam problem. Although this approach would place a smaller burden on consumers than would an opt-out system, it would entail immense costs, complexity, and delay, all of which work in the spammers' favor.

A third way of attacking spam—and one that was favored by many panelists and audience members at the FTC forum—is to establish an opt-in system, whereby bulk commercial email may only be sent to individuals and businesses who have invited or consented to it. This approach has strong precedent in the Telephone Consumer Protection Act of 1991, TCPA, which Congress passed to eliminate similar cost-shifting, interference, and privacy problems associated with unsolicited commercial faxes. The TCPA's ban on faxes containing unsolicited advertisements has withstood First Amendment challenges in the courts, and was adopted by the European Union in July 2002.

I have discussed three possible approaches to the spam problem, and there are several others, some of which have already been codified in state law. I encourage the consideration of all these anti-spam approaches in the weeks and months to come.

Reducing the volume of junk commercial email, and so protecting legitimate Internet communications, will

not be easy. There are important First Amendment interests to consider, as well as the need to preserve the ability of legitimate marketers to use email responsibly. If Congress does act, it must get it right, so as not to exacerbate an already terribly vexing problem.

The Criminal Spam Act is a first step in countering spam. If we can shut down the spammers who use deception to evade filters and confuse consumers, we will give the next generation of anti-spam technologies a chance to do their work. Our bill targets the most egregious offenders, it provides a much-needed federal cause of action, and it allows the states to continue to serve as a ''laboratory'' for tough anti-spamming regulation. I urge its speedy enactment into law.

By Mrs. MURRAY (for herself, Mrs. BOXER, Ms. CANTWELL, Mr. KENNEDY, Mr. LEAHY, and Mr. PRYOR):

S. 1294. A bill to authorize grants for community telecommunications infrastructure planning and market development, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. MURRAY. Mr. President, I rise today to introduce legislation to help rural and underserved communities across the country get connected to the information economy.

Today I am introducing the Community Telecommunication Planning Act of 2003. I am proud to have Senators BOXER, CANTWELL, KENNEDY, LEAHY, and PRYOR as original cosponsors. This bill will give small and rural communities a new tool to attract high speed services and economic development.

Representative INSLEE from my home State, along with several other members, will soon introduce a companion bill in the House. I appreciate him working with me to meet this challenge.

I am especially proud of how this legislation came about. For the last four years, I've been working with a group of community leaders in Washington State to find ways to help communities get connected to advanced telecommunications services.

I want to take a moment to thank the members of my Rural Telecommunication Working Group for their hard work on this bill. The members include: Brent Bahrenburg, Gregg Caudell, Dee Christensen, Dave Danner, Louis Fox, Tami Garrow, Larry Hall, Rod Fleck, Ray King, Dale King, Terry Lawhead, Dick Llarman, Jim Lowery, Jim Miller, Joe Poire, Skye Richendrfer, Ted Sprague, Jim Schmit, and Ron Yenney.

We met as a working group, and we held forums around the State that attracted hundreds of people. We've tapped the ideas of experts, service providers and people from across the State who are working to get their communities connected. The result is this legislation, which I am proud to say is part of Washington State's contribution to our national effort to connect all parts of our country to the Internet.

The bill was originally introduced in the 107th Congress. I was able to attach a version of it to the Farm Bill. Unfortunately, the provision was removed during Conference.

This bill addresses a real need in many communities. While urban and suburban areas have strong competition between telecommunications providers, many small and rural communities are far removed from the services they need.

We must ensure that all communities have access to advanced telecommunications like high speed internet access and the wireless Internet. Just as yesterday's infrastructure was built of roads and bridges, today our infrastructure includes advanced telecom services.

Advanced telecommunications can enrich our lives through activities like distance-learning, and they can even save lives through efforts like telemedicine. The key is access. Access to these services is already turning some small companies in rural communities into international marketers of goods and services.

Unfortunately, many small and rural communities are having trouble getting the access they need. Before communities can take advantage of some of the help and incentives that are out there, they need to work together and got through a community planning process. Community plans identify the needs and level of demand, create a vision for the future, and show what all the players must do to meet the telecom needs of their community for today and tomorrow. These plans take resources to develop, and my bill would provide those funds.

Providers say they're more likely to invest in an area if it has a plan that makes a business case for the costly infrastructure investment. Communities want to provide them with that plan, but they need help developing it. Unfortunately, many communities get struck on that first step. They don't have the resources to do the studies and planning required to attract service. So the members of my Working Group came up with a solution: have the Federal Government provide competitive grants that local communities can use to develop their plans. I took that idea and put it into this bill.

After determining what services they need, communities must then go out and make a market case to providers. That is why I've added ''market development'' to the list of allowable uses of grant funding.

While this bill deals with new technology, it's really just an extension of the infrastructure support the federal government traditionally provides to communities.

The Federal Government already provides money to help communities plan other infrastructure improvements—everything from roads and bridges to wastewater facilities. Because today's economic infrastructure includes advanced telecom services, I believe the Federal Government should provide similar support for local technology infrastructure.

In summary, this bill would provide rural and underserved communities with grant money for creating community plans, technical assessments and other analytical work, and it would allow these communities to use the funding to market these plans to providers.

With these grants, communities will be able to turn their desire for access into real access that can improve their communities and strengthen their economies. This bill can open the door for thousands of small and rural areas across our country to tap the potential of the information economy.

I urge the Senate to support this bill, and I look forward to working with my colleagues to see it passed.

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. 1294

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 ''Community Telecommunications Planning Act of 2003''.

SEC. 2. COMMUNITY TELECOMMUNICATIONS PLANNING GRANTS.

(a) AUTHORITY TO MAKE GRANTS.—Each Secretary concerned may, using amounts authorized to be appropriated by the applicable paragraph of subsection (g), make grants to eligible entities described in subsection (b) for the community telecommunications infrastructure planning and market development purposes described in subsection (c).

(b) ELIGIBLE ENTITIES.—An entity eligible for a grant under this section is any local or tribal government, local non-profit entity, cooperative, public utility, or other public entity that proposes to use the amount of the grant for the community telecommunications infrastructure planning and market development purposes described in subsection (c).

(c) COMMUNITY TELECOMMUNICATIONS INFRASTRUCTURE PLANNING AND MARKET DEVELOPMENT.—Amounts from a grant made under this section shall be used for purposes of facilitating the development of a telecommunications infrastructure and market development plan for a locality by various means, including—

(1) by encouraging the involvement in the development of the plan of interested elements of the community concerned, including the business community, governments, telecommunications providers, and secondary and, where applicable, post-secondary educational institutions and their students;

(2) by enhancing the focus of the development of the plan on a wide range of telecommunications needs in the community concerned, including needs relating to local business, education, health care, and government;

(3) by enhancing the identification of a wide range of potential solutions for such needs through advanced telecommunications infrastructure; and

(4) by any other means that the Secretary concerned considers appropriate.

(d) GRANT PRIORITY FOR PLANNING FOR RURAL AND UNDERSERVED AREAS.—In making grants under this section, each Secretary concerned shall give priority to eligible entities that propose to use the grants for community telecommunications infrastructure planning and market development for rural areas or underserved areas.

(e) ADMINISTRATION.—Each Secretary concerned shall establish such administrative requirements for grants under this section, including requirements for applications for such grants, as such Secretary considers appropriate.

(f) DEFINITIONS.—In this section:

(1) RURAL AREA.—The term ''rural area'' means any county having a population density of less than 300 people per square mile as determined in the 2000 decennial census.

(2) SECRETARY CONCERNED.—The term ''Secretary concerned'' means each of the following:

(A) The Secretary of Commerce.

(B) The Secretary of Agriculture.

(C) The Secretary of Education.

(3) UNDERSERVED AREA.—The term ''underserved area'' means any census tract as determined in the 2000 decennial census which is located in—

(A) an empowerment zone or enterprise community designated under section 1391 of the Internal Revenue Code of 1986;

(B) the District of Columbia Enterprise Zone established under section 1400 of the Internal Revenue Code of 1986;

(C) a renewal community designated under section 1400E of the Internal Revenue Code of 1986; or

(D) a low-income community designated under section 45D of the Internal Revenue Code of 1986.

(g) AUTHORIZATIONS OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of making grants under this section—

(1) for the Department of Commerce—

(A) $25,000,000 for fiscal year 2004; and

(B) such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year;

(2) for the Department of Agriculture—

(A) $25,000,000 for fiscal year 2004; and

(B) such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year; and

(3) for the Department of Education—

(A) $10,000,000 for fiscal year 2004; and

(B) such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year.

By Mr. HATCH (for himself and Mr. TALENT):

S. 1297. A bill to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance to the Flag; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise to introduce today the ''Protect the Pledge Act of 2003.'' The Pledge of Allegiance to the Flag has been an integral part of this Nation's identity since its early days. It was first written by a Baptist minister in 1892 as part of the commemoration of the 400th Anniversary of the discovery of America. For over a century, children and adults have recited this Pledge in schools, in government and military ceremonies, and on other formal occasions. It represents a promise of loyalty to the Flag itself, to the country it represents, and to the government that unites all fifty states. Perhaps more importantly, for many people, its recitation represents as essential element of what it means to be an American.

In United States v. Newdow, the Ninth Circuit jeopardized the integrity of the Pledge of Allegiance. It held that a school district's policy of teacher-led recitation of the Pledge violates the First Amendment Establishment Cause because it includes the phrase ''under God.'' This decision is simply wrong. It claims that the American flag symbolizes monotheism. It does no such thing. The Pledge represents our country, our independence, our government—simply, it represents liberty and justice for all. While the phrase ''under God'' undeniably has some religious connotation, it is a term of art with de minimus theological significance. It is not intended to establish a national religion or to prohibit the free exercise of religious beliefs. The thirty-one words of the Pledge of Allegiance, however, are worthy of reverence and respect. To eliminate the phrase ''under God'' would be equivalent to depicting the flag with forty-nine stars or twelve stripes. It changes the constitution of our American identity.

The ''Protect the Pledge Act of 2003'' prevents further judicial encroachment by eliminating federal jurisdiction of claims that the recitation of the Pledge violates the First Amendment. By passing this legislation, Congress is exercising its Constitutional duty to preserve the separation of powers. When the judiciary has oversteps its boundaries, as it has done in Newdow, Congress must act to protect the sanctity of the Pledge of Allegiance. This bill represents a reasoned response to Newdow. By limiting its scope to federal jurisdiction, it leaves open a potential remedy in state court, thereby obviating any due process concerns.

I am hopeful that my colleagues in both Houses will work expeditiously, on a bi-partisan basis, to enact this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1297

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 ''Protect the Pledge Act of 2003''.

SEC. 2. JURISDICTION LIMITATION.

(a) IN GENERAL.—Chapter 99 of title 28, United States Code, is amended by adding at the end the following:

''§ 1632. Jurisdiction limitation

''No court established by Act of Congress shall have jurisdiction to hear or determine any claim that the recitation of the Pledge of Allegiance to the Flag ('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.') violates the first article of amendment to the Constitution of the United States.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 99 of title 28, United States Code, is amended by adding at the end the following new item:

''1632. Jurisdiction limitation.''.

By Mr. AKAKA (for himself, Mr. LEAHY, and Mrs. BOXER):

S. 1298. A bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. AKAKA. Mr. President, I rise today to introduce the Downed Animal Protection Act, a bill to provide for the humane treatment, handling, and euthanasia of non-ambulatory, downed, livestock unable to stand or walk unassisted.

Farm animals such as cattle, sheep, swine, goats, horses, mules, and other equines that are too severely distressed and sick to move without assistance are often not handled humanely. Due to the extra effort and cost to individually feed and water non-ambulatory livestock, these animals routinely endure very poor conditions. In most cases, the level of suffering of downed animals is so severe that the most humane solution is to euthanize them as soon as possible. It is important to note that non-ambulatory livestock comprise a tiny fraction, less than one percent, of all animals at stockyards.

The humane euthanasia of non-ambulatory livestock would also protect human health. Many of the downed animals that survive in the stockyard are slaughtered for human consumption. A large majority of these non-ambulatory animals are contaminated with fecal matter, the main cause of Salmonella. U.S. citizen groups, such as the Parents of Sickened Children, have called for improved regulations to stop sickness and death from preventable diseases like Salmonella.

I commend responsible and conscientious livestock organizations and producers such as the United Stockyards Corporation, the Minnesota Livestock Marketing Association, the National Pork Producers Council, the Colorado Cattlemen's Association, and the Independent Cattlemen's Association of Texas for their efforts to address the issue of downed animals. However, the need for stronger legislation to ensure that non-ambulatory animals do not enter our food chain is evident, particularly with the recent discovery of Bovine Spongiform Encephalopathy BSE, in Canada.

The Downed Animal Protection Act will remove the incentive for sending non-ambulatory livestock to stockyards, thereby reducing the risk that these animals will be processed for human consumption and discouraging their inhumane treatment at farms and ranches. My bill will complement the industry's current efforts to address this problem and make the issue of downed animals a priority.

My legislation would set a uniform national standard, thereby removing

any unfair advantage that might result from different standards throughout the industry. Furthermore, no additional bureaucracy will be needed as a consequence of my bill because inspectors regularly visit stockyards and slaughter facilities to enforce existing regulations. Thus, the additional burden on the agency and stockyard operators will be insignificant.

As I stated before, this bill will stop the inhumane and improper treatment of downed animals while also helping to ensure that our food supply remains safe. I encourage my colleagues to support this important legislation. 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. 1298

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 ''Downed Animal Protection Act''.

SEC. 2. UNLAWFUL SLAUGHTER PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.

(a) IN GENERAL.—Section 10815 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1967) is amended—

(1) by redesignating subsection (c) as subsection (f);

(2) by striking subsections (a) and (b) and inserting the following:

''(a) DEFINITIONS.—In this section:

''(1) COVERED ENTITY.—The term 'covered entity' means—

''(A) a stockyard;

''(B) a market agency;

''(C) a dealer;

''(D) a slaughter facility; and

''(E) an establishment.

''(2) ESTABLISHMENT.—The term 'establishment' means an establishment that is covered by the Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

''(3) HUMANELY EUTHANIZE.—The term 'humanely euthanize' means to kill an animal by mechanical, chemical, or other means that immediately renders the animal unconscious, with this state remaining until the death of the animal.

''(4) NONAMBULATORY LIVESTOCK.—The term 'nonambulatory livestock' means any cattle, sheep, swine, goats, or horses, mules, or other equines, that are unable to stand and walk unassisted.

''(5) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(b) HUMANE TREATMENT, HANDLING, AND DISPOSITION.—The Secretary shall promulgate regulations to provide for the humane treatment, handling, and disposition of nonambulatory livestock by covered entities, including a requirement that nonambulatory livestock be humanely euthanized.

''(c) HUMANE EUTHANASIA.—

''(1) IN GENERAL.—Subject to paragraph (2), when an animal becomes nonambulatory, a covered entity shall immediately humanely euthanize the nonambulatory livestock.

''(2) DISEASE TESTING.—Paragraph (1) shall not limit the ability of the Secretary to test nonambulatory livestock for a disease, such as Bovine Spongiform Encephalopathy.

''(d) MOVEMENT.—

''(1) IN GENERAL.—A covered entity shall not move nonambulatory livestock while the nonambulatory livestock are conscious.

''(2) UNCONSCIOUSNESS.—In the case of any nonambulatory livestock that are moved, the covered entity shall ensure that the nonambulatory livestock remain unconscious until death.

''(e) INSPECTIONS.—It shall be unlawful for an establishment to pass through inspection any nonambulatory livestock.'';

(3) in subsection (f) (as redesignated by paragraph (1))—

(A) in the first sentence—

(i) by inserting ''this section and'' after ''enforcing''; and

(ii) by striking ''subsection (b)'' and inserting ''this section''; and

(B) in the second sentence—

(i) by inserting ''this section or'' after ''violates''; and

(ii) by striking ''subsection (b)'' and inserting ''this section''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) take effect on the date that is 1 year after the date of enactment of this Act.

(2) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall promulgate final regulations to implement the amendments made by subsection (a).

By Ms. SNOWE (for herself and Ms. MURKOWSKI):

S. 1299. A bill to amend the Trade Act of 1974 to provide trade readjustment and development enhancement for America's communities, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise to introduce the ''TRADE for America's Communities Act'' in recognition of the critical need to provide economic development assistance to communities, across this Nation, that have been negatively impacted by trade. I am pleased to be joined by Senator MURKOWSKI in offering this critical legislation.

We are faced with a challenge to a U.S. trade program from the international community and with communities that are being left behind in an era of global commerce. Congress must make the difficult decisions to turn these two challenges into opportunities for this Nation. In 1999, I supported the Continued Dumping and Subsidy Offset Act, authored by Senator DEWINE, that used the revenue from countervailing and antidumping tariff duties to provide assistance to the firms that were affected by unfair trade. I supported that bill because it introduced an important policy principle: that the revenue from unfair trade should be used to help those hurt by trade.

Unfortunately, that act ran afoul of our international commitments. In January, the World Trade Organization ruled that this program was in violation of our Antidumping Agreement, and the President requested Congress repeal that program in order to bring the United States into compliance. While I cannot support a full repeal of this program, I believe the bill we are introducing today will bring the United States into compliance with our international obligations, while maintaining the principle that this money be used to help those hurt by trade.

In fact, the TRADE for America's Communities Act builds upon the strong foundation and principles of Senator DEWINE's program and it is my hope that other proponents of the CDSOA will support our efforts to address the needs of these communities. While it is necessary to live up to our international agreements, it is just as imperative that we live up to our responsibilities to the fishing towns, mining towns and mill towns of America where jobs have been lost.

With the momentum provided by the passage of Trade Promotion Authority, the President has put forth an agenda on a bilateral, regional and global basis that promotes the liberalization of trade. As the President has argued, this policy agenda creates new opportunities for prosperity and growth.

At the same time, we must never forget that opportunities of market access, improved consumer choice, and availability of manufacturing inputs, come with the price of transitions, dislocations, and shifts in the U.S. economy. These dynamic changes that are outgrowths from trade are similar to technological advances in productivity that leave workers out of jobs, or plants out of operation. However, while technological advances are the initiative of private enterprise, trade liberalization is the chosen policy of government. Free trade creates opportunities, but it also creates responsibilities that this government must embrace just as firmly as it embraces free trade.

The bill we are introducing today address these issues by giving the Department of Commerce the revenue from these tariffs, which currently goes to corporations, to provide technical assistance to communities that have been negatively impacted by trade, to develop strategic plans that would focus on creating and retaining jobs in a community and promote economic diversification. Once the strategic plans have been approved by the Department of Commerce, grants would be available, based on the needs of the community, to implement economic development projects, improve the local infrastructure, support the establishment of small businesses, and attract new businesses.

In small towns, where the livelihood of the local economy depends on one industry, one plant, or one company, that is suffering under trade liberalization, it can cause devastation when that steel mill, paper mill, or textile mill shuts down. In towns like East Millinocket, ME, where Great Northern Paper went bankrupt, or in Waterville, Maine, where Hathaway shut down their plant and moved shirt production overseas, local economies were sent into disarray. That is just part of the reason I was so adamant in my support last year for improvements in Trade Adjustment Assistance.

Congress did the right thing when we expanded TAA training and benefits in the Trade Act of 2002, but one of the complaints leveled against TAA was the concern over what these workers would be able to do with their new

training in small towns that had few jobs to offer. The ''TRADE for America's Communities Act'' seeks to answer those concerns by ensuring that in towns where there may be few opportunities left, this government takes the first step towards providing hope through economic adjustment assistance.

The ''TRADE for America's Communities Act'' would lay the groundwork for an America where no community is left behind in the march towards a free and open global economy. As the Finance Committee continues its work on trade legislation and the numerous trade agreements being proposed by this Administration, I look forward to the opportunity to address the economic development needs of these communities.

By Ms. CANTWELL:

S. 1300. A bill to prohibit a health plan from contracting with a pharmacy benefit manager (PBM) unless the PBM satisfies certain requirements, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Ms. CANTWELL. Mr. President, I rise today to offer the Prescription Drug Consumer Information Act. I believe this legislation will dramatically improve the way in which prescription drug benefits are provided to our Nation's 40 million senior citizens through the Medicare program.

The Prescription Drug Consumer Information Act is intended to provide some assurances that the billions of dollars being spent on this new prescription drug benefit for Medicare is going as far as possible. The Act is focused primarily on the practices of pharmacy benefit managers, the private companies that would most likely administer the new prescription drug benefit called for under the Prescription Drug Benefits Bill.

PBMs have come to dominate the prescription drug benefit market and subsequently, have been the target of criticism by the employers and health plans that contract with them. The source of the controversy has been the cost cutting practices of PBMs, which have allowed them to make prescription drug coverage more affordable. However, the fact that drug prices continue to rise in the face of these cost-cutting efforts, has led some to question PBM practices in the private sector. As we move forward in providing prescription drug coverage within a government-operated program as large as Medicare it is critical that there be adequate safeguards in place. My bill would provide greater scrutiny and auditing of PBMs contracting with the government and also provide some consumer protections for all Americans who purchase prescription drugs.

The market share of prescription drug benefits managed by PBMs has grown enormously in recent years. Currently, 90 percent of Americans with prescription drug coverage have their benefits administered by a PMB. Of that 90 percent, nearly 70 percent of those people are served by one of the four major PBM companies. PBMs provide benefits to nearly 200 million Americans, including 65 percent of the Nation's senior population. PBMs have become as powerful in the delivery of prescription drug services as the manufacturers which produce medications.

As PBMs have come to dominate the market, they are increasingly drawing the attention of State lawmakers struggling with skyrocketing prescription drug costs for state workers and large programs like Medicaid. As States focus on reducing pharmaceutical costs, suspicions are growing among state lawmakers and health department officials that the ''behind-closed-doors'' practices of PBMs are responsible for some of the escalating costs of prescription drugs. In 2002, Georgia become the first State to regulate PBMs by requiring they be licensed as pharmacies. This year, 19 States have introduced legislation to regulate or license PBMs.

At issue are the rebates, discounts and other savings that PBMs negotiate with drug manufacturers in exchange for giving their medications ''preferred'' status on the PBMs list of available drugs. Those contracts are a primary source of revenue for the PBMs and for the drug manufacturers who see use of their products increase as the PBM steers its massive consumer base toward the preferred drug. However, because PBMs are so secretive about their arrangements with manufacturers, it is difficult for PBM clients to know if a significant portion of the rebates are being passed back to them as the PBM promises.

PBMs also negotiate lower prices with pharmacies but fail to share those savings with consumers, particularly on generic drugs. A recent Wall Street Journal investigation found that for one drug fluoxetine, a generic of Prozac, PBMs were buying the drug from the pharmacy for about 30 cents a pill. However, most of the PBMs clients were paying $1.06 a pill based on the average markup formula. The PBM was pocketing the difference, which was 76 cents per pill. Multiply that by the number of fluoxetine pills dispensed by the PBMs and it is clear that these private companies are getting rich while consumers continue to pay unnecessarily high drug prices. This may be in the best interests of the PBMs shareholders, but it is a disservice to its customers, which turn to PBMs in an attempt to save money and lower drug costs.

Efforts to better understand the PBM industry have reinforced this attitude of secrecy and backroom deals. Last year, Senator DORGAN requested a General Accounting Office study of whether PBMs were sharing the savings achieved through rebates and discounts with the members of the Federal Employees Health Benefits Plan. Unfortunately, the study provided us with little understanding of how the PBM industry operates because GAO was denied access to the financial documents of the PBM companies. GAO had no way of fulfilling its obligation of reporting to Congress because the PBMs refused to disclose any information about rebates, discounts and other savings generated by FEHBP.

Yet, these same companies want the federal government to hand them billions of dollars for a new Medicare drug benefit without providing any accounting of how that money was spent. Allowing the PBMs to operate a government program in such secrecy is outrageous and would set a terrible policy precedent.

The Prescription Drug Consumer Information Act would improve this system with a five-part approach. First, the Act would eliminate potential conflicts of interest by prohibiting cross ownership of pharmaceutical manufacturing companies and PBMs. Second, it would contain costs by requiring that any PBM contracting with Medicare provide any cost savings negotiated with a pharmacy back to the PBM client, be that client an employer, a health plan or the government.

Third, it would require all pharmacies to disclose the retail cost of a prescription drug upon request by a consumer. Several States, including Washington State, Montana, New York, Oregon and Rhode Island, along with the Virgin Islands, currently require pharmacies to make retail prices available to consumers. This provision is desperately needed across the country. A 2002 survey conducted by the Washington State Attorney General's Office found that retail prices on prescriptions could vary as much as $25 within a city and within a pharmacy chain. All consumers should be able to comparison shop for the best price amongst pharmacies in their area but they cannot do that if they do not know the retail price of various drugs.

Fourth, the amendment would require PBMs on an annual basis to make public the percent of rebate received from the manufacturer that is passed back to the client, such as an employer, health plan or the government. The amendment does not require full public disclosure of the PBMs' negotiations with manufacturers because I realize that such a requirement could damage their ability to get good deals from the manufacturer. This disclosure does not have to take an all or nothing approach. The Act allows the PBM to keep private the specifics of their contracts, but at the same time provides senior citizens some assurance that they are benefiting from the savings achieved in those contracts.

Finally, my bill would strengthen the audit requirements for PBMs administering the Medicare drug benefit to ensure that PBMs are passing those rebates and other savings along to consumers. One of the problems for employers and health plans using PBMs now is that it is difficult for them to

confirm that the PBM is meeting its contractual obligations to pass on a portion of its savings. Auditing provisions in my bill include complete disclosure of the amounts and types of rebates. The results of the audit would not become public, to ensure the PBMs ability to continue to negotiate discounted prices. This approach strikes a fair balance between the PBMs rights as private companies and the duty the PBMs have to share any savings generated by the new benefit with Medicare recipients.

Together, these provisions will ensure that senior citizens and the government are getting the most out of every dollar spent on a Medicare prescription drug benefit and that other consumers who purchase prescription drugs are armed with information before spending their hard-earned money. Consumers should have some assurance that the private companies providing prescription drug insurance are not running up costs and cutting down coverage in an attempt to boost their own bottom lines. The Prescription Drug Consumer Information Act provides those assurances and protections.

By Mr. DEWINE (for himself and Mr. SCHUMER):

S. 1301. A bill to amend title 18, United States Code, to prohibit video voyeurism in the special maritime and territorial jurisdiction of the United States, and of other purposes; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I rise today, along with the Senator from New York, Mr. SCHUMER, to introduce the Video Voyeurism Prevention Act of 2003. Our legislation would criminalize the appalling practice of filming or photographing victims without their knowledge or consent under circumstances violating their privacy.

Video voyeurism encompasses what is referred to as ''upskirting'' or ''downshirting.'' As the terms imply, this subset of video voyeurism involves the use of a tiny, undetectable camera to film up the skirt or down the shirt of an unsuspecting target, most often a woman. One of my constituents from Ohio became the victim of this shocking invasion of privacy while she was innocently enjoying a church festival with her 16-month old daughter. I would like to read you what she told the Cincinnati Enquirer newspaper in an article published on October 10, 2000:

> As I crouched down to put the baby in my stroller, I saw a video camera sticking out of his bag, taping up my dress. . . . It rocked my whole sense of security.

According to an ABCNEWS.com article that also published this story, this particular perpetrator had surreptitiously filmed a total of 13 women that day. Sadly, this is not an isolated event. The widespread availability of low-cost, high-resolution cameras has lead to an increase in the number of high-profile cases of ''video-voyeurism'' all over our country. Reports of women being secretly videotaped through their clothing at shopping malls, amusement parks, and other public places are far too common.

The impact of video voyeurism on its victims is greatly exacerbated by the Internet. As a result of Internet technology, the pictures that a voyeur captures can be disseminated to a worldwide audience in a matter of seconds. A State representative from Ohio, Representative Ed Jerse, stated it best when he told ABC News that when a woman's picture is posted on the Web, her privacy ''could be violated millions of times.''

Fortunately, my home State of Ohio has enacted a law that specifically targets video voyeurism. But Ohio is one of only a few States that have such a law. That means that in most areas around the country, victims of this practice are not only deprived of their security and their privacy but are left without any recourse against their perpetrator. As the defense attorney for one video voyeur aptly observed, ''the criminal law necessarily lags behind technology and human ingenuity.''

Our Video Voyeurism Prevention Act of 2003 seeks to close the gap in the law and ensure that video voyeurs will be punished for their acts. Our bill would make it a crime to videotape, photograph, film, or otherwise electronically record the naked or undergarment-clad genitals, pubic area, buttocks, or female breast of an individual without that individual's consent. This bill would help ensure that when a person has a reasonable expectation that he or she will not be videoed, filmed, or photographed as I have just described, that expectation of privacy will be recognized in and protected by the law. Additionally, our bill would make certain that perpetrators of video voyeurism are punished, by imposing a sentence of a fine or imprisonment for up to 1 year.

Importantly, however, the mens rea requirements included in this bill guarantee that only those who are truly guilty of this crime will be punished. To be charged with video voyeurism, an actor must intend to capture the prohibited image and must knowingly do so.

In closing, I strongly encourage my colleagues to support the Video Voyeurism Prevention Act of 2003. This legislation would help safeguard the privacy we all take for granted and would help ensure that our criminal law reflects the realities of our rapidly changing technology.

I ask unanimous consent that the text of our bill be printed at the conclusion of my remarks.

S. 1301

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 ''Video Voyeurism Prevention Act of 2003''.

SEC. 2. PROHIBITION OF VIDEO VOYEURISM.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 87 the following new chapter:

''CHAPTER 88—PRIVACY

''Sec.
''1801. Video voyeurism.

''§ 1801. Video voyeurism

''(a) Whoever, in the special maritime and territorial jurisdiction of the United States, having the intent to capture an improper image of an individual, knowingly does so under circumstances violating the privacy of that individual, shall be fined under this title or imprisoned not more than one year, or both.

''(b) In this section—

''(1) the term 'captures', with respect to an image, means videotapes, photographs, films, or records by any electronic means;

''(2) the term 'improper image', with respect to an individual, means an image, captured without the consent of that individual, of the naked or undergarment clad genitals, pubic area, buttocks, or female breast of that individual; and

''(3) the term 'under circumstances violating the privacy of that individual' means under circumstances in which the individual exhibits an expectation that the improper image would not be made, in a situation in which a reasonable person would be justified in that expectation.''.

(b) AMENDMENT TO PART ANALYSIS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 87 the following new item:

''88. Privacy ..... 1801''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 176—RECOGNIZING THE NATIONAL HOCKEY LEAGUE'S NEW JERSEY DEVILS AND NATIONAL BASKETBALL ASSOCIATION'S NEW JERSEY NETS FOR THEIR ACCOMPLISHMENTS DURING THE 2002–2003 SEASON

Mr. CORZINE (for himself and Mr. LAUTENBERG) submitted the following resolution; which was considered and agreed to:

S. RES. 176

Whereas the New Jersey Devils defeated the Anaheim Mighty Ducks 3-0 on June 9, 2003 to win the Stanley Cup in 7 games;

Whereas the New Jersey Nets won the National Basketball Association (NBA) Eastern Conference Championship and reached the NBA Finals for the second consecutive year before losing a closely contested series to the San Antonio Spurs in 6 games;

Whereas the Devils won their third Stanley Cup in the last 9 years, as many as any other team in that period;

Whereas the Devils and Nets have won over the State of New Jersey (where the first professional basketball game took place in 1898) with their skillful offenses and stifling defenses;

Whereas the Devils and Nets have come to epitomize the never-say-die spirit of the people of New Jersey and have both become an important part of the State and its identity;

Whereas the fans of both New Jersey teams have shown the same spirit and determination in support of their teams and deserve commendation for their loyalty in this season's playoffs;

Whereas the Devils had a 12 win, 1 loss record at the Continental Airlines Arena, the most home wins in the history of the Stanley Cup playoffs;

Whereas the Nets swept both the Boston Celtics and the Detroit Pistons during a 10-

game winning streak in this season's playoffs;

Whereas Pat Burns, head coach of the New Jersey Devils, has enjoyed the kind of success that has eluded so many other great coaches, winning his first Stanley Cup title in his first season as head coach of the Devils;

Whereas Byron Scott, head coach of the New Jersey Nets, has guided the Nets to the most wins in franchise history, and has led them to the NBA Finals in 2 of his 3 seasons as head coach;

Whereas Martin Brodeur, regarded by many as the premier playoff goaltender in hockey history, recorded 3 shutouts in the Finals, giving him 7 shutouts during this season's playoffs and 20 during his illustrious postseason career;

Whereas the outstanding playmaking abilities of Jason Kidd, widely regarded as the best point guard in the NBA, has been key to the success of the Nets during the past 2 seasons;

Whereas the outstanding play of Ken Daneyko, Martin Brodeur, Scott Stevens, Sergei Brylin, and Scott Neidermayer has been a vital part of each of the 3 Stanley Cup Championships enjoyed by the New Jersey Devils organization;

Whereas Jason Kidd has superb teammates in Brandon Armstrong, Jason Collins, Lucious Harris, Richard Jefferson, Anthony Johnson, Kerry Kittles, Donny Marshall, Kenyon Martin, Dikembe Mutombo, Rodney Rogers, Brian Scalabrine, Tamar Slay, and Aaron Williams, allowing the team to win its second consecutive NBA Eastern Conference championship; and

Whereas the name of each Devils player will be inscribed on the Stanley Cup, including Tommy Albelin, Jiri Bicek, Martin Brodeur, Sergei Brylin, Ken Daneyko, Patrik Elias, Jeff Friesen, Brian Gionta, Scott Gomez, Jamie Langenbrunner, John Madden, Grant Marshall, Jim McKenzie, Scott Niedermayer, Joe Nieuwendyk, Jay Pandolfo, Brian Rafalski, Pascal Rheaume, Mike Rupp, Corey Schwab, Richard Schmelik, Scott Stevens, Turner Stevenson, Oleg Tverdovsky, and Colin White: Now, therefore, be it

Resolved, That the Senate congratulates—

(1) the New Jersey Devils for their determination, perseverance, and excellence in winning the National Hockey League's 2003 Stanley Cup; and

(2) the New Jersey Nets for their success during the 2002-2003 NBA season.

SENATE RESOLUTION 177—TO DIRECT THE SENATE COMMISSION ON ART TO SELECT AN APPROPRIATE SCENE COMMEMORATING THE GREAT COMPROMISE OF OUR FOREFATHERS ESTABLISHING A BICAMERAL CONGRESS WITH EQUAL STATE REPRESENTATION IN THE UNITED STATES SENATE, TO BE PLACED IN THE LUNETTE SPACE IN THE SENATE RECEPTION ROOM IMMEDIATELY ABOVE THE ENTRANCE INTO THE SENATE CHAMBER LOBBY, AND TO AUTHORIZE THE COMMITTEE ON RULES AND ADMINISTRATION TO OBTAIN TECHNICAL ADVICE AND ASSISTANCE IN CARRYING OUT ITS DUTIES

Mr. DODD submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 177

Resolved, That (a) a Member of the Senate or any other person may not remove a work of art, historical object, or an exhibit from the Senate wing of the Capitol or any Senate office building for personal use.

(b) For purposes of this resolution, the term "work of art, historical object, or an exhibit" means an item, including furniture, identified on the list (and any supplement to the list) required by section 4 of Senate Resolution 382, 90th Congress, as enacted into law by section 901(a) of Public Law 100–696 (2 U.S.C. 2104).

(c) For purposes of this resolution, the Senate Commission on Art shall update the list required by section 4 of Senate Resolution 382, 90th Congress (2 U.S.C. 2104) every 6 months after the date of adoption of this resolution and shall provide a copy of the updated list to the Committee on Rules and Administration.

AMENDMENTS SUBMITTED & PROPOSED

SA 936. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table.

SA 937. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 938. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 939. Mr. DASCHLE (for himself, Mr. NELSON of Nebraska, Ms. MIKULSKI, and Mr. JOHNSON) proposed an amendment to the bill S. 1, supra.

SA 940. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 941. Mr. WYDEN (for himself, Mrs. MURRAY, and Mr. SMITH) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 942. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 943. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 944. Mr. ENZI (for Ms. CANTWELL) proposed an amendment to amendment SA 932 proposed by Mr. ENZI (for himself, Mr. REED, and Mr. PRYOR) to the bill S. 1, supra.

SA 945. Mr. GREGG (for himself, Mr. SCHUMER, Mr. MCCAIN, Mr. KENNEDY, Mr. ROBERTS, Mr. EDWARDS, Ms. COLLINS, Mr. LEAHY, Mr. JOHNSON, Mr. FEINGOLD, Mr. HARKIN, Mr. KOHL, Mr. SMITH, Ms. STABENOW, Mr. MILLER, and Mr. COLEMAN) proposed an amendment to the bill S. 1, supra.

SA 946. Mr. DORGAN (for himself, Ms. STABENOW, Mr. JEFFORDS, Ms. SNOWE, Mr. JOHNSON, Mr. LEAHY, Mrs. BOXER, Mr. PRYOR, Mr. FEINGOLD, and Ms. COLLINS) proposed an amendment to the bill S. 1, supra.

SA 947. Mr. FRIST (for Mr. COCHRAN (for himself, Mr. FRIST, Mr. BREAUX, and Mr. SANTORUM)) proposed an amendment to amendment SA 946 proposed by Mr. DORGAN (for himself, Ms. STABENOW, Mr. JEFFORDS, Ms. SNOWE, Mr. JOHNSON, Mr. LEAHY, Mrs. BOXER, Mr. PRYOR, Mr. FEINGOLD, and Ms. COLLINS) to the bill S. 1, supra.

SA 948. Mr. GRAHAM, of South Carolina submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 949. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 950. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 936. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table, as follows:

At the end of subtitle C of title II, add the following:

SEC. ____. EXTENSION OF DEMONSTRATION FOR ESRD MANAGED CARE.

The Secretary shall extend without interruption, through December 31, 2007, the approval of the demonstration project, Contract No. H1021, under the authority of section 2355(b)(1)(B)(iv) of the Deficit Reduction Act of 1984, as amended by section 13567 of the Omnibus Reconciliation Act of 1993. Such approval shall be subject to the terms and conditions in effect for the 2002 project year with respect to eligible participants and covered benefits. The Secretary shall set the monthly capitation rate for enrollees on the basis of the reasonable medical and direct administrative costs of providing those benefits to such participants.

SA 937. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table, as follows:

At the end of subtitle B of title IV, add the following:

SEC. ____. PROHIBITION OF INCIDENTAL FEES AND REQUIRED PURCHASE OF NONCOVERED ITEMS OR SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1842 (42 U.S.C. 1395u) is amended by adding at the end the following new subsection:

"(u) PROHIBITION OF INCIDENTAL FEES OR REQUIRING PURCHASE OF NONCOVERED ITEMS OR SERVICES.—

"(1) IN GENERAL.—A physician, practitioner (as described in section 1842(b)(18)(C)), or other individual may not—

"(A) charge a membership fee or any other incidental fee to a medicare beneficiary (as defined in section 1802(b)(5)(A)); or

"(B) require a medicare beneficiary (as so defined) to purchase a noncovered item or service,

as a prerequisite for the provision of a covered item or service to the beneficiary under this title.

"(2) CONSTRUCTION.—Nothing in this subsection shall be construed to apply the prohibition under paragraph (1) to a physician, practitioner, or other individual described in such subsection who does not accept any funds under this title.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to membership fees and other charges made, or purchases of items and services required, on or after the date of enactment of this Act.

SA 938. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title IV, add the following:

SEC. ____. GAO STUDY AND REPORT ON THE PROPAGATION OF CONCIERGE CARE.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on concierge care (as defined in paragraph (2)) to determine the extent to which such care—

(A) is used by medicare beneficiaries (as defined in section 1802(b)(5)(A) of the Social Security Act (42 U.S.C. 1395a(b)(5)(A))); and

(B) has impacted upon the access of medicare beneficiaries (as so defined) to items and services for which reimbursement is provided under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(2) CONCIERGE CARE.—In this section, the term ''concierge care'' means an arrangement under which, as a prerequisite for the provision of a health care item or service to an individual, a physician, practitioner (as described in section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C))), or other individual—

(A) charges a membership fee or another incidental fee to an individual desiring to receive the health care item or service from such physician, practitioner, or other individual; or

(B) requires the individual desiring to receive the health care item or service from such physician, practitioner, or other individual to purchase an item or service.

(b) REPORT.—Not later than the date that is 12 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subsection (a)(1) together with such recommendations for legislative or administrative action as the Comptroller General determines to be appropriate.

SA 939. Mr. DASCHLE (for himself, Mr. NELSON of Nebraska, Ms. MIKULSKI, and Mr. JOHNSON) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

On page 103, strike lines 10 though 13 and insert the following:

''(B) the lesser of—

''(i) the amount by which the monthly plan premium approved by the Administrator for the plan exceeds the amount of the monthly national average premium; or

''(ii) in the case of an eligible beneficiary who is enrolled in a Medicare Prescription Drug plan that provides standard prescription drug coverage or an actuarially equivalent prescription drug coverage and does not provide additional prescription drug coverage pursuant to section 1860D–6(a)(2), an amount equal to 10 percent of the amount of the monthly national average premium.

On page 77, strike lines 10 through 22 and insert the following:

''(A) IN GENERAL.—In the case of an eligible beneficiary receiving access to qualified prescription drug coverage through enrollment with an entity with a contract under paragraph (1)(B), the monthly beneficiary obligation of such beneficiary for such enrollment shall be an amount equal to the lesser of—

''(i) the applicable percent (for the area in which the beneficiary resides, as determined under section 1860D–17(c)) of the monthly national average premium (as computed under section 1860D–15) for the year as adjusted using the geographic adjuster under subparagraph (B); or

''(ii) 110 percent of an amount equal to the applicable percent (as determined under section 1860D–17(c) before any adjustment under paragraph (2) of such section) of the monthly national average premium (as computed under section 1860D–15 before any adjustment under subsection (b) of such section) for the year.

SA 940. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

On page 200, between lines 13 and 14, insert the following:

SEC. ____. ACCESS TO DISCOUNTED PRESCRIPTION DRUGS.

(a) IN GENERAL.—From amounts made available under subsection (c), the Secretary of Health and Human Services shall award grants to covered entities described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)) to enable such entities to pay the start-up costs associated with the establishment of pharmacies to provide covered drugs under such section 340B.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), a covered entity shall prepare and submit to the Secretary of Health and Human Services an application at such time, in such manner, and containing such information as the Secretary may require.

(c) FUNDING.—There shall be made available from the Prescription Drug Account established under section 1860DD-25 of the Social Security Act, $300,000,000 to carry out this section. Amounts made available under this subsection shall remain available until expended.

SA 941. Mr. WYDEN (for himself, Mrs. MURRAY, and Mr. SMITH) submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. ____. MEDPAC STUDY ON MEDICARE PAYMENTS AND EFFICIENCIES IN THE HEALTH CARE SYSTEM.

Not later than 18 months after the date of enactment of this Act, the Medicare Payment Advisory Commission established under section 1805 of the Social Security Act (42 U.S.C. 1395b–6) shall provide Congress with recommendations to recognize and reward, within payment methodologies for physicians and hospitals established under the medicare program under title XVIII of the Social Security Act, efficiencies, and the lower utilization of services created by the practice of medicine in historically efficient and low-cost areas. Measures of efficiency recognized in accordance with the preceding sentence shall include—

(1) shorter hospital stays than the national average;

(2) fewer physician visits than the national average;

(3) fewer laboratory tests than the national average;

(4) a greater utilization of hospice services than the national average; and

(5) the efficacy of disease management and preventive health services.

SA 942. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

On page 204, after line 22, insert the following:

SEC. 133. PHARMACY BENEFIT MANAGERS TRANSPARENCY REQUIREMENTS.

(a) MEDICARE.—Subpart 3 of part D of title XVIII of the Social Security Act (as added by section 101) is amended by adding at the end the following new section:

''PHARMACY BENEFIT MANAGERS TRANSPARENCY REQUIREMENTS

''SEC. 1860D–27. Notwithstanding any other provision of law, an eligible entity offering a Medicare Prescription Drug plan under this part or a MedicareAdvantage organization offering a MedicareAdvantage plan under part C shall not enter into a contract with any pharmacy benefit manager (in this section referred to as a 'PBM') to manage the prescription drug coverage provided under such plan, or to control the costs of such coverage, unless the PBM satisfies the following requirements:

''(1) The PBM is not owned by a pharmaceutical manufacturing company.

''(2) The PBM agrees to pass along any cost savings negotiated with a pharmacy to the Medicare Prescription Drug plan or the MedicareAdvantage plan.

''(3) The PBM agrees to make public on an annual basis the percent of manufacturer's rebates received by the PBM that is passed back to the Medicare Prescription Drug plan or the MedicareAdvantage plan on a drug-by-drug basis.

''(4) The PBM agrees to provide, at least annually, the Medicare Prescription Drug plan or the MedicareAdvantage plan with all financial and utilization information requested by the plan relating to the provision of benefits to eligible beneficiaries through the PBM and all financial and utilization information relating to services provided to the plan. A PBM providing information under this paragraph may designate that information as confidential. Information designated as confidential by a PBM and provided to a plan under this paragraph may not be disclosed to any person without the consent of the PBM.

''(5) The PBM agrees to provide, at least annually, the Medicare Prescription Drug plan or the MedicareAdvantage plan with all financial terms and arrangements for remuneration of any kind that apply between the PBM and any prescription drug manufacturer or labeler, including formulary management and drug-switch programs, educational support, claims processing and

pharmacy network fees that are charged from retail pharmacies and data sales fees.

''(6) The PBM agrees to disclose the retail cost of a prescription drug upon request by a consumer.''.

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 714. PHARMACY BENEFIT MANAGERS TRANSPARENCY REQUIREMENTS.

''The provisions of section 1860D–27 of the Social Security Act shall apply to a group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, in the same manner as such provisions apply to an eligible entity offering a Medicare Prescription Drug plan under part D of title XVIII of the Social Security Act or to a MedicareAdvantage organization offering a MedicareAdvantage plan under part C of title XVIII of that Act.''.

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following:

''Sec. 714. Pharmacy benefit managers transparency requirements.''.

(3) EFFECTIVE DATES.—The amendments made by this subsection shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(c) AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.—

(1) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following:

''SEC. 2707. PHARMACY BENEFIT MANAGERS TRANSPARENCY REQUIREMENTS.

''The provisions of section 1860D–27 of the Social Security Act shall apply to a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan, in the same manner as such provisions apply to an eligible entity offering a Medicare Prescription Drug plan under part D of title XVIII of the Social Security Act or to a MedicareAdvantage organization offering a MedicareAdvantage plan under part C of title XVIII of that Act.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to group health plans and health insurance issuers in connection with group health plans for plan years beginning on or after the date of enactment of this Act.

(d) AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.—

(1) IN GENERAL.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-51 et seq.) is amended—

(A) by redesignating such subpart as subpart 2; and

(B) by adding at the end the following:

''SEC. 2753. PHARMACY BENEFIT MANAGERS TRANSPARENCY REQUIREMENTS.

''The provisions of section 1860D–27 of the Social Security Act shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to an eligible entity offering a Medicare Prescription Drug plan under part D of title XVIII of the Social Security Act or to a MedicareAdvantage organization offering a MedicareAdvantage plan under part C of title XVIII of that Act.''.

(2) EFFECTIVE DATE.—The amendment made by subsection (c)(1)(B) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the date of enactment of this Act.

(e) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended by inserting after section 9812 the following:

''SEC. 9813. PHARMACY BENEFIT MANAGERS TRANSPARENCY REQUIREMENTS.

''The provisions of section 1860D–27 of the Social Security Act shall apply to a group health plan in the same manner as they apply to an eligible entity offering a Medicare Prescription Drug plan under part D of title XVIII of the Social Security Act or to a MedicareAdvantage organization offering a MedicareAdvantage plan under part C of title XVIII of that Act.''.

(2) CLERICAL AMENDMENT.—The table of contents for chapter 100 of such Code is amended by inserting after the item relating to section 9812 the following

''Sec. 9813. Required coverage of young adults.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to plan years beginning on or after the date of enactment of this Act.

SA 943. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

On page 516, after line 22, add the following:

SEC. ___. INCENTIVE PAYMENT IN MEDICARE HEALTH PROFESSIONAL SHORTAGE AREAS DEMONSTRATION PROJECT.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

''INCENTIVE PAYMENTS IN MEDICARE HEALTH PROFESSIONAL SHORTAGE AREAS DEMONSTRATION PROJECT

''SEC. 1897. (a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary shall establish a demonstration project under which—

''(A) pursuant to paragraph (3), the Secretary designates areas in a State selected under paragraph (5) as medicare health professional shortage areas; and

''(B) an incentive payment is provided under part B to primary care physicians for each physician's service (as defined in section 1861(q)) that is furnished in a medicare health professional shortage area to an individual enrolled under such part.

''(2) PRIMARY CARE PHYSICIAN DEFINED.—For purposes of this section, the term 'primary care physician' has the meaning given such term for purposes of designating health professional shortage areas under section 332(a) of the Public Health Service Act (42 U.S.C. 254e(a)).

''(3) DESIGNATION OF AREAS.—The Secretary shall designate an area in a State selected under paragraph (5) as a medicare health professional shortage area if the Secretary determines, using the methodology established under subsection (b)(1)(B), that individuals enrolled under part B and residing in the area have inadequate access to primary care physicians.

''(4) TERMS AND CONDITIONS.—

''(A) INCENTIVE PAYMENT IN ADDITION TO PAYMENT OTHERWISE MADE.—

''(i) IN GENERAL.—Subject to clause (ii), the incentive payment made under the demonstration project for a physician's service shall be in addition to the amount otherwise made for the service under part B.

''(ii) NO PAYMENTS UNDER THE INCENTIVE PAYMENT PROGRAM IN A DEMONSTRATION STATE DURING OPERATION OF THE DEMONSTRATION PROGRAM.—Subject to subparagraph (D), notwithstanding section 1833(m), during the operation of the demonstration project in a State selected under paragraph (5), the Secretary may not make any incentive payment to any physician under such section for any service furnished in any part of such State, regardless of—

''(I) whether the physician is eligible for bonus payments under the demonstration program; and

''(II) where the service was furnished in the State.

''(B) AMOUNT OF INCENTIVE PAYMENT.—The amount of the incentive payment for a physician's service furnished under the demonstration project shall be an amount equal to 40 percent of the payment amount for the service under part B.

''(C) NO EFFECT ON AMOUNT OF COINSURANCE AN INDIVIDUAL IS REQUIRED TO PAY.—The amount of any coinsurance that an individual enrolled under part B is responsible for paying with respect to a physicians' service furnished to the individual shall be determined as if this section had not been enacted.

''(D) NO EFFECT ON PAYMENTS TO CRITICAL ACCESS HOSPITALS.—The amount of payment for outpatient critical access services of a critical access hospital under section 1834(g) shall be determined as if this section had not been enacted.

''(5) DEMONSTRATION SITES.—The Secretary shall conduct the demonstration project in 5 States selected by the Secretary as demonstration sites.

''(6) AUTOMATION OF INCENTIVE PAYMENTS.—

''(A) IN GENERAL.—Under the demonstration project, incentive payments under paragraph (1)(B) to a primary care physician shall be made automatically to the physician rather than the physician being responsible for determining when a payment is required to be made under that paragraph.

''(B) INCENTIVE PAYMENT BASED ON ZIP CODES.—In order to comply with subparagraph (A), the Secretary shall establish procedures in which the amount of payment otherwise made for a physician's service is automatically increased by the amount of the incentive payment under the demonstration project if the service was furnished in any zip code that is entirely or partially in a designated medicare health professional shortage area in a State selected under paragraph (5).

''(7) DURATION.—The demonstration project shall be conducted for a 3-year period. The period for establishing the methodology under subsection (b) shall not be counted for purposes determining such 3-year period.

''(b) ESTABLISHMENT OF METHODOLOGY FOR ASSISTING SECRETARY IN DESIGNATING MEDICARE HEALTH PROFESSIONAL SHORTAGE AREAS.—

''(1) IN GENERAL.—The Secretary shall select 1 or more Federal rural health research centers within the Health Resources Services Administration to establish a methodology to assist the Secretary in designating areas within the States selected under subsection (a)(5) as medicare health professional shortage areas pursuant to subsection (a)(3).

''(2) RULES FOR ESTABLISHING METHODOLOGY.—

''(A) IN GENERAL.—The methodology established under paragraph (1) shall address—

''(i) how to measure the percentage of the total population in an area that consists of individuals enrolled under part B; and

''(ii) the appropriate ratio of such individuals to primary care physicians in an area in order to ensure that such individuals have adequate access to services furnished by such physicians.

''(B) METHODOLOGY MAY BE SIMILAR TO METHODOLOGIES USED UNDER THE PUBLIC HEALTH SERVICE ACT.—The methodology established under paragraph (1) may be similar to methodologies utilized by the Secretary for designating areas, and population groups within areas, as health professional shortage areas under section 332(a) of the Public Health Service Act (42 U.S.C. 254e(a)).

''(C) CONSULTATION.—The Federal rural health research centers selected under paragraph (1) shall consult with the State and local medical societies of the States selected under subsection (a)(5) in establishing the methodology under paragraph (1).

''(c) NO EFFECT ON DESIGNATION AS A HEALTH PROFESSIONAL SHORTAGE AREA.—Except as provided in subsection (a)(4)(A)(ii), the designation of an area as a medicare health professional shortage area under subsection (a)(3) shall have no effect on the designation of such area as a health professional shortage area under section 332(a) of the Public Health Service Act (42 U.S.C. 254e(a)).

''(d) WAIVER AUTHORITY.—The Secretary may waive such requirements of title XI and this title as may be necessary for the purpose of carrying out the demonstration project.

''(e) REPORT.—

''(1) IN GENERAL.—Not later than 6 months after the completion of the demonstration project, the Secretary shall submit to Congress a report on such project.

''(2) CONTENTS.—The report submitted under paragraph (1) shall contain—

''(A) an evaluation of whether the demonstration project has had the effect of stabilizing, maintaining, or increasing access of individuals enrolled under part B to physicians' services furnished by primary care physicians, including whether the amount of the incentive payment is adequate to stabilize, maintain, or increase such access and if not, then what amount will;

''(B) a comparison of the effectiveness of the demonstration project in stabilizing, maintaining, or increasing such access with the effectiveness of other Federal, State, and local programs, such as the incentive program under section 1833(m), that are designed to stabilize, maintain, or increase such access;

''(C) recommendations for such legislation and administrative actions as the Secretary considers appropriate; and

''(D) any other items that the Secretary considers appropriate.

''(f) FUNDING.—

''(1) INCENTIVE PAYMENTS.—The Secretary shall use funds in the Federal Supplementary Medical Insurance Trust Fund under section 1841 to make the incentive payments under this section.

''(2) ESTABLISHMENT OF METHODOLOGY.—

''(A) IN GENERAL.—There is authorized to be appropriated $6,000,000 to establish the methodology under subsection (b)(1).

''(B) AVAILABILITY.—Any amounts appropriated pursuant to subparagraph (A) shall remain available until expended.''.

SA 944. Mr. ENZI (for Ms. CANTWELL) proposed an amendment to amendment SA 932 proposed by Mr. ENZI (for himself, Mr. REED, and Mr. PRYOR) to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

On page 2 of amendment SA#932 between lines 18 and 19 strike ''.'' and insert the following: ''with the auditor of the Administrator's choice.''

SA 945. Mr. GREGG (for himself, Mr. SCHUMER, Mr. MCCAIN, Mr. KENNEDY, Mr. ROBERTS, Mr. EDWARDS, Ms. COLLINS, Mr. LEAHY, Mr. JOHNSON, Mr. FEINGOLD, Mr. HARKIN, Mr. KOHL, Mr. SMITH, Ms. STABENOW, Mr. MILLER, and Mr. COLEMAN) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

At the end, add the following:

TITLE ____—ACCESS TO AFFORDABLE PHARMACEUTICALS

SEC. ____01. SHORT TITLE.

This title may be cited as the ''Greater Access to Affordable Pharmaceuticals Act''.

SEC. ____02. 30-MONTH STAY-OF-EFFECTIVENESS PERIOD.

(a) ABBREVIATED NEW DRUG APPLICATIONS.—Section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) is amended—

(1) in paragraph (2), by striking subparagraph (B) and inserting the following:

''(B) NOTICE OF OPINION THAT PATENT IS INVALID OR WILL NOT BE INFRINGED.—

''(i) AGREEMENT TO GIVE NOTICE.—An applicant that makes a certification described in subparagraph (A)(vii)(IV) shall include in the application a statement that the applicant will give notice as required by this subparagraph.

''(ii) TIMING OF NOTICE.—An applicant that makes a certification described in subparagraph (A)(vii)(IV) shall give notice as required under this subparagraph—

''(I) if the certification is in the application, not later than 20 days after the date of the postmark on the notice with which the Secretary informs the applicant that the application has been filed; or

''(II) if the certification is in an amendment or supplement to the application, at the time at which the applicant submits the amendment or supplement, regardless of whether the applicant has already given notice with respect to another such certification contained in the application or in an amendment or supplement to the application.

''(iii) RECIPIENTS OF NOTICE.—An applicant required under this subparagraph to give notice shall give notice to—

''(I) each owner of the patent that is the subject of the certification (or a representative of the owner designated to receive such a notice); and

''(II) the holder of the approved application under subsection (b) for the drug that is claimed by the patent or a use of which is claimed by the patent (or a representative of the holder designated to receive such a notice).

''(iv) CONTENTS OF NOTICE.—A notice required under this subparagraph shall—

''(I) state that an application that contains data from bioavailability or bioequivalence studies has been submitted under this subsection for the drug with respect to which the certification is made to obtain approval to engage in the commercial manufacture, use, or sale of the drug before the expiration of the patent referred to in the certification; and

''(II) include a detailed statement of the factual and legal basis of the opinion of the applicant that the patent is invalid or will not be infringed.''; and

(2) in paragraph (5)—

(A) in subparagraph (B)—

(i) by striking ''under the following'' and inserting ''by applying the following to each certification made under paragraph (2)(A)(vii)''; and

(ii) in clause (iii)—

(I) in the first sentence, by striking ''unless'' and all that follows and inserting ''unless, before the expiration of 45 days after the date on which the notice described in paragraph (2)(B) is received, an action is brought for infringement of the patent that is the subject of the certification and for which information was submitted to the Secretary under subsection (b)(1) or (c)(2) before the date on which the application (excluding an amendment or supplement to the application), which the Secretary later determines to be substantially complete, was submitted.''; and

(II) in the second sentence—

(aa) by striking subclause (I) and inserting the following:

''(I) if before the expiration of such period the district court decides that the patent is invalid or not infringed (including any substantive determination that there is no cause of action for patent infringement or invalidity), the approval shall be made effective on—

''(aa) the date on which the court enters judgment reflecting the decision; or

''(bb) the date of a settlement order or consent decree signed and entered by the court stating that the patent that is the subject of the certification is invalid or not infringed;'';

(bb) by striking subclause (II) and inserting the following:

''(II) if before the expiration of such period the district court decides that the patent has been infringed—

''(aa) if the judgment of the district court is appealed, the approval shall be made effective on—

''(AA) the date on which the court of appeals decides that the patent is invalid or not infringed (including any substantive determination that there is no cause of action for patent infringement or invalidity); or

''(BB) the date of a settlement order or consent decree signed and entered by the court of appeals stating that the patent that is the subject of the certification is invalid or not infringed; or

''(bb) if the judgment of the district court is not appealed or is affirmed, the approval shall be made effective on the date specified by the district court in a court order under section 271(e)(4)(A) of title 35, United States Code;'';

(cc) in subclause (III), by striking ''on the date of such court decision.'' and inserting ''as provided in subclause (I); or''; and

(dd) by inserting after subclause (III) the following:

''(IV) if before the expiration of such period the court grants a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture or sale of the drug until the court decides the issues of patent validity and infringement and if the court decides that such patent has been infringed, the approval shall be made effective as provided in subclause (II).'';

(B) by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively; and

(C) by inserting after subparagraph (B) the following:

''(C) CIVIL ACTION TO OBTAIN PATENT CERTAINTY.—

''(i) DECLARATORY JUDGMENT ABSENT INFRINGEMENT ACTION.—If an owner of the patent or the holder of the approved application under subsection (b) for the drug that is claimed by the patent or a use of which is claimed by the patent does not bring a civil action against the applicant for infringement of the patent on or before the date that is 45 days after the date on which the notice given under paragraph (2)(B) was received, the applicant may bring a civil action against the owner or holder (but not against any owner or holder that has brought such a civil action against that applicant, unless that civil action was dismissed without prejudice) for a declaratory judgment under section 2201 of title 28, United States Code, that the patent is invalid or will not be infringed by the drug for which the applicant seeks approval.

''(ii) COUNTERCLAIM TO INFRINGEMENT ACTION.—

''(I) IN GENERAL.—If an owner of the patent or the holder of the approved application under subsection (b) for the drug that is claimed by the patent or a use of which is claimed by the patent brings a patent infringement action against the applicant, the applicant may assert a counterclaim seeking an order requiring the holder to correct or delete the patent information submitted by the holder under subsection (b) or (c) on the ground that the patent does not claim either—

''(aa) the drug for which the application was approved; or

''(bb) an approved method of using the drug.

''(II) NO INDEPENDENT CAUSE OF ACTION.—Subclause (I) does not authorize the assertion of a claim described in subclause (I) in any civil action or proceeding other than a counterclaim described in subclause (I).

''(iii) NO DAMAGES.—An applicant shall not be entitled to damages in a civil action under subparagraph (i) or a counterclaim under subparagraph (ii).''.

(b) APPLICATIONS GENERALLY.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended—

(1) in subsection (b), by striking paragraph (3) and inserting the following:

''(3) NOTICE OF OPINION THAT PATENT IS INVALID OR WILL NOT BE INFRINGED.—

''(A) AGREEMENT TO GIVE NOTICE.—An applicant that makes a certification described in paragraph (2)(A)(iv) shall include in the application a statement that the applicant will give notice as required by this paragraph.

''(B) TIMING OF NOTICE.—An applicant that makes a certification described in paragraph (2)(A)(iv) shall give notice as required under this paragraph—

''(i) if the certification is in the application, not later than 20 days after the date of the postmark on the notice with which the Secretary informs the applicant that the application has been filed; or

''(ii) if the certification is in an amendment or supplement to the application, at the time at which the applicant submits the amendment or supplement, regardless of whether the applicant has already given notice with respect to another such certification contained in the application or in an amendment or supplement to the application.

''(C) RECIPIENTS OF NOTICE.—An applicant required under this paragraph to give notice shall give notice to—

''(i) each owner of the patent that is the subject of the certification (or a representative of the owner designated to receive such a notice); and

''(ii) the holder of the approved application under this subsection for the drug that is claimed by the patent or a use of which is claimed by the patent (or a representative of the holder designated to receive such a notice).

''(D) CONTENTS OF NOTICE.—A notice required under this paragraph shall—

''(i) state that an application that contains data from bioavailability or bioequivalence studies has been submitted under this subsection for the drug with respect to which the certification is made to obtain approval to engage in the commercial manufacture, use, or sale of the drug before the expiration of the patent referred to in the certification; and

''(ii) include a detailed statement of the factual and legal basis of the opinion of the applicant that the patent is invalid or will not be infringed.''; and

(2) in subsection (c)(3)—

(A) in the first sentence, by striking ''under the following'' and inserting ''by applying the following to each certification made under subsection (b)(2)(A)(iv)'';

(B) in subparagraph (C)—

(i) in the first sentence, by striking ''unless'' and all that follows and inserting ''unless, before the expiration of 45 days after the date on which the notice described in subsection (b)(3) is received, an action is brought for infringement of the patent that is the subject of the certification and for which information was submitted to the Secretary under paragraph (2) or subsection (b)(1) before the date on which the application (excluding an amendment or supplement to the application) was submitted.'';

(ii) in the second sentence—

(I) by striking ''paragraph (3)(B)'' and inserting ''subsection (b)(3)'';

(II) by striking clause (i) and inserting the following:

''(i) if before the expiration of such period the district court decides that the patent is invalid or not infringed (including any substantive determination that there is no cause of action for patent infringement or invalidity), the approval shall be made effective on—

''(I) the date on which the court enters judgment reflecting the decision; or

''(II) the date of a settlement order or consent decree signed and entered by the court stating that the patent that is the subject of the certification is invalid or not infringed;'';

(III) by striking clause (ii) and inserting the following:

''(ii) if before the expiration of such period the district court decides that the patent has been infringed—

''(I) if the judgment of the district court is appealed, the approval shall be made effective on—

''(aa) the date on which the court of appeals decides that the patent is invalid or not infringed (including any substantive determination that there is no cause of action for patent infringement or invalidity); or

''(bb) the date of a settlement order or consent decree signed and entered by the court of appeals stating that the patent that is the subject of the certification is invalid or not infringed; or

''(II) if the judgment of the district court is not appealed or is affirmed, the approval shall be made effective on the date specified by the district court in a court order under section 271(e)(4)(A) of title 35, United States Code;'';

(IV) in clause (iii), by striking ''on the date of such court decision.'' and inserting ''as provided in clause (i); or''; and

(V) by inserting after clause (iii), the following:

''(iv) if before the expiration of such period the court grants a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture or sale of the drug until the court decides the issues of patent validity and infringement and if the court decides that such patent has been infringed, the approval shall be made effective as provided in clause (ii).''; and

(iii) in the third sentence, by striking ''paragraph (3)(B)'' and inserting ''subsection (b)(3)'';

(C) by redesignating subparagraph (D) as subparagraph (E); and

(D) by inserting after subparagraph (C) the following:

''(D) CIVIL ACTION TO OBTAIN PATENT CERTAINTY.—

''(i) DECLARATORY JUDGMENT ABSENT INFRINGEMENT ACTION.—If an owner of the patent or the holder of the approved application under subsection (b) for the drug that is claimed by the patent or a use of which is claimed by the patent does not bring a civil action against the applicant for infringement of the patent on or before the date that is 45 days after the date on which the notice given under subsection (b)(3) was received, the applicant may bring a civil action against the owner or holder (but not against any owner or holder that has brought such a civil action against that applicant, unless that civil action was dismissed without prejudice) for a declaratory judgment under section 2201 of title 28, United States Code, that the patent is invalid or will not be infringed by the drug for which the applicant seeks approval.

''(ii) COUNTERCLAIM TO INFRINGEMENT ACTION.—

''(I) IN GENERAL.—If an owner of the patent or the holder of the approved application under subsection (b) for the drug that is claimed by the patent or a use of which is claimed by the patent brings a patent infringement action against the applicant, the applicant may assert a counterclaim seeking an order requiring the holder to correct or delete the patent information submitted by the holder under subsection (b) or this subsection on the ground that the patent does not claim either—

''(aa) the drug for which the application was approved; or

''(bb) an approved method of using the drug.

''(II) NO INDEPENDENT CAUSE OF ACTION.—Subclause (I) does not authorize the assertion of a claim described in subclause (I) in any civil action or proceeding other than a counterclaim described in subclause (I).

''(iii) NO DAMAGES.—An applicant shall not be entitled to damages in a civil action under clause (i) or a counterclaim under clause (ii).''.

(c) INFRINGEMENT ACTIONS.—Section 271(e) of title 35, United States Code, is amended by adding at the end the following:

''(5) The filing of an application described in paragraph (2) that includes a certification under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), and the failure of the owner of the patent to bring an action for infringement of a patent that is the subject of the certification before the expiration of 45 days after the date on which the notice given under subsection (b)(3) or (j)(2)(B) of that section is received, shall establish an actual controversy between the applicant and the patent owner sufficient to confer subject matter jurisdiction in the courts of the United States in any action brought by the applicant under section 2201 of title 28 for a declaratory judgment that any patent that is the subject of the certification is invalid or not infringed.''.

(d) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by subsections (a), (b), and (c) apply to any proceeding under section 505 of the Federal

Food, Drug, and Cosmetic Act (21 U.S.C. 355) that is pending on or after the date of enactment of this Act regardless of the date on which the proceeding was commenced or is commenced.

(2) NOTICE OF OPINION THAT PATENT IS INVALID OR WILL NOT BE INFRINGED.—The amendments made by subsections (a)(1) and (b)(1) apply with respect to any certification under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) after the date of enactment of this Act in an application filed under subsection (b)(2) or (j) of that section or in an amendment or supplement to an application filed under subsection (b)(2) or (j) of that section.

(3) EFFECTIVE DATE OF APPROVAL.—The amendments made by subsections (a)(2)(A)(ii)(I) and (b)(2)(B)(i) apply with respect to any patent information submitted under subsection (b)(1) or (c)(2) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) made after the date of enactment of this Act.

SEC. ____03. FORFEITURE OF 180-DAY EXCLUSIVITY PERIOD.

(a) IN GENERAL.—Section 505(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)) (as amended by section ____02) is amended—

(1) in subparagraph (B), by striking clause (iv) and inserting the following:

''(iv) 180-DAY EXCLUSIVITY PERIOD.—

''(I) DEFINITIONS.—In this paragraph:

''(aa) 180-DAY EXCLUSIVITY PERIOD.—The term '180-day exclusivity period' means the 180-day period ending on the day before the date on which an application submitted by an applicant other than a first applicant could become effective under this clause.

''(bb) FIRST APPLICANT.—The term 'first applicant' means an applicant that, on the first day on which a substantially complete application containing a certification described in paragraph (2)(A)(vii)(IV) is submitted for approval of a drug, submits a substantially complete application containing a certification described in paragraph (2)(A)(vii)(IV) for the drug.

''(cc) SUBSTANTIALLY COMPLETE APPLICATION.—As used in this subsection, the term 'substantially complete application' means an application under this subsection that on its face is sufficiently complete to permit a substantive review and contains all the information required by paragraph (2)(A).

''(dd) TENTATIVE APPROVAL.—

''(AA) IN GENERAL.—The term 'tentative approval' means notification to an applicant by the Secretary that an application under this subsection meets the requirements of paragraph (2)(A), but cannot receive effective approval because the application does not meet the requirements of this subparagraph, there is a period of exclusivity for the listed drug under subparagraph (E) or section 505A, or there is a 7-year period of exclusivity for the listed drug under section 527.

''(BB) LIMITATION.—A drug that is granted tentative approval by the Secretary is not an approved drug and shall not have an effective approval until the Secretary issues an approval after any necessary additional review of the application.

''(II) EFFECTIVENESS OF APPLICATION.—Subject to subparagraph (D), if the application contains a certification described in paragraph (2)(A)(vii)(IV) and is for a drug for which a first applicant has submitted an application containing such a certification, the application shall be made effective on the date that is 180 days after the date of the first commercial marketing of the drug (including the commercial marketing of the listed drug) by any first applicant.''; and

(2) by inserting after subparagraph (C) the following:

''(D) FORFEITURE OF 180-DAY EXCLUSIVITY PERIOD.—

''(i) DEFINITION OF FORFEITURE EVENT.—In this subparagraph, the term 'forfeiture event', with respect to an application under this subsection, means the occurrence of any of the following:

''(I) FAILURE TO MARKET.—The first applicant fails to market the drug by the later of—

''(aa) the earlier of the date that is—

''(AA) 75 days after the date on which the approval of the application of the first applicant is made effective under subparagraph (B)(iii); or

''(BB) 30 months after the date of submission of the application of the first applicant; or

''(bb) with respect to the first applicant or any other applicant (which other applicant has received tentative approval), the date that is 75 days after the date as of which, as to each of the patents with respect to which the first applicant submitted a certification qualifying the first applicant for the 180-day exclusivity period under subparagraph (B)(iv), at least 1 of the following has occurred:

''(AA) In an infringement action brought against that applicant with respect to the patent or in a declaratory judgment action brought by that applicant with respect to the patent, a court enters a final decision from which no appeal (other than a petition to the Supreme Court for a writ of certiorari) has been or can be taken that the patent is invalid or not infringed.

''(BB) In an infringement action or a declaratory judgment action described in subitem (AA), a court signs a settlement order or consent decree that enters a final judgment that includes a finding that the patent is invalid or not infringed.

''(CC) The patent expires.

''(DD) The patent is withdrawn by the holder of the application approved under subsection (b).

''(II) WITHDRAWAL OF APPLICATION.—The first applicant withdraws the application or the Secretary considers the application to have been withdrawn as a result of a determination by the Secretary that the application does not meet the requirements for approval under paragraph (4).

''(III) AMENDMENT OF CERTIFICATION.—The first applicant amends or withdraws the certification for all of the patents with respect to which that applicant submitted a certification qualifying the applicant for the 180-day exclusivity period.

''(IV) FAILURE TO OBTAIN TENTATIVE APPROVAL.—The first applicant fails to obtain tentative approval of the application within 30 months after the date on which the application is filed, unless the failure is caused by a change in or a review of the requirements for approval of the application imposed after the date on which the application is filed.

''(V) AGREEMENT WITH ANOTHER APPLICANT, THE LISTED DRUG APPLICATION HOLDER, OR A PATENT OWNER.—The first applicant enters into an agreement with another applicant under this subsection for the drug, the holder of the application for the listed drug, or an owner of the patent that is the subject of the certification under paragraph (2)(A)(vii)(IV), the Federal Trade Commission or the Attorney General files a complaint, and there is a final decision of the Federal Trade Commission or the court with regard to the complaint from which no appeal (other than a petition to the Supreme Court for a writ of certiorari) has been or can be taken that the agreement has violated the antitrust laws (as defined in section 1 of the Clayton Act (15 U.S.C. 12), except that the term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that that section applies to unfair methods of competition).

''(VI) EXPIRATION OF ALL PATENTS.—All of the patents as to which the applicant submitted a certification qualifying it for the 180-day exclusivity period have expired.

''(ii) FORFEITURE.—The 180-day exclusivity period described in subparagraph (B)(iv) shall be forfeited by a first applicant if a forfeiture event occurs with respect to that first applicant.

''(iii) SUBSEQUENT APPLICANT.—If all first applicants forfeit the 180-day exclusivity period under clause (ii)—

''(I) approval of any application containing a certification described in paragraph (2)(A)(vii)(IV) shall be made effective in accordance with subparagraph (B)(iii); and

''(II) no applicant shall be eligible for a 180-day exclusivity period.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall be effective only with respect to an application filed under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) after the date of enactment of this Act for a listed drug for which no certification under section 505(j)(2)(A)(vii)(IV) of that Act was made before the date of enactment of this Act.

(2) COLLUSIVE AGREEMENTS.—If a forfeiture event described in section 505(j)(5)(D)(i)(V) of that Act occurs in the case of an applicant, the applicant shall forfeit the 180-day period under section 505(j)(5)(B)(iv) of that Act without regard to when the first certification under section 505(j)(2)(A)(vii)(IV) of that Act for the listed drug was made.

(3) DECISION OF A COURT WHEN THE 180-DAY EXCLUSIVITY PERIOD HAS NOT BEEN TRIGGERED.—With respect to an application filed before, on, or after the date of enactment of this Act for a listed drug for which a certification under section 505(j)(2)(A)(vii)(IV) of that Act was made before the date of enactment of this Act and for which neither of the events described in subclause (I) or (II) of section 505(j)(5)(B)(iv) of that Act (as in effect on the day before the date of enactment of this Act) has occurred on or before the date of enactment of this Act, the term ''decision of a court'' as used in clause (iv) of section 505(j)(5)(B) of that Act means a final decision of a court from which no appeal (other than a petition to the Supreme Court for a writ of certiorari) has been or can be taken.

SEC. ____04. BIOAVAILABILITY AND BIOEQUIVALENCE.

(a) IN GENERAL.—Section 505(j)(8) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(8)) is amended—

(1) by striking subparagraph (A) and inserting the following:

''(A)(i) The term 'bioavailability' means the rate and extent to which the active ingredient or therapeutic ingredient is absorbed from a drug and becomes available at the site of drug action.

''(ii) For a drug that is not intended to be absorbed into the bloodstream, the Secretary may assess bioavailability by scientifically valid measurements intended to reflect the rate and extent to which the active ingredient or therapeutic ingredient becomes available at the site of drug action.''; and

(2) by adding at the end the following:

''(C) For a drug that is not intended to be absorbed into the bloodstream, the Secretary may establish alternative, scientifically valid methods to show bioequivalence if the alternative methods are expected to detect a significant difference between the drug and the listed drug in safety and therapeutic effect.''.

(b) EFFECT OF AMENDMENT.—The amendment made by subsection (a) does not alter

the standards for approval of drugs under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)).

SEC. ___05. REMEDIES FOR INFRINGEMENT.

Section 287 of title 35, United States Code, is amended by adding at the end the following:

''(d) CONSIDERATION.—In making a determination with respect to remedy brought for infringement of a patent that claims a drug or a method or using a drug, the court shall consider whether information on the patent was filed as required under 21 U.S.C. 355 (b) or (c), and, if such information was required to be filed but was not, the court may refuse to award treble damages under section 284.''.

SEC. ___06. CONFORMING AMENDMENTS.

Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended—

(1) in subsections (b)(1)(A)(i) and (c)(1)(A)(i), by striking ''(j)(5)(D)(ii)'' each place it appears and inserting ''(j)(5)(F)(ii)'';

(2) in subsections (b)(1)(A)(ii) and (c)(1)(A)(ii), by striking ''(j)(5)(D)'' each place it appears and inserting ''(j)(5)(F)''; and

(3) in subsections (e) and (l), by striking ''505(j)(5)(D)'' each place it appears and inserting ''505(j)(5)(F)''.

SA 946. Mr. DORGAN (for himself, Ms. STABENOW, Mr. JEFFORDS, Ms. SNOWE, Mr. JOHNSON, Mr. LEAHY, Mrs. BOXER, Mr. PRYOR, Mr. FEINGOLD, and Ms. COLLINS) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

At the end, add the following:

TITLE ____—IMPORTATION OF PRESCRIPTION DRUGS

SEC. ___01. IMPORTATION OF PRESCRIPTION DRUGS.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) is amended by striking section 804 and inserting the following:

''SEC. 804. IMPORTATION OF PRESCRIPTION DRUGS.

''(a) DEFINITIONS.—In this section:

''(1) IMPORTER.—The term 'importer' means a pharmacist or wholesaler.

''(2) PHARMACIST.—The term 'pharmacist' means a person licensed by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

''(3) PRESCRIPTION DRUG.—The term 'prescription drug' means a drug subject to section 503(b), other than—

''(A) a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

''(B) a biological product (as defined in section 351 of the Public Health Service Act (42 U.S.C. 262));

''(C) an infused drug (including a peritoneal dialysis solution);

''(D) an intravenously injected drug; or

''(E) a drug that is inhaled during surgery.

''(4) QUALIFYING LABORATORY.—The term 'qualifying laboratory' means a laboratory in the United States that has been approved by the Secretary for the purposes of this section.

''(5) WHOLESALER.—

''(A) IN GENERAL.—The term 'wholesaler' means a person licensed as a wholesaler or distributor of prescription drugs in the United States under section 503(e)(2)(A).

''(B) EXCLUSION.—The term 'wholesaler' does not include a person authorized to import drugs under section 801(d)(1).

''(b) REGULATIONS.—The Secretary, after consultation with the United States Trade Representative and the Commissioner of Customs, shall promulgate regulations permitting pharmacists and wholesalers to import prescription drugs from Canada into the United States.

''(c) LIMITATION.—The regulations under subsection (b) shall—

''(1) require that safeguards be in place to ensure that each prescription drug imported under the regulations complies with section 505 (including with respect to being safe and effective for the intended use of the prescription drug), with sections 501 and 502, and with other applicable requirements of this Act;

''(2) require that an importer of a prescription drug under the regulations comply with subsections (d)(1) and (e); and

''(3) contain any additional provisions determined by the Secretary to be appropriate as a safeguard to protect the public health or as a means to facilitate the importation of prescription drugs.

''(d) INFORMATION AND RECORDS.—

''(1) IN GENERAL.—The regulations under subsection (b) shall require an importer of a prescription drug under subsection (b) to submit to the Secretary the following information and documentation:

''(A) The name and quantity of the active ingredient of the prescription drug.

''(B) A description of the dosage form of the prescription drug.

''(C) The date on which the prescription drug is shipped.

''(D) The quantity of the prescription drug that is shipped.

''(E) The point of origin and destination of the prescription drug.

''(F) The price paid by the importer for the prescription drug.

''(G) Documentation from the foreign seller specifying—

''(i) the original source of the prescription drug; and

''(ii) the quantity of each lot of the prescription drug originally received by the seller from that source.

''(H) The lot or control number assigned to the prescription drug by the manufacturer of the prescription drug.

''(I) The name, address, telephone number, and professional license number (if any) of the importer.

''(J)(i) In the case of a prescription drug that is shipped directly from the first foreign recipient of the prescription drug from the manufacturer:

''(I) Documentation demonstrating that the prescription drug was received by the recipient from the manufacturer and subsequently shipped by the first foreign recipient to the importer.

''(II) Documentation of the quantity of each lot of the prescription drug received by the first foreign recipient demonstrating that the quantity being imported into the United States is not more than the quantity that was received by the first foreign recipient.

''(III)(aa) In the case of an initial imported shipment, documentation demonstrating that each batch of the prescription drug in the shipment was statistically sampled and tested for authenticity and degradation.

''(bb) In the case of any subsequent shipment, documentation demonstrating that a statistically valid sample of the shipment was tested for authenticity and degradation.

''(ii) In the case of a prescription drug that is not shipped directly from the first foreign recipient of the prescription drug from the manufacturer, documentation demonstrating that each batch in each shipment offered for importation into the United States was statistically sampled and tested for authenticity and degradation.

''(K) Certification from the importer or manufacturer of the prescription drug that the prescription drug—

''(i) is approved for marketing in the United States; and

''(ii) meets all labeling requirements under this Act.

''(L) Laboratory records, including complete data derived from all tests necessary to ensure that the prescription drug is in compliance with established specifications and standards.

''(M) Documentation demonstrating that the testing required by subparagraphs (J) and (L) was conducted at a qualifying laboratory.

''(N) Any other information that the Secretary determines is necessary to ensure the protection of the public health.

''(2) MAINTENANCE BY THE SECRETARY.—The Secretary shall maintain information and documentation submitted under paragraph (1) for such period of time as the Secretary determines to be necessary.

''(e) TESTING.—The regulations under subsection (b) shall require—

''(1) that testing described in subparagraphs (J) and (L) of subsection (d)(1) be conducted by the importer or by the manufacturer of the prescription drug at a qualified laboratory;

''(2) if the tests are conducted by the importer—

''(A) that information needed to—

''(i) authenticate the prescription drug being tested; and

''(ii) confirm that the labeling of the prescription drug complies with labeling requirements under this Act;

be supplied by the manufacturer of the prescription drug to the pharmacist or wholesaler; and

''(B) that the information supplied under subparagraph (A) be kept in strict confidence and used only for purposes of testing or otherwise complying with this Act; and

''(3) may include such additional provisions as the Secretary determines to be appropriate to provide for the protection of trade secrets and commercial or financial information that is privileged or confidential.

''(f) REGISTRATION OF FOREIGN SELLERS.—Any establishment within Canada engaged in the distribution of a prescription drug that is imported or offered for importation into the United States shall register with the Secretary the name and place of business of the establishment.

''(g) SUSPENSION OF IMPORTATION.—The Secretary shall require that importations of a specific prescription drug or importations by a specific importer under subsection (b) be immediately suspended on discovery of a pattern of importation of that specific prescription drug or by that specific importer of drugs that are counterfeit or in violation of any requirement under this section, until an investigation is completed and the Secretary determines that the public is adequately protected from counterfeit and violative prescription drugs being imported under subsection (b).

''(h) APPROVED LABELING.—The manufacturer of a prescription drug shall provide an importer written authorization for the importer to use, at no cost, the approved labeling for the prescription drug.

''(i) PROHIBITION OF DISCRIMINATION.—

''(1) IN GENERAL.—It shall be unlawful for a manufacturer of a prescription drug to discriminate against, or cause any other person to discriminate against, a pharmacist or wholesaler that purchases or offers to purchase a prescription drug from the manufacturer or from any person that distributes a

prescription drug manufactured by the drug manufacturer.

''(2) DISCRIMINATION.—For the purposes of paragraph (1), a manufacturer of a prescription drug shall be considered to discriminate against a pharmacist or wholesaler if the manufacturer enters into a contract for sale of a prescription drug, places a limit on supply, or employs any other measure, that has the effect of—

''(A) providing pharmacists or wholesalers access to prescription drugs on terms or conditions that are less favorable than the terms or conditions provided to a foreign purchaser (other than a charitable or humanitarian organization) of the prescription drug; or

''(B) restricting the access of pharmacists or wholesalers to a prescription drug that is permitted to be imported into the United States under this section.

''(j) CHARITABLE CONTRIBUTIONS.—Notwithstanding any other provision of this section, section 801(d)(1) continues to apply to a prescription drug that is donated or otherwise supplied at no charge by the manufacturer of the drug to a charitable or humanitarian organization (including the United Nations and affiliates) or to a government of a foreign country.

''(k) WAIVER AUTHORITY FOR IMPORTATION BY INDIVIDUALS.—

''(1) DECLARATIONS.—Congress declares that in the enforcement against individuals of the prohibition of importation of prescription drugs and devices, the Secretary should—

''(A) focus enforcement on cases in which the importation by an individual poses a significant threat to public health; and

''(B) exercise discretion to permit individuals to make such importations in circumstances in which—

''(i) the importation is clearly for personal use; and

''(ii) the prescription drug or device imported does not appear to present an unreasonable risk to the individual.

''(2) WAIVER AUTHORITY.—

''(A) IN GENERAL.—The Secretary may grant to individuals, by regulation or on a case-by-case basis, a waiver of the prohibition of importation of a prescription drug or device or class of prescription drugs or devices, under such conditions as the Secretary determines to be appropriate.

''(B) GUIDANCE ON CASE-BY-CASE WAIVERS.—The Secretary shall publish, and update as necessary, guidance that accurately describes circumstances in which the Secretary will consistently grant waivers on a case-by-case basis under subparagraph (A), so that individuals may know with the greatest practicable degree of certainty whether a particular importation for personal use will be permitted.

''(3) DRUGS IMPORTED FROM CANADA.—In particular, the Secretary shall by regulation grant individuals a waiver to permit individuals to import into the United States a prescription drug that—

''(A) is imported from a licensed pharmacy for personal use by an individual, not for resale, in quantities that do not exceed a 90-day supply;

''(B) is accompanied by a copy of a valid prescription;

''(C) is imported from Canada, from a seller registered with the Secretary;

''(D) is a prescription drug approved by the Secretary under chapter V;

''(E) is in the form of a final finished dosage that was manufactured in an establishment registered under section 510; and

''(F) is imported under such other conditions as the Secretary determines to be necessary to ensure public safety.

''(l) STUDIES; REPORTS.—

''(1) BY THE INSTITUTE OF MEDICINE OF THE NATIONAL ACADEMY OF SCIENCES.—

''(A) STUDY.—

''(i) IN GENERAL.—The Secretary shall request that the Institute of Medicine of the National Academy of Sciences conduct a study of—

''(I) importations of prescription drugs made under the regulations under subsection (b); and

''(II) information and documentation submitted under subsection (d).

''(ii) REQUIREMENTS.—In conducting the study, the Institute of Medicine shall—

''(I) evaluate the compliance of importers with the regulations under subsection (b);

''(II) compare the number of shipments under the regulations under subsection (b) during the study period that are determined to be counterfeit, misbranded, or adulterated, and compare that number with the number of shipments made during the study period within the United States that are determined to be counterfeit, misbranded, or adulterated; and

''(III) consult with the Secretary, the United States Trade Representative, and the Commissioner of Patents and Trademarks to evaluate the effect of importations under the regulations under subsection (b) on trade and patent rights under Federal law.

''(B) REPORT.—Not later than 2 years after the effective date of the regulations under subsection (b), the Institute of Medicine shall submit to Congress a report describing the findings of the study under subparagraph (A).

''(2) BY THE COMPTROLLER GENERAL.—

''(A) STUDY.—The Comptroller General of the United States shall conduct a study to determine the effect of this section on the price of prescription drugs sold to consumers at retail.

''(B) REPORT.—Not later than 18 months after the effective date of the regulations under subsection (b), the Comptroller General of the United States shall submit to Congress a report describing the findings of the study under subparagraph (A).

''(m) CONSTRUCTION.—Nothing in this section limits the authority of the Secretary relating to the importation of prescription drugs, other than with respect to section 801(d)(1) as provided in this section.

''(n) EFFECTIVENESS OF SECTION.—

''(1) IN GENERAL.—If, after the date that is 1 year after the effective date of the regulations under subsection (b) and before the date that is 18 months after the effective date, the Secretary submits to Congress a certification that, in the opinion of the Secretary, based on substantial evidence obtained after the effective date, the benefits of implementation of this section do not outweigh any detriment of implementation of this section, this section shall cease to be effective as of the date that is 30 days after the date on which the Secretary submits the certification.

''(2) PROCEDURE.—The Secretary shall not submit a certification under paragraph (1) unless, after a hearing on the record under sections 556 and 557 of title 5, United States Code, the Secretary—

''(A)(i) determines that it is more likely than not that implementation of this section would result in an increase in the risk to the public health and safety;

''(ii) identifies specifically, in qualitative and quantitative terms, the nature of the increased risk;

''(iii) identifies specifically the causes of the increased risk; and

''(iv)(I) considers whether any measures can be taken to avoid, reduce, or mitigate the increased risk; and

''(II) if the Secretary determines that any measures described in subclause (I) would require additional statutory authority, submits to Congress a report describing the legislation that would be required;

''(B) identifies specifically, in qualitative and quantitative terms, the benefits that would result from implementation of this section (including the benefit of reductions in the cost of covered products to consumers in the United States, allowing consumers to procure needed medication that consumers might not otherwise be able to procure without foregoing other necessities of life); and

''(C)(i) compares in specific terms the detriment identified under subparagraph (A) with the benefits identified under subparagraph (B); and

''(ii) determines that the benefits do not outweigh the detriment.

''(o) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(b) CONFORMING AMENDMENTS.—The Federal Food, Drug, and Cosmetic Act is amended—

(1) in section 301(aa) (21 U.S.C. 331(aa)), by striking ''covered product in violation of section 804'' and inserting ''prescription drug in violation of section 804''; and

(2) in section 303(a)(6) (21 U.S.C. 333(a)(6), by striking ''covered product pursuant to section 804(a)'' and inserting ''prescription drug under section 804(b)''.

SA 947. Mr. FRIST (for Mr. COCHRAN (for himself, Mr. FRIST, Mr. BREAUX, and Mr. SANTORUM)) proposed an amendment to amend SA 946 proposed by Mr. DORGAN (for himself, Ms. STABENOW, Mr. JEFFORDS, Ms. SNOWE, Mr. JOHNSON, Mr. LEAHY, Mrs. BOXER, Mr. PRYOR, Mr. FEINGOLD, and Ms. COLLINS) to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

At the appropriate place, insert the following:

''( ) CONDITIONS.—this section shall become effective only if the Secretary of Health and Human Services certifies to the Congress that the implementation of this section will—

''(A) pose no additional risk to the public's health and safety, and

''(B) result in a significant reduction in the cost of covered products to the American consumer.''.

SA 948. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title II, insert the following:

Subtitle ____—National Bipartisan Commission on Medicare Reform

SEC. ____01. MEDICAREADVANTAGE GOAL; ESTABLISHMENT OF COMMISSION.

(a) ENROLLMENT GOAL.—It is the goal of this title that, not later than January 1, 2010, at least 15 percent of individuals entitled to, or enrolled for, benefits under part A of title XVIII of the Social Security Act and enrolled under part B of such title should be enrolled in a MedicareAdvantage plan, as determined by the Center for Medicare Choices.

(b) FAILURE TO ACHIEVE GOAL.—If the goal described in subsection (a) is not met by January 1, 2012, as determined by the Center for Medicare Choices, there shall be established a commission as described in section 2.

SEC. ___02 NATIONAL BIPARTISAN COMMISSION ON MEDICARE REFORM.

(a) ESTABLISHMENT.—Upon a determination under section ___01(b) that the enrollment goal has not been met, there shall be established a commission to be known as the National Bipartisan Commission on Medicare Reform (in this section referred to as the ''Commission'').

(b) DUTIES OF THE COMMISSION.—The Commission shall—

(1) review and analyze the long-term financial condition of the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(2) identify problems that threaten the financial integrity of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established under sections 1817 and 1841 of such Act (42 U.S.C. 1395i and 1395t), including—

(A) the financial impact on the medicare program of the significant increase in the number of medicare eligible individuals; and

(B) the ability of the Federal Government to sustain the program into the future;

(3) analyze potential solutions to the problems identified under paragraph (2) that will ensure both the financial integrity of the medicare program and the provision of appropriate benefits under such program, including methods used by other nations to respond to comparable demographic patterns in eligibility for health care benefits for elderly and disabled individuals and trends in employment-related health care for retirees;

(4) make recommendations to restore the solvency of the Federal Hospital Insurance Trust Fund and the financial integrity of the Federal Supplementary Medical Insurance Trust Fund;

(5) make recommendations for establishing the appropriate financial structure of the medicare program as a whole;

(6) make recommendations for establishing the appropriate balance of benefits covered under, and beneficiary contributions to, the medicare program;

(7) make recommendations for the time periods during which the recommendations described in paragraphs (4), (5) and (6) should be implemented;

(8) make recommendations on the impact of chronic disease and disability trends on future costs and quality of services under the current benefit, financing, and delivery system structure of the medicare program;

(9) make recommendations regarding a comprehensive approach to preserve the medicare program, including ways to increase the effectiveness of the MedicareAdvantage program and to increase MedicareAdvantage enrollment rates; and

(10) review and analyze such other matters as the Commission determines appropriate.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 17 members, of whom—

(A) four shall be appointed by the President;

(B) six shall be appointed by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate, of whom not more than 4 shall be of the same political party;

(C) six shall be appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives, of whom not more than 4 shall be of the same political party; and

(D) one, who shall serve as Chairperson of the Commission, shall be appointed jointly by the President, Majority Leader of the Senate, and the Speaker of the House of Representatives.

(2) DEADLINE FOR APPOINTMENT.—Members of the Commission shall be appointed by not later than April 1, 2012.

(3) TERMS OF APPOINTMENT.—The term of any member appointed under paragraph (1) shall be for the life of the Commission.

(4) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of its members.

(5) QUORUM.—A quorum for purposes of conducting the business of the Commission shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e).

(6) VACANCIES.—A vacancy in the membership of the Commission shall be filled, not later than 30 days after the Commission is given notice of the vacancy, in the same manner in which the original appointment was made. Such a vacancy shall not affect the power of the remaining members to carry out the duties of the Commission.

(7) COMPENSATION.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(8) EXPENSES.—Each member of the Commission shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(d) STAFF AND SUPPORT SERVICES.—

(1) EXECUTIVE DIRECTOR.—

(A) APPOINTMENT.—The Chairperson shall appoint an executive director of the Commission.

(B) COMPENSATION.—The executive director shall be paid the rate of basic pay for level V of the Executive Schedule under title 5, United States Code.

(2) STAFF.—With the approval of the Commission, the executive director may appoint such personnel as the executive director considers appropriate.

(3) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

(4) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(5) PHYSICAL FACILITIES.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

(e) POWERS OF COMMISSION.—

(1) HEARINGS AND OTHER ACTIVITIES.—The Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties under this section.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties under this section.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE AND OFFICE OF THE CHIEF ACTUARY OF THE CENTERS FOR MEDICARE & MEDICAID.—

(A) IN GENERAL.—The Director of the Congressional Budget Office or the Chief Actuary of the Center for Medicare & Medicaid Services, or both, shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties under this section.

(B) REIMBURSEMENTS.—The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties under this section.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties under this section, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairperson of the Commission, the head of each such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of Congress.

(f) REPORT.—Not later than October 1, 2012, the Commission shall submit to the President and Congress a report and an implementation bill that shall contain a detailed statement of only those recommendations, findings, and conclusions of the Commission that receive the approval of at least 11 members of the Commission.

(g) TERMINATION.—The Commission shall terminate on the date that is 30 days after the date on which the report and implementation bill is submitted under subsection (f).

SEC. ___03 CONGRESSIONAL CONSIDERATION OF REFORM PROPOSALS.

(a) DEFINITIONS.—In this section:

(1) IMPLEMENTATION BILL.—The term ''implementation bill'' means only a bill that is introduced as provided under subsection (b), and contains the proposed legislation included in the report submitted to Congress under section ___02(f), without modification.

(2) CALENDAR DAY.—The term ''calendar day'' means a calendar day other than 1 on which either House is not in session because of an adjournment of more than 3 days to a date certain.

(b) INTRODUCTION; REFERRAL; AND REPORT OR DISCHARGE.—

(1) INTRODUCTION.—On the first calendar day on which both Houses are in session immediately following the date on which the report is submitted to Congress under section ___02(f), a single implementation bill shall be introduced (by request)—

(A) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate; and

(B) in the House of Representatives by the Speaker of the House of Representatives, for himself and the Minority Leader of the House of Representatives, or by Members of the House of Representatives designated by the Speaker and Minority Leader of the House of Representatives.

(2) REFERRAL.—The implementation bills introduced under paragraph (1) shall be referred to any appropriate committee of jurisdiction in the Senate and any appropriate committee of jurisdiction in the House of Representatives. A committee to which an implementation bill is referred under this paragraph may report such bill to the respective House without amendment.

(3) REPORT OR DISCHARGE.—If a committee to which an implementation bill is referred has not reported such bill by the end of the 15th calendar day after the date of the introduction of such bill, such committee shall be immediately discharged from further consideration of such bill, and upon being reported or discharged from the committee, such bill shall be placed on the appropriate calendar.

(c) FLOOR CONSIDERATION.—

(1) IN GENERAL.—When the committee to which an implementation bill is referred has reported, or has been discharged under subsection (b)(3), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the implementation bill, and all points of order against the implementation bill (and against consideration of the implementation bill) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the implementation bill is agreed to, the implementation bill shall remain the unfinished business of the respective House until disposed of.

(2) AMENDMENTS.—An implementation bill may not be amended in the Senate or the House of Representatives.

(3) DEBATE.—Debate on the implementation bill, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the implementation bill is not in order. A motion to reconsider the vote by which the implementation bill is agreed to or disagreed to is not in order.

(4) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on an implementation bill, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the implementation bill shall occur.

(5) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to an implementation bill shall be decided without debate.

(d) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by 1 House of an implementation bill of that House, that House receives from the other House an implementation bill, then the following procedures shall apply:

(1) NONREFERRAL.—The implementation bill of the other House shall not be referred to a committee.

(2) VOTE ON BILL OF OTHER HOUSE.—With respect to an implementation bill of the House receiving the implementation bill—

(A) the procedure in that House shall be the same as if no implementation bill had been received from the other House; but

(B) the vote on final passage shall be on the implementation bill of the other House.

(e) RULES OF SENATE AND HOUSE OF REPRESENTATIVES.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of an implementation bill described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. ___04. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle for each of fiscal years 2012 through 2013.

SA 949. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title IV, add the following:

SEC. ___. IMPROVED PAYMENT FOR CERTAIN MAMMOGRAPHY SERVICES.

(a) EXCLUSION FROM OPD FEE SCHEDULE.—Section 1833(t)(1)(B)(iv) (42 U.S.C. 13951(t)(1)(B)(iv)) is amended by inserting before the period at the end the following: ''and does not include screening mammography (as defined in section 1861(jj)) and unilateral and bilateral diagnostic mammography''.

(b) ADJUSTMENT TO TECHNICAL COMPONENT.—For diagnostic mammography performed on or after January 1, 2004, for which payment is made under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4), the Secretary, based on the most recent cost data available, shall provide for an appropriate adjustment in the payment amount for the technical component of the diagnostic mammography.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to mammography performed on or after January 1, 2004.

SA 950. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. ___. EQUAL ACCESS TO COMPETITIVE GLOBAL PRESCRIPTION MEDICINE PRICES FOR AMERICAN PURCHASERS.

(a) DEFINITION OF COVERED PRODUCT.—In this section, the term ''covered product'' has the meaning given the term in section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384).

(b) PROHIBITION.—It shall be unlawful for the manufacturer of a covered product or any other person that sells a covered product to refuse to sell to any wholesaler or retailer (or other purchaser representing a group of wholesalers or retailers) of covered products in the United States on terms (including such terms as prompt payment, cash payment, volume purchase, single-site delivery, the use of formularies by purchasers, and any other term that effectively reduces the cost to the manufacturer of supplying the drug) that are not substantially the same as the most favorable (to the purchaser) terms on which the person has sold or has agreed to sell the covered product to any purchaser in Canada.

(c) ENFORCEMENT.—The Secretary of Health and Human Services, or any wholesaler or retailer in the United States aggrieved by a violation of subsection (b), may bring a civil action in United States district court against a person that violates subsection (b) for an order—

(1) enjoining the violation; and

(2) awarding damages in the amount that is equal to 3 times the amount of the value of the difference between—

(A) the terms on which the person sold a covered product to the wholesaler or retailer; and

(B) the terms on which the person sold the covered product to a person in Canada.

(d) EFFECTIVENESS OF SECTION.—This section takes effect on the date that is 2 years after the date of enactment of this Act, except that this section shall not be in effect during any period after that date in which there is in effect a final regulation promulgated by the Secretary of Health and Human Services permitting the importation or reimportation of prescription drugs under section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384).

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests.

The hearing that was originally scheduled for June 19, 2003 has been postponed and will now be held on Wednesday, June 25 at 2:30 p.m. in Room SD–366 of the Dirksen Senate Office Building.

The purpose of this oversight hearing is to gain an understanding of the grazing programs of the Bureau of Land Management and the United States Forest Service. The Subcommittee will receive testimony on grazing permit renewal, BLM's potential changes to grazing regulations, range monitoring, drought and other grazing issues. This hearing will also provide the basis for other grazing hearings that we may want to undertake at the subcommittee level as the year goes on.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mrs. DOLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 19, 2003, at 10:00 A.M. to conduct a hearing on ''The Growing Problem of Identity Theft and Its Relationship to the Fair Credit Reporting Act.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. DOLE. Mr. President. I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorized to meet on Thursday, June 19, 2003, at 9:30 a.m., on pending Committee business.

S. 1264. The Federal Communications Commission Reauthorization Act of 2003 (Bill Bailey/Lee Carosi/James Assey).

S. 865. Commercial Spectrum Enhancement Act (Bill Bailey/James Assey).

S. 1234. The Federal Trade Commission Reauthorization Act of 2003 (Ken Nahigian/David Strickland/Cathy McCullough).

S. 1046. Preservation of Localism, Program Diversity, and Competition in Television Broadcast Service Act of 2003 (Lee Carosi/James Assey/Rachel Welch).

S. 1261. The Consumer Product Safety Commission Reauthorization Act of 2003 (Ken Nahigian/David Strickland/Cathy McCullough).

S. 1244. The Federal Maritime Commission Reauthorization Act of 2003 (Rob Freeman/Mary Phillips/Carl Bentzel).

S. 1262. The Maritime Administration Authorization Act of 2003 (Rob Freeman/Mary Phillips/Carl Bentzel).

S. 247. Harmful Algal Bloom and Hypoxia Amendments Act of 2003 (Drew Minkiewicz/Margaret Spring).

S. 1106. Fishing Quota Act of 2003 (Drew Minkiewicz/Margaret Spring).

S. 861. Coastal and Estuarine Land Protection Act (Drew Minkiewicz/Margaret Spring).

S. 1152. United States Fire Administration Reauthorization Act of 2003 (Ken LaSala/Jean Toal Eisen).

S. 1260. The Commercial Space Transportation Act of 2003 (Floyd DesChamps/Jean Toal Eisen/John Cullen).

S. 189. 21st Century Nanotechnology Research and Development Act (Ken LaSala/Jean Toal Eisen/Chan Lieu).

S. 877. Controlling the Assault of Non-Solicited Pornography and Marketing (CAN–SPAM) Act of 2003 (Paul Martino/David Strickland).

Nomination of Annette Sandberg (PN 440), of Washington, to be Administrator of the Federal Motor Carrier Administration, (Rob Freeman, May Phillips, Virginia Pounds/Debbie Hersman/Vanessa Jones).

Nominations for Promotion in the United States Coast Guard (PNs 689, 671, 672) (Virginia Pounds/Army Fraenkel/Vanessa Jones).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mrs. DOLE. Mr. President, I ask unanimous consent that the Committee on Government Affairs be authorized to meet on Thursday, June 19, 2003, at 10:00 a.m. for a hearing entitled ''Self-Dealing and Breach of Duty: An Initial Review of the ULLICO Matter.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mrs. DOLE. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on ''Teachers Union Scandals: Closing the Gaps in Union Member Protections'' during the session of the Senate on Thursday, June 19, 2003 at 10:15 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mrs. DOLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, June 19, 2003, at 9:30 a.m. in Hart Room 216.

I. Nominations: William H. Pryor, Jr., to be United States Circuit Judge for the Eleventh Circuit; Diane M. Stuart to be Director, Violence Against Women Office, United States Department of Justice.

II. Bills: S. 724, A bill to amend Title 18, United States Code, to exempt certain rocket propellants from prohibitions under that title on explosive materials. [Enzi, Craig, Durbin, Sessions]; S. 1125, Fairness in Asbestos Injury Resolution Act of 2003 (''The FAIR Act'') [Hatch, DeWine, Chambliss]; S. 1233, A bill to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center [Mikulski, Hatch, Edwards]; S.J. Res. 1, A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims [Kyl, Chambliss, Cornyn, Craig, DeWine, Feinstein, Graham, Grassley].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INTELLIGENCE

Mrs. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 19, 2003 at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 225, 226, 229, 230, and 232.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table; that the President be immediately notified of the Senate's action, and the Senate then return to legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

NATIONAL COUNCIL ON DISABILITY

Anne Rader, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2004.

DEPARTMENT OF HOMELAND SECURITY

Eduardo Aguirre, Jr., of Texas, to be Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Terrence A. Duffy, of Illinois, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 2003.

Terrence A. Duffy, of Illinois, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 2007.

DEPARTMENT OF HOMELAND SECURITY

C. Stewart Verdery, Jr., of Virginia, to be an Assistant Secretary of Homeland Security.

CONFIRMATION OF EDUARDO AGUIRRE, JR.

Mr. LEAHY. Mr. President, I am pleased to support the nomination of Eduardo Aguirre to serve as Director of the Bureau of Citizenship and Immigration Services (BCIS), in the newly-created Department of Homeland Security. I was very impressed with him at his nomination hearing, and I look forward to working with him in his new position.

I am pleased that this nomination was referred to the Judiciary Committee, which continues to have jurisdiction over immigration legislation and oversight. Similarly, I am pleased that we were able to obtain unanimous consent last week for the Judiciary Committee to receive a subsequent referral on the nomination of Michael Garcia to head the Bureau of Customs and Immigration Enforcement—BICE.

The recent Inspector General report on the treatment of ''9/11 detainees''

shows the severe consequences that can be faced by those immigrants who fail to mention their unlawful status. Of course, the responsibility to remain here legally falls upon immigrants, but there are occasions when immigrants live up to that responsibility and are nonetheless failed by errors and backlogs on the Government's part. I hope and trust that preventing such errors will be a major priority for Mr. Aguirre. I also hope that he will use his position to battle the perception in many immigrant communities that the war on terrorism has become a war on immigrants.

At his confirmation hearing, I talked to Mr. Aguirre about the former INS employees in Vermont who will be under his jurisdiction, including those at the Vermont Service Center in St. Albans. I recommended to him that he build on the established INS workforce throughout the State by making Vermont a regional center for his agency, and I was pleased that he seemed to take that advice seriously. I am eager to work with him to see that idea become a reality.

On the national level, it was a priority for many of us in Congress that immigration services not be overlooked at the Department of Homeland Security. Although our security is paramount, the new Department must remember that our Nation's founding principals and economic health demand that immigration be handled in a fair and orderly way. After his confirmation hearing, I believe that Mr. Aguirre—himself a refugee—understands this at a fundamental level.

He faces a challenging job. I have already written him about the backlogs that plague our immigration system, and I hope that he is able to make meaningful change in that area. The President has pledged to reduce the average backlog for immigration petitions to 6 months by 2006—to do so is going to take serious investment, and I hope Mr. Aguirre will be a voice inside the administration to make that investment.

NOMINATION OF C. STEWART VERDERY, JR.

Mr. ALLEN. Mr. President, I rise today to applaud the Senate's approval of the nomination of C. Stewart Verdery, Jr., to be an Assistant Secretary of Homeland Security for Border and Transportation Security Policy. Mr. Verdery's nomination was approved unanimously by the Committee on Governmental Affairs on June 17, and his confirmation will fill a vital position at the new Department of Homeland Security. I have known Stewart for over a decade, and believe that his experience, Jeffersonian conservative principles, and personal qualities make him well-qualified to serve in the new Department.

The Assistant Secretary for Policy and Planning at the Border and Transportation Directorate, Department of Homeland Security, is the principal adviser to the BTS Under Secretary for policy development in the substantive areas within the BTS Directorate, including immigration and customs enforcement, customs and border protection, transportation security, Federal law enforcement training, and domestic preparedness. The Assistant Secretary is responsible for ensuring that policies developed for BTS and its component agencies are designed to achieve homeland security objectives as directed by the DHS Secretary and BTS Under Secretary and to fulfill the BTS mission statement to ''protect national security and promote public safety by enforcing our nation's immigration and customs laws, providing an effective defense against all external threats, including international terrorists, and other threats such as illegal drugs and other contraband, while preserving the free flow of legitimate trade and travel.''

Mr. Verdery is well-known to this body, having served for more than 6 years in the U.S. Senate. He first served as counsel to my senior colleague from Virginia, Senator WARNER, in his personal office and on the Senate Rules Committee. He joined the Senate Judiciary Committee in 1998 as head of the crime and law enforcement unit, and then moved to become General Counsel to the senior Senator from Oklahoma, Mr. NICKLES. In this role, Mr. Verdery advised the Senate leadership on a host of issues, including crime and law enforcement, commerce, judicial nominations, constitutional law, campaign finance, and telecommunications. He was widely respected among his peers and relied upon not only by Senator NICKLES, but by many other members of the Republican Conference and their staffs as well.

Whether managing the high-profile investigation of the disputed 1996 Louisiana Senate election, helping direct the Clinton impeachment trial, or a host of other assignments, Mr. Verdery's organizational skills, political instincts, and notable work ethics enabled him to thrive in the demanding environment of the U.S. Senate.

I had the opportunity to work closely with Stewart when the Senate Republican leadership designated him as a lead staffer for the Senate Republican High Tech Task Force, which has the goal of advancing constructive technology policy in the Senate. As chairman of the High Tech Task Force in 2001–2002, I was impressed by his extraordinary command of complex technology issues and, perhaps more important, his ability to succinctly explain the issues to others. His advice and counsel were always sound and thoughtful, and through his effective and friendly manner, he instantly earned the respect of those with whom he worked.

Stewart Verdery played a key role in the transformation of the High Tech Task Force into a lead advocate for the technology-friendly policies in the Senate. With his assistance, my colleagues and I were better prepared to advance a positive technology policy agenda in the Senate, including: the passage of a clean, 2-year Internet tax moratorium extension; passage of the upgraded Export Administration Act reauthorization; securing additional funding for anti-piracy prosecutions; and the hard-fought effort in the economic stimulus debate to make the Research and Development tax credit permanent, to provide enhanced expensing and to include the broadband tax credit.

Mr. Verdery will be a valuable member of the team at the Department of Homeland Security. I wish Stewart, his wife Jenny and their two young children, Isabelle and Chase, all the very best health and happiness in this new endeavor.

Mr. NICKLES. Madam President, I rise today to support the Senate's approval of the nomination of Stewart Verdery as the Assistant Secretary for Policy and Planning at the Border and Transportation Directorate of the Department of Homeland Security.

I have worked with Stewart since his days as Counsel to the Senate Rules Committee and while he was at the Senate Judiciary Committee. He did an outstanding job in those capacities. As a matter of fact, he did such a great job I hired him to serve as my General Counsel in the Assistant Republican Leader's office. In his position there, he served not only as my counsel, but as a counsel for the entire Senate. We deal with a lot of issues in the U.S. Senate, and Stewart's counsel was invaluable to me and other Senators.

I consider Stewart and his wife Jenny to be part of the family. Not only were they married while he was on my staff, but their two children were born as well. I respect him as both a professional and a family man.

I have no doubt Stewart will excel in this new position, and it is with great pleasure that I support his nomination as Assistant Secretary for Policy and Planning.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

KEEPING CHILDREN AND FAMILIES SAFE ACT OF 2003—CONFERENCE REPORT

Mr. ALEXANDER. Mr. President, I ask the Chair to lay before the Senate a conference report to accompany S. 342, the Child Abuse Protection Act.

The PRESIDING OFFICER. The clerk will report the conference report.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 342), to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under the Act, and

for other purposes, having met, have agreed that the Senate recede from its disagreement to the amendment of the House, and agree to the same with an amendment, signed by all of the conferees on the part of both Houses.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

(The conference report is printed in the RECORD of the House proceedings of June 12, 2003)

Mr. GREGG. Mr. President, I am pleased today to speak in support of the conference agreement reached by the House of Representatives and the Senate for S. 342, the Keeping Children and Families Safe Act of 2003.

This act reauthorizes several programs that are key to protecting our most vulnerable children and families: The child Abuse Prevention and Treatment Act, CAPTA; the Adoption Opportunities Act; The Abandoned Infants Assistance Act; the Family Violence Prevention and Services Act; and the Children's Justice Act.

The Keeping Children and Families Safe Act works to reduce child abuse and neglect by encouraging new training and better qualifications for frontline child and family service workers. This legislation also improves links between child protective services, health and mental health agencies, and judicial systems to improve services for at risk children and to mitigate the damaging impact that child abuse and neglect can cause.

For children who are removed from their homes as a result of child abuse or neglect, this Act helps to ensure they are placed into safe foster care or adoptive homes. By requiring that criminal background checks are performed on all adults residing in foster homes, this Act helps to prevent further abuse to the child. Through the reauthorization of the Adoption Opportunities Act, this legislation also helps to better facilitate the adoption of children with special needs by working to eliminate interjurisdictional barriers to adoption.

Lastly, the Keeping Children and Families Safe Act gives victims of domestic violence greater access to shelters in times of emergency through the reauthorization of the Family Violence Prevention and Services Act.

This important legislation responds to some of the most serious needs of children and families. I commend the work of the House of Representatives, who acted earlier today to pass this Conference report. I also thank the ranking member of the Health, Education, Labor, and Pensions Committee Senator KENNEDY for his work on this bill, as well as Senators ALEXANDER and DODD, the chairman and ranking member of the Subcommittee on Children and Families.

Protecting our most vulnerable populations is a significant priority and passage of this legislation sends a clear message that Congress is deeply committed to the interests of children and their families. I am very pleased that the House and Senate will send the Keeping Children and Families Safe Act of 2003 to the President for his signature.

Mr. KENNEDY. Mr. President, the bipartisan legislation before the Senate today will continue our Federal commitment to see that the Nation's most vulnerable children are protected and safe.

Child abuse and child neglect continue to be serious problems. Each year, thousands of children suffer. On any given day, 2,400 children are discovered to be victims of child abuse or neglect. Tragically, 3 of those children die each day as a result.

Abuse and neglect harm children from all backgrounds and all walks of life. Too many children are in situations in which their basic needs are not provided for. Too many children are subject to physical harm or emotional trauma. Too many children are victims of sexual abuse. We can do better and we must do better.

For nearly 30 years, the Child Abuse Prevention and Treatment Act has supported States in their efforts to respond to the immediate needs of children subjected to abuse and neglect, and helped them and their families take the road to recovery.

We all know it's a huge challenge. Each week, child protective service agencies in local communities respond to more than 50,000 suspected cases of child abuse and neglect. Despite their hard work, nearly half of all children in substantiated cases of abuse receive no follow-up services or support.

This legislation is an important step toward responding to the needs of every neglected and abused child in every community in our country. It is an important step toward seeing that children in desperate circumstances have the support they need to stop the abuse and deal with the harmful effects.

This legislation will renew our federal commitment to help states improve their own response to child abuse and neglect. More will be done to promote better planning at the Federal, State, and local levels, facilitate more effective referrals to the available services, and broaden the scope of the response.

More will be done to see that those responsible for investigating or working with abused children and their families have the necessary training and skills to do their jobs effectively and efficiently. States will be encouraged to provide new safety training to child abuse caseworkers. New cross-training will help caseworkers identify signs of domestic violence and substance abuse that often signal child abuse.

More will be done to strengthen community efforts. Our bill will ensure that local citizens oversee, review, and improve the practices of child protective services. It will promote partnerships between public agencies and community-based organizations to share the responsibility of reducing child abuse and neglect in their communities.

More will be done to end geographic barriers to adoption and provide permanent homes for abused children.

More will be done to combat the destructive effects of family violence and provide immediate help to its victims. A new electronic network will link victims to organizations available to help them, 24-hours-a-day, 365 days-a-year.

More will also be done to reduce the social and emotional impact of domestic violence on children. A new demonstration program will support direct services, referrals, and appropriate interventions for the 10 million children who witness domestic violence each year.

Our colleague, Senator Wellstone, was one of the greatest champions for abused children. I commend the conferees for their work to include this important program that he cared about so deeply.

As our communities across the nation continue their efforts to respond more effectively to every incident of child abuse and neglect, they must do so with resources already stretched thin. This bipartisan legislation increases the authorization for the Child Abuse Prevention and Treatment Act to $200 million in order to deliver the support that local communities need to do this important work.

I commend Senator GREGG and all of the conferees for their work and their leadership on this legislation. It's a major step toward guaranteeing help for children and families to overcome the devastating effects of abuse, neglect, and violence in their lives.

Mr. ALEXANDER. Mr. President, I rise today with my colleagues Senators GREGG, KENNEDY, and DODD to pass the conference report for S. 342, ''The Keeping Children and Families Safe Act of 2003.'' I also want to congratulate Senator GREGG, the chairman of the conference committee, and commend his leadership.

Unlike many Federal Government programs, this is a relatively small level of funding, but it is vital for the safety and sanctity of our most precious resource—our children. S. 342 reauthorizes the ''Child Abuse Prevention and Treatment Act, (CAPTA),'' which provides grants to States to improve child protection systems and grants to support community-based family resource and support services. The changes made to this program will encourage new training and better qualifications for child and family service workers. Additionally, this program will create or improve coordination between child protection services and education, health, mental health, and judicial systems to ensure that children who are abused and neglected are properly identified and receive referrals to appropriate services.

Tennessee has used CAPTA funding for many innovative pilot programs, such as Therapeutic Visitation Services. This is a pilot project that provides intensive service to families with

children in the foster care system from four rural areas in east Tennessee. The goal is to preserve and strengthen family relationships while facilitating visitation between children and biological parents. Children in the pilot program saw their parents sooner and more frequently.

In Davidson County, the Chap-Plus program provides service and helps coordinate care for families that are stressed due to their child's medical condition, such as a life threatening disease. Another program that receives CAPTA funding is the University of Tennessee Legally Defensible Child Interviewing program, which trains Child Protective Services case managers. This training is focused on improving interviewing skills of investigative teams when they interview children who are the possible victims of sexual, physical, or emotional abuse.

These important programs will benefit from this legislation. I thank my colleagues for voting for this bill.

Mr. DODD. Mr. President, I am pleased to join with my colleagues in supporting the conference report on legislation to reauthorize CAPTA, the Child Abuse Prevention and Treatment Act. This measure is very aptly called the Keeping Children and Families Safe Act of 2003.

The conference report we are approving today would strengthen efforts to prevent child abuse and neglect. It would promote increased sharing of information and partnerships between child protective services and education, health, and juvenile justice systems. It would encourage a variety of new training programs to improve child protection, particularly cross-training in recognizing domestic violence and substance abuse in addition to child abuse detection and protection training.

The Keeping Children and Families Safe Act of 2003 renews grants to States to improve child protection systems and increases to $200 million the authorization for child abuse investigations, training of child protection service, CPS, workers, and community child abuse prevention programs.

For States to receive funding, they must meet several new requirements: have triage procedures to provide appropriate referrals of a child ''not at risk of imminent harm'' to a community organization or for voluntary preventive services; have policies and procedures for the referral of abused children under the age of three to early intervention services funded under Part C of the Individuals with Disabilities Education Act; have policies in place to address the needs of infants who are born and identified as having been physically affected by prenatal exposure to illegal drugs, which must include a safe plan of care for the child; have policies of improved training, retention, and supervision of caseworkers; and require criminal background record checks for prospective foster and adoptive parents and all other adults living in the household, not later than 2 years after the law's enactment.

Child abuse and neglect continue to be significant problems in the United States.

Nearly 3 million referrals concerning the welfare of about 5 million children were made to Child Protection Services, CPS, agencies throughout the Nation in 2001. Of these referrals, about two-thirds, 67.3 percent, were ''screened-in'' for further assessment and investigation. Professionals, including teachers, law enforcement officers, social service workers, and physicians made more than half, 56.5 percent, of the screened-in reports. About 903,000 children were found to be victims of child maltreatment. Over half, 59 percent, suffered neglect, including medical neglect; 19 percent were physically abused; 10 percent were sexually abused; 6.8 percent were emotionally maltreated; and 19.5 percent were associated with ''other'' forms of maltreatment such as abandonment, threats of harm to the child, and drug addiction. About 275,000, or 20 percent, of abused children were placed in foster care as a result of CPS investigation or assessment.

Many of these children fail to receive adequate protection and services.

The most tragic consequence of child maltreatment is death. In 2001, about 1,300 children died of abuse and/or neglect. Children younger than six years of age accounted for 85 percent of child fatalities and children younger than one year of age accounted for 41 percent of child fatalities.

Child abuse is not a new phenomenon. For more than a decade, numerous reports have called attention to the tragic abuse and neglect of children and the inadequacy of our Child Protection Service systems to protect our children.

In 1990, the U.S. Advisory Board on Child Abuse and Neglect concluded that ''child abuse and neglect is a national emergency.'' In 1995, the U.S. Advisory Board on Child Abuse and Neglect reported that ''State and local CPS caseworkers are often overextended and cannot adequately function under their current caseloads.'' The report also stated that, ''in many jurisdictions, caseloads are so high that CPS response is limited to taking the complaint call, making a single visit to the home, and deciding whether or not the complaint is valid, often without any subsequent monitoring of the family.''

A 1997 General Accounting Office, GAO, report found that, ''the CPS system is in crisis, plagued by difficult problems, such as growing caseloads, increasingly complex social problems and underlying child maltreatment, and ongoing systemic weakness in day-to-day operations.'' According to GAO, CPS weaknesses include ''difficulty in maintaining a skilled workforce; the inability to consistently follow key policies and procedures designed to protect children; developing useful case data and record-keeping systems, such as automated case management; and establishing good working relationships with the courts.''

According to a May 2001 report conducted by the American Public Human Services Association, APHSA, the Child Welfare League of America, CWLA, and the Alliance for Children and Families, annual staff turnover is high and morale is low among CPS workers. The report found that CPS workers had an annual turnover rate of 22 percent, 76 percent higher than the turnover rate for total agency staff. The ''preventable'' turnover rate was 67 percent, or two-thirds higher than the rate for all other direct service workers and total agency staff. In some States, 75 percent or more of staff turnovers were preventable.

States rated a number of retention issues as highly problematic. In descending order they are: workloads that are too high and/or demanding; caseloads that are too high; too much worker time spent on travel, paperwork, courts, and meetings; workers not feeling valued by the agency; low salaries; supervision problems; and insufficient resources for families and children.

To prevent turnover and retain quality CPS staff, some States have begun to increase in-service training, increase education opportunities, increase supervisory training, increase or improve orientation, increase worker safety, and offer flex-time or changes in office hours. Most States, however, continue to grapple with staff turnover and training issues.

Continued public criticism of CPS efforts, continued frustration by CPS staff and child welfare workers, and continued abuse and neglect, and death, of our Nation's children, served as the backdrop as we composed the Child Abuse Prevention and Treatment Act CAPTA, reauthorization bill this year.

The Child Protection System mission must focus on the safety of children. To ensure that the system works as intended, CPS needs to be appropriately staffed. The staff need to receive appropriate training and cross-training to better recognize substance abuse and domestic violence problems.

The conference agreement we are passing today encourages triage approaches and differential response systems so that those reports where children are most at risk of imminent harm can be prioritized.

The bill specifically emphasizes collaborations in communities between CPS, health agencies, including mental health agencies, schools, and community-based groups to help strengthen families and provide better protection for children.

The bill provides grants for prevention programs and activities to prevent child abuse and neglect. By focusing this assistance on at-risk families, we can help improve the likelihood that a

child will grow up on a home without violence, abuse, or neglect.

Beyond the CAPTA title of this legislation, the bill reauthorize the Family Violence Prevention and Services Act, including new efforts to address the needs of children who witness domestic violence, and a new highly secure web site to increase the likelihood that when an abused spouse calls for help, such calls will be handled as efficiently as possible with on-line links to shelters immediately letting the caller know of open shelters and the services these shelters offer. The measure also reauthorizes the Adoption Opportunities Act, and the Abandoned Infants Assistance Act.

Child protection ought not be a partisan issue. This bill will help ensure that it is not. I want to commend and thanks my colleagues on the conference committee—Chairman GREGG, Senator KENNEDY, Senator ALEXANDER, and Senator DEWINE as well as my colleagues in the House for their efforts to craft a bipartisan initiative that can help to prevent and alleviate suffering among our Nation's children.

Mr. ALEXANDER. I ask unanimous consent that the conference report be agreed to, that the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The conference report was agreed to.

ACCOUNTANT, COMPLIANCE, AND ENFORCEMENT STAFFING ACT OF 2003

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Senate immediately proceed to the consideration of H.R. 658.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 658) to provide for the protection of investors, increase confidence in the capital markets system, and fully implement the Sarbanes-Oxley Act of 2002 by streamlining the hiring process for certain employment positions in the Securities and Exchange Commission.

There being objection, the Senate proceeded to consider the bill.

Mr. ALEXANDER. I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 658) was read the third time and passed.

DISCHARGE AND REFERRAL—H.R. 856

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 856 and that the bill be referred to the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—H.R. 8

Mr. ALEXANDER. Mr. President, I understand that H.R. 8 is at the desk and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (H.R. 8) to make the repeal of the estate tax permanent.

Mr. ALEXANDER. I now ask for its second reading and object to further proceeding on this matter.

The PRESIDING OFFICER. The objection is heard. The bill will remain at the desk.

ORDERS FOR FRIDAY, JUNE 20, 2003

Mr. ALEXANDER. Mr. President, I ask unanimous consent when the Senate completes its business today it stand in adjournment until 9 a.m., Friday, June 20. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of Calendar No. 140, S. 504, the American History and Civics Act of 2003, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ALEXANDER. For the information of all Senators, tomorrow morning the Senate will resume consideration of S. 504, the American History and Civics Act. Under the previous order, at 9:15 a.m., the Senate will vote on passage of the bill. Immediately following that vote, the Senate will resume consideration of S. 1, the prescription drug benefits bill, and proceed to a vote in relation to the Dorgan amendment relating to drug reimportation.

Therefore, I inform my colleagues that the leader says there will be two rollcall votes beginning at 9:15 a.m. tomorrow. Following the two votes at 9:15 a.m., the leader wanted me to inform colleagues the Senate will continue consideration of S. 1, the prescription drug benefits bill. Additional amendments will be debated tomorrow, and Members who wish to speak on amendments or the bill itself are encouraged by the leader to come to the Senate floor during tomorrow's session.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ALEXANDER. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:45 p.m., adjourned until Friday, June 20, 2003, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 19, 2003:

DEPARTMENT OF STATE

JACKIE WOLCOTT SANDERS, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS UNITED STATES REPRESENTATIVE TO THE CONFERENCE ON DISARMAMENT AND THE SPECIAL REPRESENTATIVE OF THE PRESIDENT OF THE UNITED STATES FOR NON-PROLIFERATION OF NUCLEAR WEAPONS.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF CHAPLAINS, UNITED STATES NAVY, AND APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5142:

To be rear admiral

REAR ADM. (LH) LOUIS V. IASIELLO, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C. SECTION 624:

To be lieutenant colonel

WILLIAM R. GLADBACH, 0000
MALCOLM K. WALLACE JR., 0000

Confirmations

Executive nominations confirmed by the Senate June 19, 2003:

NATIONAL COUNCIL ON DISABILITY

ANNE RADER, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2004.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TERRENCE A. DUFFY, OF ILLINOIS, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING OCTOBER 11, 2003.

TERRENCE A. DUFFY, OF ILLINOIS, TO BE A MEMBER OF OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING OCTOBER 11, 2007.

DEPARTMENT OF HOMELAND SECURITY

C. STEWART VERDERY, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOMELAND SECURITY.

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.

EDUARDO AGUIRRE, JR., OF TEXAS, TO BE DIRECTOR OF THE BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES, DEPARTMENT OF HOMELAND SECURITY.

EXTENSIONS OF REMARKS

RECOGNIZING THE SERVICE OF JOE ALCORN TO THE SENIORS OF HENDERSON, NV

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. PORTER. Mr. Speaker, I rise today to pay tribute to Joe Alcorn of Henderson, NV, on being recognized as Volunteer of the Month. I am honored to represent one who has shown such devotion and dedication to our community.

Joe has been a Henderson Senior Center member since 2000. In that time he has made himself an invaluable asset to the center. By taking pictures of the seniors as they dine, dance, or relax, Joe captures the most pleasant experiences at the center, and displays them for all to enjoy. He further captures these memories by videotaping special events. Alcorn has made a documentary of the center's history, which was rerun for all Henderson residents to commemorate the city's 50th anniversary, earlier this year.

Born in Pittsburgh, Joe grew up and graduated from high school in Iowa. Cypress, CA, became his home for the next 46 years. He attended the RCA TV School where he honed his skills and became an expert in his profession. He worked as a TV service worker for a few years until beginning his own business. Joe's work was a labor of love which continued in his dedication to the Henderson Senior Center.

I rise to acknowledge the dedication that Joe Alcorn has shown to the seniors of southern Nevada. The use of his professional skills in this worthy pursuit deserves the recognition of myself and all southern Nevadans.

HONORING THE 42ND ANNUAL YMCA YOUTH GOVERNOR'S CONFERENCE

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. SESSIONS. Mr. Speaker, I rise to honor the 42nd Annual YMCA Youth Governor's Conference that is currently being held here in Washington, DC. The YMCA Youth Governor's Conference brings together some of the most outstanding youth leaders in America. YMCA Youth and Government is a Nation-wide program that allows thousands of teenagers to simulate State and National government. The elected Youth Governors of the State programs are currently in Washington, and I am honored to serve as the Congressional sponsor for the Member's breakfast in honor of the YMCA Youth Governor's Conference.

Mr. Speaker, I would like to personally recognize each of this year's YMCA Youth Governors for their dedication and service to America's youth.

Gina Bullock of Texas, Ethan Link of Tennessee, Alex Sanders of Georgia, Elizabeth Strassner of Oklahoma, Martin Holmes of Maine, Michael Sheflin of New Jersey, Joseph Colarusso of New York, Wayne Bragg of Mississippi, Ryan Wedge of Connecticut, Eli Turkel of Delaware, Matthew Stoller of Massachusetts.

Ann Nemitz of Arizona, Sarah Coburn of Oregon, Richard Friedman of Alabama, Judd Kennedy of Pennsylvania, Kristen Adams of Michigan, Asher Perlman of Wisconsin, Meg Dennard of Louisiana, Rushi Desai of Missouri, Torry Van Slyke of Idaho, Renee Walker of North Carolina.

Richard Marrs of Virginia, Scott Antolak of Minnesota, Kyle Smith of California, Allen Klump of South Carolina, Kyle LaFountain of New Hampshire, Justin Cajindos of Illinois, Stephen Takach of New Mexico, Justin Hoefflicker of Indiana, Rasean Crawley of Kentucky, Keisha Hyman-Girth of Washington, James Walsh of Maryland.

IN RECOGNITION OF THE REVEREND WILLIAM A. LAWSON

HON. CHRIS BELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. BELL. Mr. Speaker, I rise to honor Reverend William Alexander Lawson on the occasion of his 75th birthday and 57th year of pastoral service.

Rev. William A. Lawson is the founding pastor of Wheeler Avenue Baptist Church located in Houston, TX. Established in March 1962 with 13 members, the congregation has grown in excess of 2,500 members. The initial emphasis of the church focused on meeting the spiritual needs of Baptists in the transitional community near Texas Southern University.

Rev. Lawson is known and admired as an outstanding preacher and teacher. He is a national and international speaker and educator. Since 1965, he has traveled internationally as a missions and evangelical speaker. He has spoken in Southeast Asia, the Middle East, and the Far East. He was invited by the government of Israel to tour the nation with the American press to help provide a more positive image of the aspirations of Israel.

Early in his career, Rev. Lawson served as director of the Baptist Student Union and professor of bible at Texas Southern University in Houston. He helped form the first Afro-American studies program at the University of Houston, and taught classes at the University of Houston in sociology and the black church.

Rev. Lawson is a community and social action leader. He founded and organized the United Way's Houston Homeless Initiative in response to the growing number of homeless and jobless persons. Under his leadership, more than $4 million was raised to address homelessness. He assembled a coalition of African-American political, civic and social organizations to negotiate with city, county, and school governments. The coalition is now comprised of more than sixty organizations.

In 1986 he received a Doctor of Divinity from Howard Payne University, in Brownwood, Texas. He graduated cum laude from Central Baptist Theological Seminary in Kansas City, Kansas where he received a Master of Arts in Theology and a Bachelor of Arts in Divinity. He majored in New Testament Interpretation and was appointed Teaching Fellow in Homiletics. He did his undergraduate work at Tennessee A&I State University in Nashville, Tennessee where he received a bachelor's degree. He graduated cum laude with a major in sociology.

Rev. Lawson is married to Audrey H. Lawson. They have four children and three grandchildren.

Mr. Speaker, I would like to congratulate Rev. Lawson on his 75th birthday and his 57 years of exceptional service and pastoral leadership.

RECOGNIZING NICHOLAS THEODOREDIS' EFFORTS IN DEFENSE OF THE NATION

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. PORTER. Mr. Speaker, I rise today to acknowledge the long awaited presentation of the Purple Heart to World War II veteran, and Las Vegas resident, Nicholas Demetrios Theodoredis. This, his second Purple Heart, recognizes the commitment to our great country shown by so many from the generation who faced the horrors of the Second World War.

I am happy to share my thanks and congratulations for this long overdue tribute to the valor of Mr. Theodoredis' service in the North African Campaign of World War II. America has been well served by such men and women and will continue, with their example, to maintain its position as a world leader and defender of liberty.

PERSONAL EXPLANATION

HON. GENE TAYLOR

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. TAYLOR of Mississippi. Mr. Speaker, on June 18, 2003, I missed rollcall vote No. 287, an amendment in the nature of a substitute to H.R. 8, the Estate Tax Permanency Act offered by my colleague from North Dakota, Mr. POMEROY.

While H.R. 8 was being considered on the House floor, the House Armed Services Committee, of which I am a member, was receiving

testimony from Deputy Secretary of Defense Paul Wolfowitz on commitments of the United States Armed Forces throughout the world. The vote on the Pomeroy substitute was called shortly after I had asked Secretary Wolfowitz a series of questions pertaining to the search for weapons of mass destruction in Iraq and rotation schedules and living arrangements for our troops who are presently serving there.

Mr. Speaker, had I been present, I would have voted ''yea'' on rollcall vote No. 287, the Pomeroy substitute, and accordingly, I would like to request unanimous consent to enter this statement into the record at the appropriate location.

DEATH TAX REPEAL PERMANENCY ACT OF 2003

SPEECH OF

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2003

Mr. CRANE. Mr. Speaker, I rise in strong support of H.R. 8, the Death Tax Repeal Permanency Act of 2003, and I commend my friend from Washington Mrs. Dunn for being such a strong advocate for this legislation.

The United States is the land of opportunity, encouraging free enterprise and rewarding entrepreneurs. The estate and gift tax runs contrary, to this basic philosophy. When I came to Congress over 30 years ago, I set out to eliminate the death tax, which is simply unfair, outdated and penalizes our families, farmers and small business owners.

According to recent statistics, one-third of small business owners today will have to sell outright or liquidate a part of their firm to pay death taxes. In addition, half of those who must liquidate to pay their death taxes will each have to eliminate 30 or more jobs. In addition, small business owners that insure against such an outcome face the burden of paying onerous premiums. This is hard-earned money that otherwise could be used to expand their business. We must put an end to it once and for all.

Death tax repeal was included as part of the 2001 Bush tax cut. Under that legislation, the death tax phases out over a period of year, and is eliminated completely in 2010. Unfortunately, due to the arcane procedures of the Senate, the provisions in the 2001 bill sunset in 2011, or 10 years after enactment. Therefore, we need to take action now to make the repeal permanent.

Mr. Speaker, I want to thank small business and family owned business groups like the National Automobile Dealers Association for tirelessly fighting to end this punitive and harmful tax. They have been powerful and influential advocates in this effort.

I ask unanimous consent that the following letter from the National Automobile Dealers Association urging repeal of the Death Tax be included in the CONGRESSIONAL RECORD.

NATIONAL AUTOMOBILE DEALERS ASSOCIATION,
McLean, VA, June 18, 2003.

DEAR REPRESENTATIVE: On behalf of the National Automobile Dealers Association (NADA), the nearly 20,000 franchised new car dealer members of NADA, and their more than one million employees, we are writing to urge you to vote yes on H.R. 8, to eliminate the estate tax once and for all.

The majority of NADA's members are small family-owned and community-based businesses. Most assets of automobile dealers are not liquid. A dealer's capital is invested in the land under the dealership, buildings housing showrooms, vehicle repair equipment, and other facilities. Dealers also need substantial working capital to finance new- and used-car inventory. Thus, for dealers, the death tax can cripple or kill the family-owned business since they are left with few options but to sell the business or incur substantial debt to pay the tax.

In providing for the elimination of the estate tax in H.R. 1836 in 2001, Congress clearly recognized the inequity and unfairness of estate taxes. As it was noted at the time, there is something very wrong in our system when a small businessman or businesswoman spends a lifetime building a business, paying taxes, providing jobs and serving the community only to have the government step in at their death to collect another tax. In enacting H.R. 1836, Congress and the President wisely realized that death should not trigger a tax. Only when assets are sold should there be a taxable event.

The question now before the House of Representatives is whether to continue that wise policy beyond 2010. NADA and its dealer members and their employees firmly believe that supporting H.R. 8, making estate tax repeal permanent and postponing taxes until assets are sold is critical to the preservation of family-owned and community-based businesses like automobile dealerships.

Preserving these businesses is crucial to the health of the national economy and essential to the economic well being of local communities. These businesses provide the majority of new job growth in this country. Very often, family-owned businesses are central to the economic vitality of local communities, providing good livelihoods for millions of working Americans.

NADA respectfully urges you to vote yes on H.R. 8. This vote is about preserving family-owned businesses in local communities across this great nation. Thank you for your consideration of our views.

TRIBUTE TO KEITH OWEN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress and this nation to pay tribute to an outstanding educator from my district. Keith Owen of Pueblo is the recipient of the 2003 Colorado National Distinguished Principal of the Year award from the Colorado Association of School Executives. Keith's peers selected him based on his leadership, respect from his school, and community service.

Keith has worked as an educator for 10 years and has served as the principal of Beulah Heights Elementary in Pueblo since 1999. Since taking the helm at the school, fourth grade reading scores have skyrocketed. Their performance on the Colorado Student Assessment Program, CSAP, have risen from 50 percent to 86 percent in only three years. The difference was so dramatic, Keith received an invitation to travel to the White House where President Bush and Secretary of Education Rod Paige cited Beulah Heights Elementary for its achievements.

Mr. Speaker, because of Keith Owen's exemplary leadership, the student's at Beulah Heights Elementary School have a greater chance of success in school and in life. Keith has made Pueblo and the State of Colorado proud, and I am truly honored to recognize him here today. Congratulations, Keith, and good luck with your future endeavors.

TRIBUTE TO THE CITY OF STAMFORD, CONNECTICUT

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. SHAYS. Mr. Speaker, it gives me great pleasure to congratulate the City of Stamford, CT, which was recently ranked the fifth safest city in the country and the second safest city in the Northeast. Perhaps even more remarkable is that recent FBI statistics indicate Stamford led the Nation in reducing crime during 2002, recording an amazing 22 percent decrease.

This achievement is all the more impressive because Stamford was able to reduce crime despite having a smaller police force. This extraordinary accomplishment is a testament to the dedication of Chief Louis DeCarlo and the entire police force, as well as the excellent leadership of Mayor Dan Malloy and the City Government.

Stamford has led our region and Nation by implementing creative measures to reduce crime, including the use of community policing. The City also sent School Resource Officers to schools where they were able to effectively connect with the City's youth.

I also congratulate the people of Stamford who have worked so hard to make their hometown a great place to raise their children, to work and to visit.

As a former longtime resident of Stamford, I can attest to how wonderful a place it is to live. Stamford's tremendous potential is reinforced by its designation as one of the safest cities in America.

IN HONOR OF LAMBDA THETA PHI, CELEBRATING ITS 2003 NATIONAL BROTHERHOOD CONFERENCE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Lambda Theta Phi Fraternidad Latina for its continued advocacy and celebration of Latino culture. Lambda Theta Phi will be holding its 2003 National Brotherhood Conference on June 20–22nd at the Wyndham Hotel in Newark, NJ.

Founded in 1975 at Kean University in Union, NJ, Lambda Theta Phi has grown from 14 founding members to over 85 national chapters. It is the first and only nationally recognized Latino Greek letter fraternity in the United States.

For over 25 years, Lambda Theta Phi has played a leading role in building unity among Latinos and provided a critical support network as young Latinos pursue their academic and

professional careers. The work of the fraternity has truly embodied its principle of ''en la union está la fuerza'' (in unity there is strength). Lambda Theta Phi has helped provide a number of Latinos with a strong sense of community and an extensive peer network as they graduate college and embark on their professional careers.

Lambda Theta Phi also continues to provide valuable service to the community through responsible political and social action. The diverse makeup of the fraternity places it in a unique position to promote cultural awareness and to provide positive role models for the Latino community. Lambda Theta Phi is known for its dedication to activities that benefit the community including citizenship and voter registration drives, disaster relief, and Hispanic college days, which provide an opportunity for Latino high school students to visit colleges.

As an honorary member of Lambda Theta Phi, it is my distinct pleasure to congratulate all the members of the fraternity and wish them the best as they continue to connect Latinos across the country and help to build unity among the next generation of Latino leaders.

Today I ask my colleagues to join me in honoring Lambda Theta Phi Fraternidad Latina for promoting unity among Latinos, and to congratulate all the members of the fraternity as they celebrate their 2003 National Brotherhood Conference.

RECOGNITION OF WORLD REFUGEE DAY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. PAYNE. Mr. Speaker, I stand today as Ranking Member of the Africa Subcommittee and Member of the Refugee Caucus to recognize World Refugee Day, declared on June 20, 2000 by a special UN General Assembly Resolution. The Republic of Tanzania has a solid record of supporting and harboring the largest number of refugees in Africa and therefore I extend my respect unto this nation for its vitally important work. These refugees have fled from conflicts in neighboring countries such as Burundi, the Democratic Republic of Congo, Rwanda and Somalia. I affirm and commend the generosity of Tanzania towards refugees and asylum seekers and urge that they be fully recognized by our nation.

Statistics show that approximately 700,000 refugees have found safe haven in Tanzania. Tanzania has also displayed its generosity through the acceptance of 3,500 Somali Bantus for resettlement in the eastern part of the country. In the west, refugees fleeing conflict and genocide in countries like Burundi, Rwanda and Congo have also found refuge in this nation. Emerging from a long and bloody civil war that lasted a decade and claimed the lives of more than 100,000 people while displacing hundreds of thousands, Burundi is only now getting back on its feet. The Great Lakes Region of the African continent is one of great beauty and a long history but has in recent years been plagued by many bloody conflicts and ethnic warfare. The wars in the Congo and Rwanda are two more examples of such conflicts. Tanzania provided a safe haven for some 120,000 Congolese refugees and some 25,000 refugees from Rwanda by the end of 2001. I am hopeful that the on-going peace efforts in a number of these neighboring countries will hopefully provide the opportunity for these refugees to repatriate to their homes in safety and dignity. I must at the same time note that the resolution of the conflicts that have driven these refugees from their homes is not by any means guaranteed to be accomplished in the near future as the region is quite volatile and unpredictable. Therefore the generosity of Tanzania could very well be called upon again. This is even more reason that I offer my respect to this country that has provided this noble service.

While harboring refugees is often perceived as being a burden, Tanzania provides an example of how this service can also be functional within the context of administering a nation. Refugees can provide human and economic resources for a nation to draw upon. On this Refugee Day I recognize the efforts of Tanzania and recognize the 3.1 million refugees and more than 10 million Internally Displaced Persons on the continent of Africa. May you soon be able to return to your homes in safety, security, and health.

HONORING NORMAN AND MARILYN COOPER ON THEIR GOLDEN ANNIVERSARY

HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. PENCE. Mr. Speaker, Marilyn (Isaacs) and Norman Cooper were high school sweethearts in Brooklyn, NY, who spent their first married years together at Fort Gordon, Georgia, during Norman's military service in the Korean Conflict. Returning to New York together, with little more than each other, they successfully built a thriving pest control business and raised a loving family.

Their passions for art, food, culture and adventure have taken Marilyn and Norman Cooper to the far reaches of the globe. While hiking the Andes, heli-skiing in New Zealand, on safari in Africa, lecturing in Japan or trekking in Tibet or India, they have developed an appreciation for the diversity of the world, as well as the common bonds of all humanity.

Marilyn and Norman Cooper have always sought to better the world around them, whether helping dissidents escape the Soviet Union during the cold war, volunteering for the Children's Blood Foundation in their hometown of Rye, NY, raising funds for the United Jewish Appeal, or helping other entrepreneurs achieve their dreams. Their enduring legacy includes three children and seven grandchildren, each imbued with their values of compassion, curiosity, intellect, creativity, love and the responsibility to help make the world a better place.

LEGISLATION RECOGNIZING PRESIDENT KENNEDY'S FOUNDING OF THE LAWYERS' COMMITTEE FOR CIVIL RIGHTS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. CONYERS. Mr. Speaker, I rise to speak today to introduce legislation recognizing President Kennedy's founding of the Lawyers' Committee for Civil Rights Under Law by supporting the designation of June 21, 2003 as ''Equal Justice Day'' in honor of the Committee's tireless efforts over the past 40 years to secure justice and equal opportunity for all. On June 21, 1963, I was summoned to White House along with 250 other members of the bar by President Kennedy to help resolve the civil rights crises which gripped the nation. Without President Kennedy's vision for racial justice, the bar would have remained silent in the face of vocal resistance by southern state legislatures against desegregation.

For more than four decades, the Lawyers' Committee has worked to advance the civil rights of African Americans and other racial and ethnic minority communities in the areas of environmental protection, employment, affirmative action, fair housing, and voting. The Committee protects fundamental civil rights by representing African Americans and other racial and ethnic minorities and women in the courts, advocating strong enforcement of civil rights laws before administrative bodies, working in coalition with other organizations, and by educating the public about important civil rights issues. Among many other achievements over the years, the Lawyers' Committee was successful in: fighting for passage of the Civil Rights Act of 1964, securing a landmark, unanimous U.S. Supreme Court Decision that strengthened First Amendment protections for peaceful political boycotts in Claiborne Hardware Co. v. NAACP, and coordinating a Church Burning Project in the 1990s to provide free legal services to churches that were destroyed during the bitter rampage of racially motivated church burnings.

By supporting the designation of June 21, 2003 as ''Equal Justice Day'', we will recognize the achievements of the Lawyers' Committee, as its staff and pro-bono attorneys, clients and friends commemorate and celebrate its 40th anniversary. I urge you to support this legislation that will honor President Kennedy's commitment to implementing justice reflected in the accomplishments of the Lawyers' Committee and the many hours of pro-bono service offered by lawyers and law firms throughout this country.

RECOGNITION OF WORLD REFUGEE DAY

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. HYDE. Mr. Speaker, I stand today to recognize World Refugee Day, declared on June, 20, 2000 and every year thereafter by a special UN General Assembly Resolution. The adoption of this resolution marked an expression of solidarity with Africa, which hosts the

most refugees and has extended help generously in the past. This year, World Refugee Day renews a commitment to explore all means possible to encourage cooperation among nations in seeking permanent and durable humanitarian solutions for refugees.

On World Refugee Day, the UNHCR celebrates the many contributions of refugees around the globe, as well as highlights their particular vulnerabilities and ongoing need for protection and assistance. This year, World Refugee Day is dedicated to refugee youth. In Central Africa alone, 57 percent of refugees are under age 18. Young people between the ages of 12 and 24 represent about 35 percent of all refugees. Deprived of the protection of their homes and communities, young people are vulnerable to abuses including forced labor; military or terrorist recruitment; and sexual exploitation.

This year, we recognize the governments of Kenya, Tanzania, and Zambia in honor of World Refugee Day. Tanzania is home to Africa's largest refugee population, primarily from Burundi and Congo-Kinshasa. According to Refugees International, 700,000 refugees have found safe haven in Tanzania. The Republic of Kenya continues to provide sanctuary for refugees and displaced persons from Sudan, Ethiopia, Eritrea, Somalia, Somaliland, the Democratic Republic of the Congo, Uganda, Rwanda, Burundi and Djibouti. The new leadership is moving forward in a positive and receptive direction. Over 250,000 refugees continue to seek refuge there. The peaceful transition in Angola and the innovative burden-sharing arrangement by the Zambian government, as host to Angolan refugees, also deserves praise. There is much to be learned from their example. We encourage these and other governments in their continued hospitality and promotion of humanitarian assistance to refugees and displaced persons.

TRIBUTE: TELLURIDE VOLUNTEER FIRE DEPARTMENT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress today to pay tribute to the contributions that the men and women of the Telluride Volunteer Fire Department have made to the Telluride community and the State of Colorado. This year, the Telluride Volunteer Fire Department will be marking its 125th anniversary of service to the community. As we reflect upon this landmark anniversary, I would like to commend the Telluride Volunteer Fire Department for its invaluable public service.

The Telluride Volunteer Fire Department's technology has evolved at the same rapid pace as the town that it serves. Since its early days, the department has become one of the best-equipped volunteer fire departments in the country. In addition to its technology and equipment, the efficacy of the Department has depended upon its volunteers' unwavering commitment and the community's steadfast support. The department's skill and level of commitment have earned it a position as one of the most respected organizations in the community.

The Department serves the Telluride community in numerous ways. Each year, the Department provides a $1,000 renewable scholarship to one graduating senior from Telluride High School. This year, members of the Fire Department expect to increase the amount of the scholarship to $1,500. Moreover, the Department is responsible for putting on a spectacular fireworks display each year for its Fourth of July celebration.

Mr. Speaker, I am deeply honored to pay tribute to the Telluride Volunteer Fire Department. The Fire Department's volunteers selflessly sacrifice their time in order to provide a vital service to the Telluride community. I commend the Telluride Volunteer Fire Department for 125 years of excellence and thank its volunteers for their exemplary public service.

HONORING SERGEANT DALE D. STEVENSON

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. KILDEE. Mr. Speaker, I rise before you today on behalf of the wonderful men and women of the Michigan State Police. Day after day, these brave people work to maintain safe streets for our children to live and play. On June 20, the Michigan State Police will recognize one of their own, as they gather to celebrate the retirement of Sergeant Dale D. Stevenson after 25 years of dedicated service. Dale Stevenson was born October 5, 1955 in Caro, MI, and graduated from Caro High School in 1973. In 1977, he graduated from Delta College with an Associated Degree in Law Enforcement and Police Administration, and a year later began his career with the Michigan State Police, with an assignment to the Ypsilanti, MI, Post. In 1983, he returned home to work at the Caro Post, and after stints in Bay City and Sandusky, was again stationed in Caro, where he remained, serving as Acting Lieutenant/Post Commander.

During his 25-year tenure with the State Police, Sgt. Stevenson was the well-deserving recipient of numerous honors and citations, and his actions have benefited law enforcement officials from all over the state. A member of the State Police Underwater Recovery Unit since 1981, Dale has played a vital part in many investigations throughout the Great Lakes. From saving drowning victims in Saginaw Bay to joining recovery units for the Mackinac Bridge, he constantly put his own safety at risk to help keep others from harm. His underwater work has given him the opportunity to act as team leader in an international effort to recover a sunken vessel from the Detroit River, and take part in a submerged vehicle study featured on the Discovery Channel.

In addition to becoming an upstanding member of his hometown community, Dale has always found time to be a devoted husband to Linda, his wife of 25 years, and father to their sons Ty and Christopher, and daughter Jocelyn. Dale is also a member of the First Baptist Church of Caro, and is District Chairman of Ducks Unlimited.

Mr. Speaker, as a Member of Congress, I consider it my duty and my privilege to protect and defend human dignity and the quality of life for our citizens. I am extremely grateful to have a person like Sgt. Dale Stevenson who shares these beliefs, and has made it his life's work to see this task achieved. I ask my colleagues in the 108th Congress to please join me in congratulating Dale, and wishing him the very best in his retirement.

Daily Digest

HIGHLIGHTS

Senate agreed to the Conference Report on S. 342, Keeping Children and Families Safe Act.

House passed H.R. 1528, Taxpayer Protection and IRS Accountability Act.

House passed H.R. 660, Small Business Health Fairness Act.

Senate

Chamber Action

Routine Proceedings, pages S8167–S8260

Measures Introduced: Fourteen bills and two resolutions were introduced, as follows: S. 1289–1302, and S. Res. 176–177. **Pages S8232–33**

Measures Reported:

S. 724, to amend title 18, United States Code, to exempt certain rocket propellants from prohibitions under that title on explosive materials, with an amendment in the nature of a substitute.

S. 1233, to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center. **Page S8232**

Measures Passed:

Recognizing New Jersey Sports Teams: Senate agreed to S. Res. 176, recognizing the National Hockey League's New Jersey Devils and National Basketball Association's New Jersey Nets for their accomplishments during the 2002–2003 season. **Pages S8201–02**

Accountant Compliance and Enforcement Staffing Act: Senate passed to H.R. 658, to provide for the protection of investors, increase confidence in the capital markets system, and fully implement the Sarbanes-Oxley Act of 2002 by streamlining the hiring process for certain employment positions in the Securities and Exchange Commission, clearing the measure for the President. **Page S8260**

Prescription Drug and Medicare Improvement Act: Senate continued consideration of S. 1, to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, taking action on the following amendments proposed thereto: **Pages S8169–S8201, S8202–16**

Adopted:

Enzi (for Cantwell) Amendment No. 944 (to Amendment No. 932), to prohibit an eligible entity offering a Medicare Prescription Drug plan, a MedicareAdvantage Organization offering a MedicareAdvantage plan, and other health plans from contracting with a pharmacy benefit manager (PBM) unless the PBM satisfies certain requirements. **Page S8184**

By a unanimous vote of 95 yeas (Vote No. 228), Enzi/Reed Modified Amendment No. 932, to improve disclosure requirements and to increase beneficiary choices. **Pages S8169, S8182–89, S8198**

By 94 yeas to 1 nay (Vote No. 230), Gregg Amendment No. 945, to ensure that there is competition in the pharmaceutical industry and increased access to affordable drugs. **Pages S8189–98, S8200–01**

Frist (for Cochran) Amendment No. 947 (to Amendment No. 946), to protect the health and safety of Americans. **Pages S8203–15**

Rejected:

By 39 yeas to 56 nays (Vote No. 229), Daschle Modified Amendment No. 939, to ensure that an affordable plan is available in all areas. **Pages S8173–82, S8198–S8200**

Pending:

Bingaman Amendment No. 933, to eliminate the application of an asset test for purposes of eligibility for premium and cost-sharing subsidies for low-income beneficiaries. **Pages S8169–73**

Dorgan Amendment No. 946, to provide greater access to affordable pharmaceuticals. **Pages S8202–16**

A unanimous-consent agreement was reached providing that following the vote on final passage of S.

504 (listed below), Senate will continue consideration of S. 1, on Friday, June 20, 2003, with four minutes of debate on Dorgan Amendment No. 946 (listed above) followed by a vote to occur thereon; and the consideration of certain other amendments to be proposed to the bill. **Page S8216**

American History and Civics Education Act: Senate began consideration of S. 504, to establish academics for teachers and students of American history and civics and a national alliance of teachers of American history and civics. **Pages S8216–19**

A unanimous-consent-time agreement was reached providing for further consideration of the bill at 9 a.m., on Friday, June 20, 2003, with a vote on final passage to occur at 9:15 a.m. **Page S8216**

Keeping Children and Families Safe Act—Conference Report: Senate agreed to the conference report on S. 342, to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, clearing the measure for the President. **Pages S8257–60**

Water Contract Repayment Authorization—Referral Agreement: A unanimous-consent agreement was reached providing that the Committee on Environment and Public Works be discharged from further consideration of H.R. 856, to authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and the bill then be referred to the Committee on Energy and Natural Resources. **Page S8260**

Nominations Confirmed: Senate confirmed the following nominations:

Terrence A. Duffy, of Illinois, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 2003.

Terrence A. Duffy, of Illinois, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 2007. (Reappointment)

Anne Rader, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2004.

Eduardo Aguirre, Jr., of Texas, to be Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security. (New Position)

C. Stewart Verdery, Jr., of Virginia, to be an Assistant Secretary of Homeland Security. (New Position) **Pages S8256–57, S8260**

Nominations Received: Senate received the following nominations:

Jackie Wolcott Sanders, for the rank of Ambassador during her tenure of service as United States Representative to the Conference on Disarmament and the Special Representative of the President of the United States for Non-Proliferation of Nuclear Weapons.

1 Navy nomination in the rank of admiral.

A routine list in the Army. **Page S8260**

Messages From the House: **Page S8225**

Measures Referred: **Page S8225**

Measures Read First Time: **Page S8225**

Petitions and Memorials: **Pages S8225–32**

Executive Reports of Committees: **Page S8232**

Additional Cosponsors: **Pages S8233–34**

Statements on Introduced Bills/Resolutions: **Pages S8234–46**

Additional Statements: **Pages S8224–25**

Amendments Submitted: **Pages S8246–55**

Notices of Hearings/Meetings: **Pages S8255–56**

Authority for Committees to Meet: **Page S8256**

Record Votes: Three record votes were taken today. (Total—230) **Pages S8198, S8200–01**

Adjournment: Senate met at 9:30 a.m., and adjourned at 7:45 p.m., until 9 a.m., on Friday, June 20, 2003. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S8260.)

Committee Meetings

(Committees not listed did not meet)

302(b) ALLOCATIONS

Committee on Appropriations: Committee completed its review of 302(b) subcommittee allocations of budget outlays and new budget authority allocated to the committee in H. Con. Res. 95, establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013.

IDENTITY THEFT

Committee on Banking, Housing, and Urban Affairs: Committee concluded hearings to examine the problem of identity theft in relation to the Fair Credit Reporting Act, focusing on the impact of identity theft on consumers and the importance of information security in preventing identity theft, after receiving testimony from Howard Beales II, Director, Bureau of Consumer Protection, Federal Trade Commission; Timothy Caddigan, Special Agent In Charge, Criminal Investigative Division, United States Secret Service, Department of Homeland Security; Michael D. Cunningham, JP Morgan Chase Cardmember Services, Tempe, Arizona; Linda Foley,

Identity Theft Resource Center, San Diego, California; William Hough, Neiman Marcus Group, Dallas, Texas, on behalf of the National Retail Federation; Stuart K. Pratt, Consumer Data Industry Association, and Michael W. Naylor, AARP, both of Washington, D.C.; and John M. Harrison, Rocky Hill, Connecticut.

BUSINESS MEETING

Committee on Commerce, Science, and Transportation: Committee ordered favorably reported the following business items:

S. 1234, to reauthorize the Federal Trade Commission, with an amendment in the nature of a substitute;

S. 1261, to reauthorize the Consumer Product Safety Commission, with an amendment in the nature of a substitute;

S. 1244, to authorize appropriations for the Federal Maritime Commission for fiscal years 2004 and 2005, with an amendment;

S. 247, to reauthorize the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998, with an amendment in the nature of a substitute;

S. 861, to authorize the acquisition of interests in undeveloped coastal areas in order to better ensure their protection from development, with an amendment;

S. 1152, to reauthorize the United States Fire Administration, with an amendment in the nature of a substitute;

S. 1260, to promote the development of the commercial space transportation industry, to authorize appropriations for the Office of the Associate Administrator for Commercial Space Transportation;

S. 189, to authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, with an amendment in the nature of a substitute;

S. 877, to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet, with an amendment in the nature of a substitute;

S. 1046, to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations, with amendments; and

The nominations of Annette Sandberg, of Washington, to be Administrator of the Federal Motor Carrier Safety Administration, and sundry promotion lists in the Coast Guard.

ULLICO

Committee on Governmental Affairs: Committee concluded hearings to examine the Union Labor Life Insurance Company (ULLICO) policy on investment decisions and stock value, focusing on allegations of self-dealing and breaches of fiduciary duty involving certain board members profiting from sales of company stock and charges concerning potential conflicts of interest, after receiving testimony from James R. Thompson, Winston and Strawn, Chicago, Illinois; and Terence O'Sullivan, ULLICO Inc., Washington, D.C.

TEACHER UNION SCANDALS

Committee on Health, Education, Labor, and Pensions: Committee concluded hearings to examine teacher union scandals, focusing on closing the gaps in union member protections, the Department of Labor's administration and enforcement of the Labor-Management Reporting and Disclosure Act (Landrum-Griffin Act), and certain investigative matters involving the Washington Teachers Union and the United Teachers of Dade, after receiving testimony from Lary F. Yud, Deputy Director, Office of Labor-Management Standards, Employment Standards Administration, Department of Labor; Damaris Daugherty, Teacher Rights Advocacy Coalition, Miami, Florida; and Sandra Feldman, American Federation of Teachers, and Tom Donahue, Work in America Institute, both of Washington, D.C.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 724, to amend title 18, United States Code, to exempt certain rocket propellants from prohibitions under that title on explosive materials, with an amendment in the nature of a substitute; and

S. 1233, to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center;

Also, Committee began markup of S. 1125, to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, but did not complete action thereon, and will meet again on Tuesday, June 24.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee will meet again on Thursday, June, 26.

House of Representatives

Chamber Action

Measures Introduced: 39 public bills, H.R. 2516–2553; 1 private bill, H.R. 2554; and 11 resolutions, H. Con. Res. 223–225, and H. Res. 284–291, were introduced. **Pages H5661–63**

Additional Cosponsors: **Pages H5663–65**

Reports Filed: Reports were filed today as follows:

H.R. 1276, to provide downpayment assistance under the HOME Investment Partnerships Act, amended (H. Rept. 108–164);

H.R. 1614, to reauthorize the HOPE VI program for revitalization of severely distressed public housing and to provide financial assistance under such program for main street revitalization or redevelopment projects in smaller communities to support the development of affordable housing for low-income families in connection with such projects, amended (H. Rept. 108–165);

H.R. 272, to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries, amended (H. Rept. 108–166); and

H.R. 2086, to reauthorize the Office of National Drug Control Policy, amended (H. Rept. 108–167 Part 1). **Pages H5660–61**

Guest Chaplain: The prayer was offered by the guest Chaplain, Rev. Bob Warren, Pastor, Arlington Heights Evangelical Free Church of Arlington Heights, Illinois. **Page H5553**

Taxpayer Protection and IRS Accountability Act: The House passed H.R. 1528, to amend the Internal Revenue Code of 1986 to protect taxpayers and ensure accountability of the Internal Revenue Service by recorded vote of 252 ayes to 170 noes, Roll No. 293. The House also considered the bill on June 18. **Pages H5562–97**

Rejected the Visclosky of Indiana motion that sought to recommit the bill to the Committee on Ways and Means with instructions to report it back to the House forthwith with amendments that strike section 309, Health Insurance Costs of Eligible Individuals and insert the Health Care Tax Credit Enhancement section that decreases the age eligibility requirement, repeals the 3-month requirement of existing coverage; and revises the eligibility of spouses of individuals entitled to Medicare by recorded vote of 199 ayes to 226 noes, Roll No. 292. **Pages H5595–97**

Rejected the McDermott amendment in the nature of a substitute printed in part B of H. Rept. 108–159 that sought to delete the Health Insurance Tax Credit Waiver; expand Earned Income Tax Credit (EITC) for children; provide relief to families of astronauts and military members; limit EITC precertification program; address corporate tax shelters; and add protections to assist low and middle income tax payers by yea-and-nay vote of 196 yeas to 226 nays, Roll No. 291. **Pages H5563–95**

H. Res. 282, the rule that provided for consideration of the bill was agreed to on June 18.

Small Business Health Fairness Act: The House passed H.R. 660, to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees by recorded vote of 262 ayes to 162 noes, Roll No. 296. **Pages H5597–H5638**

Rejected the McCarthy of New York motion that sought to recommit the bill to the Committee on Education and the Workforce with instructions to report it back to the House forthwith with an amendment that protects existing group health plan coverage for breast cancer screening, pregnancy and childbirth, well child care, and direct access to obstetric or gynecological services by recorded vote of 192 ayes to 230 noes, Roll No. 295. **Pages H5636–37**

Pursuant to the rule the amendment recommended by the Committee on Education and the Workforce now printed in the bill (H. Rept. 108–156) was considered as adopted. **Page H5605**

Rejected the Kind amendment in the nature of a substitute printed in H. Rept. 108–160 that sought to establish the Small Employer Health Benefits Plan, similar to the Federal employees Health Benefits Plan, provide premium assistance to businesses and employees, require the Department of Labor to annually contract with state licensed health insurers to offer health insurance coverage in a state, and require all participating insurers to offer benefits equivalent to or greater than the options offered to Federal employees by yea-and-nay vote of 183 yeas to 238 nays with 1 voting ''present'', Roll No. 294. **Pages H5624–36**

H. Res. 283, the rule that provided for consideration of the bill was agreed to by recorded vote of 224 ayes to 199 noes, Roll No. 290. Earlier agreed to order the previous question by yea-and-nay vote of 224 yeas to 198 nays, Roll No. 289. **Pages H5555–62**

Late Report: The Committee on Appropriations received permission to have until midnight on Monday, June 23 to file a privileged report making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004. **Page H5638**

Strengthen AmeriCorps Program Act: The House passed S. 1276, to improve the manner in which the Corporation for National and Community Service approves, and records obligations relating to, national service positions—clearing the measure for the President. **Pages H5638–39**

Legislative Program: The Majority Leader announced the Legislative Program for the week of June 23. **Pages H5639–42**

Meeting Hour—Monday, June 23: Agreed that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday, June 23 for morning-hour debate. **Page H5642**

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, June 25. **Page H5642**

Committee Resignation: Read a letter from Representative Putnam wherein he announced his resignation from the Committee on Resources. **Page H5642**

Committee Election: The House agreed to H. Res. 284 electing Representative Neugebauer to the Committees on Agriculture, Resources, and Science and Representative McCotter to the Committee on Small Business. **Page H5643**

Honoring the Celebration of Lou Gehrig's 100th Birthday and his Legacy in the Search for a Cure for ALS: H. Res. 278, recognizing the contributions Lou Gehrig and his legacy have made in the fight against Amyotrophic Lateral Sclerosis. **Pages H5643–44**

Congratulating the San Antonio Spurs on Winning the NBA Championship: H. Res. 279, Congratulating the San Antonio Spurs for winning the 2003 NBA Championship. **Pages H5644–46**

Senate Messages: Message received from the Senate appears on page H5553.

Referral: S. 1276 was held at the desk.

Quorum Calls—Votes: Three yea-and-nay votes and five recorded votes developed during the proceedings of the House today and appear on pages H5560–61, H5561–62, H5594–95, H5596–97, H5597, H5635–36, H5637, and H5637–38. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 7:47 p.m.

Committee Meetings

REVIEW—COMMODITY FUTURES MODERNIZATION ACT

Committee on Agriculture: Subcommittee on General Farm Commodities and Risk Management held a hearing to review of the Commodity Futures Modernization Act. Testimony was heard from public witnesses.

LEGISLATIVE APPROPRIATIONS

Committee on Appropriations: Subcommittee on Legislative approved for full Committee action the Legislative appropriations for fiscal year 2004.

LABOR, HHS, EDUCATION AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, Education and Related Agencies approved for full Committee action the Labor, Health and Human Services, Education and Related Agencies appropriations for fiscal year 2004.

SCHOOL READINESS ACT

Committee on Education and Workforce: Ordered reported, as amended, H.R. 2210, School Readiness Act.

HIGHER EDUCATION-INTERNATIONAL PROGRAMS QUESTIONS OF BIAS

Committee on Education and the Workforce: Subcommittee on Select Education held a hearing on "International Programs in Higher Education and Questions of Bias." Testimony was heard from public witnesses.

MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT; SOCIAL SECURITY ACT AMENDMENTS

Committee on Energy and Commerce: Ordered reported the following bills: H.R. 2743, as amended, Medicare Prescription Drug and Modernization Act, and H.R. 531, to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998–2001, under the State Children's Health Insurance Program (SCHIP).

NEW BASEL ACCORD—UNIFIED U.S. POSITION SEARCH

Committee on Financial Services: Subcommittee on Financial Institutions and Consumer Credit held a hearing entitled "The New Basel Accord—In Search of a Unified U.S. Position." Testimony was heard from Roger Ferguson, Vice-Chairman, Board of Governors, Federal Reserve System; the following officials of the Department of the Treasury: James E. Gilleran, Director, Office of Thrift Supervision; and

John D. Hawke, Jr., Comptroller of the Currency; Donald Powell, chairman, FDIC; and public witnesses.

RURAL HOUSING IN AMERICA

Committee on Financial Services: Subcommittee on Housing and Community Opportunity held a hearing entitled "Rural Housing in America." Testimony was heard from Phyllis Fong, Inspector General, USDA; William B. Shear, Acting Director, Financial Markets and Community Investment, GAO; and public witnesses.

MISCELLANEOUS MEASURES; REPORT

Committee on Government Reform: Ordered reported the following measures: H.R. 2396, to designate the facility of the United States Postal Service located at 1210 Highland Avenue in Duarte, California as the "Francisco A. Martinez Flores Post Office," H.R. 1761, to designate the facility of the United States Postal Service located at 9350 East Corporate Hill Drive in Wichita, Kansas, as the " Garner E. Shriver Post Office Building"; H.R. 2249, Postmasters Equity Act of 2003; H.R. 2328, to designate the facility of the Postal Service located at 2001 East Willard Street in Philadelphia, Pennsylvania, as the "Robert A. Borski Post Office Building"; H. Con. Res. 6, supporting the goals and ideals of Chronic Obstructive Pulmonary Disease Awareness Month; H. Con. Res. 208, Supporting the National Men's Health Week; and H. Res. 240, expressing the sense of the House of Representatives that there should be established a National Community Health Center Week to raise awareness of health services provided by community, migrant, public housing, and homeless health centers.

The Committee also approved the following report entitled "Report—A Citizen's Guide on Using the Freedom of Information Act and the Privacy Act of 1974 to Request Government Records."

NEXT STEP—INVESTIGATION OF USE OF INFORMANTS BY JUSTICE—WILLIAM BULGER TESTIMONY

Committee on Government Reform: Held a hearing entitled "The Next Step in the Investigation of the Use of Informants by the Department of Justice." Testimony was heard from William Bulger, President, University of Massachusetts.

U.S. POLICY IN AFGHANISTAN

Committee on International Relations: Held a hearing on U.S. Policy in Afghanistan: Current Issues in Reconstruction. Testimony was heard from Ambassador Peter Tomsen, former Special Envoy to Afghanistan; Larry P. Goodson, Professor, Middle East Studies, Department of National Security and Strategy, U.S. Army War College, Department of the Army; Bernard Frahi, Chief, Operations Branch, Division for Operations and Analysis, Office for Drug Control and Crime Prevention, United Nations; and public witnesses.

PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT

Committee on the Judiciary: Subcommittee on Commercial and Administrative Law held a hearing on H.R. 339, Personal Responsibility in Food Consumption Act. Testimony was heard from public witnesses.

OVERSIGHT—CONSULAR ID CARDS

Committee on the Judiciary: Subcommittee on Immigration, Border Security, and Claims held an oversight hearing on "The Issuance, Acceptance, and Reliability of Consular Identification Cards." Testimony was heard from Representative Gutierrez; John Andrews, member, Senate, State of Colorado; and public witnesses.

OVERSIGHT—DOMESTIC NATURAL GAS SUPPLY SHORTAGE

Committee on Resources: Subcommittee on Energy and Mineral Resources held an oversight hearing on the Domestic Natural Gas Supply Shortage. Testimony was heard from Steve Brown, Director, Energy Economics and Micro Economic Policy Analysis, Office of the Federal Reserve System, Dallas, Texas; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Forests and Forest Health and the Subcommittee on Fisheries Conservation, Wildlife and Oceans held a joint hearing on the following bills: H.R. 2057, Chronic Wasting Disease Support for States Act of 2003; and H.R. 2416, to provide for the protection of paleontological resources on Federal lands. Testimony was heard from Representative McGovern; the following officials of the Department of the Interior: Charles Groat, Director, U.S. Geological Survey; and Robert Lamb, Senior Advisor to the Secretary, Policy, Management and Budget; the following officials of the USDA: Bobby Acord, Administrator, Animal and Plant Health Inspection Service; and Elizabeth Estill, Deputy Chief, Programs and Legislation, Forest Service; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Forests and Forest Health held a hearing on the following bills: H.R. 511, Mount Naomi Wilderness Boundary Adjustment Act; H.R. 708, to require the conveyance of certain National Forest System lands in

Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes; H.R. 1038, Public Lands Fire Regulations Enforcement Act of 2003; and H.R. 1651, Sierra National Forest Land Exchange Act of 2003. Testimony was heard from Representatives Tancredo, Radanovich, Bishop of Utah and Thompson of California; Elizabeth Estill, Deputy Chief, Programs and Legislation, Forest Service, USDA; Larry Parkinson, Deputy Assistant Secretary, Law Enforcement and Security, Department of the Interior; and public witnesses.

OVERSIGHT—UPDATE WATER QUALITY STANDARDS

Committee on Transportation and Infrastructure: Subcommittee on Water Resources and Environment held an oversight hearing on the Need to Update Water Quality Standards to Improve Clean Water Act Programs. Testimony was heard from John B. Stephenson, Director, Natural Resources and Environment, GAO; and public witnesses.

HEALTH SAVINGS ACCOUNT AVAILABILITY ACT

Committee on Ways and Means: Ordered reported, as amended, H.R. 2351, Health Savings Account Availability Act.

UNEMPLOYMENT FRAUD AND ABUSE

Committee on Ways and Means: Subcommittee on Oversight and the Subcommittee on Human Resources held a joint hearing on unemployment fraud and abuse. Testimony was heard from Mason Bishop, Deputy Assistant Secretary, Employment and Training Administration, Department of Labor; Robert J. Cramer, Managing Director, Office of Special Investigations, GAO; David Clegg, Deputy Chairman, Communications, Employment Security Commission, State of North Carolina; and a public witness.

S CORPORATION REFORM

Committee on Ways and Means: Subcommittee on Select Revenue Measures held a hearing on S Corporation Reforms. Testimony was heard from Greg Jenner, Deputy Assistant Secretary, Tax Policy, Department of the Treasury; and public witnesses.

IRAQ WMD

Permanent Select Committee on Intelligence: Met in executive session to continue hearings on Iraq WMD. Testimony was heard from departmental witnesses.

BRIEFING—COUNTERINTELLIGENCE ISSUES

Permanent Select Committee on Intelligence: Subcommittee on Human Intelligence, Analysis and Counterintelligence met in executive session to receive a briefing on Counterintelligence Issues. The Committee was briefed by departmental witnesses.

BRIEFING—GLOBAL INTELLIGENCE UPDATE

Permanent Select Committee on Intelligence: Subcommittee on Intelligence Policy and National Security met in executive session to receive a briefing on Global Intelligence Update. The Subcommittee was briefed by departmental witnesses.

"RESPONSE TO TERRORISM: HOW IS DHS IMPROVING OUR CAPABILITIES?"

Select Committee on Homeland Security: Held a hearing entitled "Response to Terrorism: How is DHS Improving Our Capabilities?" Testimony was heard from Michael Brown, Under Secretary, Homeland Security, Emergency Preparedness and Response, Department of Homeland Security.

COMMITTEE MEETINGS FOR FRIDAY, JUNE 20, 2003

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Armed Services: to hold a closed briefing to examine Iraqi reconstruction and humanitarian activities, 9:30 a.m., SR–222.

House

No committee meetings are scheduled.

Next Meeting of the SENATE

9 a.m., Friday, June 20

Senate Chamber

Program for Friday: Senate will continue consideration of S. 504, American History and Civics Education Act, with a vote on final passage to occur at 9:15 a.m., following which, Senate will continue consideration of S. 1, to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, with a vote on or in relation to Dorgan Amendment No. 946.

Next Meeting of the HOUSE OF REPRESENTATIVES

12:30 p.m., Monday, June 23

House Chamber

Program for Monday: To be announced.

Extensions of Remarks, as inserted in this issue

HOUSE

Bell, Chris, Tex., E1305
Conyers, John, Jr., Mich., E1307
Crane, Philip M., Ill., E1306
Hyde, Henry J., Ill., E1307
Kildee, Dale E., Mich., E1308
McInnis, Scott, Colo., E1306, E1308
Menendez, Robert, N.J., E1306
Payne, Donald M., N.J., E1307
Pence, Mike, Ind., E1307
Porter, Jon C., Nev., E1305, E1305
Sessions, Pete, Tex., E1305
Shays, Christopher, Conn., E1306
Taylor, Gene, Miss., E1305

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