United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

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# House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. REHBERG).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
*March 10, 2004.*

I hereby appoint the Honorable DENNIS R. REHBERG to act as Speaker pro tempore on this day.

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

## PRAYER

The Reverend Dr. William J.P. Doubek III, National Chaplain, The American Legion, Washington, DC, offered the following prayer:

Lord God. Holy Scripture teaches us, ''Every good and perfect gift is from above, coming down from the Father of the heavenly lights, who does not change like shifting shadows.'' The men and women who serve this great Nation in this House are gifts to us from You. We thank You and praise You for their labor on behalf of these United States.

As they study and debate various issues, illuminate them with wisdom from above. When they make decisions that affect our lives, cause them to be ever mindful of the trust we place in them. Use them to glorify You by bringing peace to our troubled planet.

Please bless each branch of our government. Protect them in their travels. Watch over their families and loved ones in their absence. Supply them with time for rest and renewal. Make us all responsible citizens and neighbors.

In Jesus' name, we pray. Amen.

## THE JOURNAL

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

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

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

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

Mr. MCNULTY. 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. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

## PLEDGE OF ALLEGIANCE

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

Mr. BURNS 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.

## RURAL VETERANS

(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, I rise today to express my support for America's veterans and all military personnel, especially those veterans who live in rural locations throughout the United States.

The 108th Congress is committed to America's veterans. We are providing record funding for veterans programs, including improvements in our veterans health care system.

These funding measures are allowing the Veterans Administration to open community-based outpatient clinics in many areas of our country. A new community-based outpatient clinic is planned for Athens, Georgia, located in Georgia's 12th District. This clinic will provide many needed medical services to groups of proud veterans in Athens and surrounding areas.

We need to ensure that these outpatient clinics are adequately funded and staffed. We need to encourage the establishment of additional clinics in rural areas where they can be beneficial to our population of veterans.

Mr. Speaker, this Congress is committed to those who currently defend this Nation and to those who have served her in the past.

## OUR TRADE DEFICIT

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

Mr. DEFAZIO. Mr. Speaker, well, congratulations to the Bush economic team. Yet another record under their belt. Last Friday, it was the announcement that no private sector jobs had been created in America and that they are presiding over the largest job loss since Herbert Hoover in the 1920s, but today, they are touting their record on trade, a new record, a $43 billion one month trade deficit, and they say this shows the U.S. economy is recovering.

Why? We are running a large and growing trade deficit. This is recovery at the Bush White House, a jobless recovery because they are engaging in trade practices that are exporting the



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manufacturing base of this country, now the intellectual technology base of this country. They say it is good to outsource jobs, although they are trying to change the word there, that is, U.S. jobs sent overseas are good for American consumers. The problem is Americans need jobs to be able to consume, and under this administration, those jobs are not available here because they are being shipped to China, but this is good news, says the Bush administration.

## WINNING IN THE WAR ON TERROR

(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, America was thrust into war on September 11, 2001, when our Nation was viciously attacked by terrorists who seek to destroy American freedoms. Since that event, the U.S. military has been winning the war on terrorism, guided by the courageous leadership of President George W. Bush.

Recognizing the true threat posed by the global network of terrorism who work closely with outlaw regimes, President Bush laid out a bold and decisive plan. America will not wait for another September 11 to occur before we take action to defend the American people.

In the past 2½ years, our men and women in uniform, backed by dozens of coalition allies, have ended the oppressive terrorist supporting regimes of the Taliban in Afghanistan and Saddam Hussein in Iraq. This protects American families.

Americans can be assured that, thanks to the commitment of President Bush and the valor of American military, that we will continue to win the war on terrorism, despite more attacks worldwide.

In conclusion, may God bless our troops, and we will never forget September 11.

## ANOTHER RULING FOR MEDICAL PRIVACY

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

Mr. EMANUEL. Mr. Speaker, last year Congress created a zone of privacy that blacks out the transfer of personal medical information. There should be a sign above one's medical information that reads, ''Do not enter.'' It has been a bipartisan effort.

On Monday, a Federal judge interpreted that law to mean that the Justice Department's demands for medical records from university hospitals, like Northwestern University in Chicago, was an undue intrusion on patients' rights.

Federal and State laws already on the books prevent that kind of intrusive breach. Congressional action last year to black out sharing confidential health records further solidified bipartisan support for medical privacy for all Americans, and I am pleased that in the last 48 hours, the Justice Department has decided to withdraw their subpoena and information request from the hospitals who have stood strong in the face of this intrusion of privacy by the Federal Government.

As William Safire of The New York Times this morning noted, ''a balance must be struck between protecting all of us and protecting each one of us.''

Mr. Speaker, guaranteeing Americans their medical privacy is a critical first step toward that goal.

## NORTH KOREA AND CHINA

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

Mr. PITTS. Mr. Speaker, on the issue of human rights, today there are between 200- and 300,000 North Korean refugees in China. Half are women, and while the men can find jobs as cheap laborers, most of the women are sold into forced labor or the sex trade.

Despite promises, China so far has refused to grant the North Koreans official refugee status, claiming it would invite a flood of new refugees. That is a faulty argument, and China did not make it when Vietnamese refugees sought refuge in their borders.

Refugee protection does not cause refugee crises. Horrifying human rights abuses, mass starvation, prison camps, brutal torture, forced abortion, and a ruler who believes that he is God causes refugee crises.

It is time for China and the UNHCR to live up to their obligations, and it is time for Kim Jong Il to stop brutalizing his people and to step aside.

## PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT OF 2003

(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 in opposition to H.R. 339, the Personal Responsibility in Food Consumption Act of 2003.

According to a report released yesterday by the CDC, poor diet and a lack of physical activity are among the leading causes of death in the United States. In fact, obesity is fast approaching to be the number one cause of death in our country. Unless our families become healthier, the CDC estimates that one in three children, or in the Hispanic community, one in two children, will become diabetic.

This year, California State University at Fullerton is proposing a Center for the Prevention of Childhood Obesity, which would work with schools and other organizations to arm teachers and parents with the tools that they need to prevent obesity in their children.

It is also heartening to see some food companies such as McDonald's and Kellogg making positive changes in the way that they produce food, and I would argue that these changes are due in large part to some of those lawsuits brought against certain food companies regarding nutritional value, content information, or long-term consequences of eating high fatty foods.

## REMEMBERING THE LIFE OF LILLIAN R. BARCIO

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

Mr. PENCE. Mr. Speaker, I rise to remember the life of the devoted wife, courageous mother, publisher and journalist Lillian Rose Barcio.

Lillian Barcio died February 29, 2004, in Indianapolis where she was born in July of 1931. She is survived by her loving husband of 31 years, Bernard; her daughters, Marsha Louzon, Sheryl Donnella, Karen Pence, Cyndi Barcio; and her son, Phillip Barcio. In addition, she is survived by eight grandchildren and two great-grandchildren.

Through many hardships, Lillian Barcio kept her faith in Christ and her humor and optimism about life. The Bible says that charm is deceptive and beauty is fleeting but the woman who fears the Lord is to be praised.

Lillian Barcio, my mother-in-law, was such a woman whose life would merit remembrance in this Congress even if she had not raised the most wonderful woman I have ever known. May God rest the soul of Lillian Barcio and bring rest and comfort to her loving husband Bernie and all those who mourn her passing.

## THE ECONOMY

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, good morning. I rise this morning to talk about the economy. President Bush keeps telling us the economy is turning the corner and that jobs are coming. Well, Mr. President, where are the jobs you keep promising?

Last Friday brought more disappointing news to our country. Twenty-one thousand new jobs were created last month. That is 285,000 fewer jobs than President Bush promised his tax cut would provide. The unemployment rate among Latinos rose by 7.4 percent last month, 28 percent higher than when President Bush took office.

Twenty thousand plus people in my District alone, 8 million nationwide, are out of work. These people are looking for jobs.

This coming weekend we are helping to sponsor a job fair at the Los Angeles Dodgers stadium. Hundreds of out-of-work southern Californians are eager to return to work. They, too, want to know where the jobs are.

The Bush policies have failed. It is time to take a different approach. Let us provide tax incentives for companies to keep jobs in the U.S. and pass the highway bill and create well-paid and meaningful jobs here in the U.S.

## THE ADMINISTRATION'S NEW MATH

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

Mr. MCDERMOTT. Mr. Speaker, I would like to ask everybody in the House to get a pencil and paper and take down this number. We are getting close to tax time. Ready. Here it is. One, one, two, nine, two, five. That number again one, one, two, nine, two, five.

Now, here is another number, six, seven, six. These are not phone numbers, but six, seven, six ought to be a call for help.

The first number, $112,925, that is the average tax cut that millionaires will see in their 2003 return. The second number is $676. That is the average tax cut for the average American.

This is the administration's new math, obscene tax cuts for the wealthy, crumbs for the average American. This administration did not create a single job in the last month in the private sector. That is not recovery. Where are the unemployment benefits, Mr. Speaker?

## THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

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

Mr. MCNULTY. 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 8 of rule XX, this 15-minute vote on approving the Journal will be followed by 5-minute votes on the two motions to suspend the rules postponed yesterday.

The vote was taken by electronic device, and there were—yeas 353, nays 41, answered ''present'' 1, not voting 38, as follows:

[Roll No. 45]

YEAS—353

Abercrombie
Ackerman
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Goode
Goodlatte
Gordon
Goss
Green (WI)
Grijalva
Gutierrez
Gutknecht
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hill
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Osborne
Ose
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Stark
Stearns
Stenholm
Sullivan
Tanner
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Upton
Van Hollen
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—41

Aderholt
Baird
Baldwin
Brady (PA)
Capuano
Costello
DeFazio
English
Filner
Gillmor
Graves
Green (TX)
Hefley
Holt
Hulshof
Larsen (WA)
Latham
Lewis (GA)
LoBiondo
McDermott
McNulty
Miller, George
Moran (KS)
Oberstar
Olver
Otter
Peterson (MN)
Ramstad
Sabo
Schakowsky
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Udall (NM)
Velázquez
Visclosky
Waters
Weller

ANSWERED ''PRESENT''—1

Tancredo

NOT VOTING—38

Barton (TX)
Bell
Blackburn
Carter
Clay
Cox
Crane
Cummings
Davis (IL)
Diaz-Balart, M.
Doggett
Fossella
Gephardt
Gonzalez
Granger
Greenwood
Hall
Hinchey
Hinojosa
Jackson-Lee (TX)
Johnson, Sam
Kennedy (RI)
Kucinich
LaTourette
Lofgren
Miller (FL)
Moran (VA)
Ortiz
Owens
Reyes
Rodriguez
Schiff
Spratt
Sweeney
Tauzin
Toomey
Udall (CO)
Wicker

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1040

So the Journal was approved.

The result of the vote was announced as above recorded.

## MEDICAL DEVICES TECHNICAL CORRECTIONS ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1881, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. GREENWOOD) that the House suspend the rules and pass the Senate bill, S. 1881, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 396, nays 0, not voting 37, as follows:

[Roll No. 46]

YEAS—396

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez

Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—37

Barton (TX)
Bell
Bishop (GA)
Carter
Clay
Cox
Crane
Cummings
Davis (IL)
Diaz-Balart, M.
Doggett
Fossella
Gephardt
Gonzalez
Granger
Greenwood
Hall
Hinchey
Hinojosa
Jackson-Lee (TX)
Johnson, Sam
Kennedy (RI)
Kucinich
LaTourette
Lofgren
Miller (FL)
Moran (VA)
Ortiz
Owens
Reyes
Rodriguez
Schiff
Sweeney
Tauzin
Toomey
Udall (CO)
Wicker

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1049

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## EXPRESSING SENSE OF CONGRESS THAT KIDS LOVE A MYSTERY IS A PROGRAM THAT PROMOTES LITERACY AND SHOULD BE ENCOURAGED

The SPEAKER pro tempore (Mr. REHBERG). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 373.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. GINGREY) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 373, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 388, nays 11, answered ''present'' 1, not voting 33, as follows:

[Roll No. 47]

YEAS—388

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Gordon
Goss
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hill
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam

Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—11

Burgess
Collins
Everett
Flake
Goode
Hefley
Jones (NC)
Kingston
Paul
Royce
Tancredo

ANSWERED ''PRESENT''—1

Souder

NOT VOTING—33

Ackerman
Barton (TX)
Bell
Carter
Clay
Cox
Crane
Cummings
Davis (IL)
Doggett
Gephardt
Gonzalez
Granger
Hall
Hinchey
Hinojosa
Jackson-Lee (TX)
Johnson, Sam
Kennedy (RI)
Kucinich
LaTourette
Lofgren
Miller (FL)
Moran (VA)
Ortiz
Owens
Reyes
Rodriguez
Schiff
Tauzin
Toomey
Udall (CO)
Wicker

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1059

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

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ORTIZ. Mr. Speaker, due to official business, I was unable to vote during the following rollcall votes. Had I been present, I would have voted as indicated below.

Rollcall Vote No. 42 ''yea''; rollcall Vote No. 43 ''yea''; rollcall Vote No. 44 ''yea''; rollcall Vote No. 45 ''yea''; rollcall Vote No. 46 ''yea''; and rollcall Vote No. 47 ''yea.''

PERSONAL EXPLANATION

Mr. CARTER. Mr. Speaker, during rollcall Vote Nos. 42, 43, 44, 45, 46 and 47 I was unavoidably detained. If I had been present, I would have voted ''yea.''

## PROVIDING FOR CONSIDERATION OF H.R. 339, PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 552 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 552

*Resolved,* That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 339) to prevent frivolous lawsuits against the manufacturers, distributors, or sellers of food or non-alcoholic beverage products that comply with applicable statutory and regulatory requirements. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII and except pro forma amendments for the purpose of debate. Each amendment so printed may be offered only by the Member who caused it to be printed or his designee and shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my friend, the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume.

□ 1100

During consideration of this resolution, all time is yielded for the purposes of debate only.

Mr. Speaker, the resolution before us is a fair and open rule that allowed every single Member of this body to offer any amendment that they wished to debate after simply having it preprinted in the CONGRESSIONAL RECORD. On March 4, the Committee on Rules publicly notified Members of the possibility that it may report a rule to give every Member of Congress an opportunity to have their amendment heard on the House Floor, giving Members ample time to draft and submit their amendments for consideration.

The rule also provides one hour of general debate, equally divided and controlled by the chairman and ranking member of the Committee on the Judiciary, and allows the amendment in the nature of a substitute to be considered an original bill for the purpose of amendment, and that it shall be considered as read.

The rule waives all points of order against the committee amendment in the nature of a substitute and provides that only the authoring Member or a designee may offer a preprinted amendment. Finally, the rule provides the minority with one motion to recommit either with or without instructions.

Mr. Speaker, I rise today to introduce the rule for H.R. 339, the Personal Responsibility and Food Consumption Act. This bill is common sense legislation that requires courts to dismiss frivolous lawsuits seeking damages for injuries resulting from obesity and its attendant health problems that are filed against the manufacturers, distributors, sellers, marketers, and advertisers of any food product by a claimant or their spouse, parent, or child. That is, simply put, what this bill does, and I would like to congratulate our chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the bill's sponsor, the gentleman from Florida (Mr. KELLER) for their hard work in bringing this legislation to the floor for its consideration today.

Despite its opponents' claims to the contrary, what this bill does not do is to relieve manufacturers of their existing Federal and State responsibilities for manufacturing, marketing, distributing, advertising, labeling, or selling their products, nor does it affect existing State laws against deceptive trade practices or lawsuits filed for the relief of claimants who become sick from tainted food products. This bill is a carefully crafted bill to address a specific problem: to put an end to frivolous lawsuits that have been filed against the lawful and productive food services industry, an industry that provides 12 million Americans with jobs and is the Nation's largest private sector employer. And, it accomplishes this while protecting all of the other rights currently given to consumers.

This bill simply codifies the current tort law of every State in America that already has preventive injury claims based on obesity and makes permanent what a recent Gallup poll has shown that 89 percent of Americans already knew: that lawsuits against the food industry are an attempt by the trial bar to make an end-run around our Nation's established democratic process through litigation. H.R. 339 creates a narrow, national solution to the problem of these costly and wasteful lawsuits, and establishes in Federal law

the simple concept that consumers, not the plaintiffs' bar or a government agency, shall have the right to choose what they eat.

Every Member of this Chamber understands that obesity and the greater health problems that it causes, such as heart disease and diabetes, is a dangerous and growing problem to America. Over the last 20 years, obesity rates have increased by more than 60 percent among adults, and the rate of increase in obesity among young people has risen even more rapidly. To address this problem, President Bush has demonstrated his leadership by providing funds in his budget for general health promotion activities, including efforts to educate the public on preventing diabetes and obesity. President Bush has also outlined a fitness challenge to all Americans by asking adults all across America to get at least 30 minutes of physical activity each day, for children and teenagers to get at least 60 minutes of physical activity each day, and for parents to commit to family activities that revolve around physical activity.

But the American people understand that fitness, health, and well-being is not something that can be legislated, nor something that lawyers can sue for. A commitment to a healthy lifestyle is something that everyone must make for themselves, and it is a matter of personal responsibility. People all across this country understand that since 2002, trial lawyers have been sizing up the deep pockets of the food industry and are ready to pounce upon them when they see a golden opportunity to reap billions of dollars for themselves by filing these lawsuits against the productive food industry.

John Bahnzaf, one of the lead litigators of these frivolous suits, has publicly announced that his goal is to ''open the floodgates'' of the litigation against the food industry because, he says, ''Somewhere there is going to be a judge and a jury that will buy this, and once we get the first verdict, as we did with tobacco, it will open up the floodgates.'' All it will take to do irreparable harm to consumers, the economy, and millions of jobs is just one judge making a nonsense opinion by falling victim to what the trial lawyers wish to do. I believe it is Congress's obligation to allow commerce to proceed by preventing these suits from wasting the time of our courts and the resources of a lawful industry.

By passing this legislation today, the House will tell consumers, investors, and countless employees of local Mom and Pop burger joints all across America that we care about them and their jobs, and that we will make sure that we will protect them. We will be telling Americans we think that they are smart enough to decide what they choose to put in their own mouth, and we will be helping those everyday working Americans who rely on fast, affordable nutrition in their hectic lives, not by allowing the courts to increase the price of food that they freely choose to eat.

If the House fails to pass this legislation, where will the madness end? Will sit-down restaurants, which some studies have shown often, serve food with a nutritional and caloric content similar to fast food? Will they be next on the trial lawyers' hit list? Will trial lawyers target chicken producers who supply countless moms across America with the raw materials for homemade fried chicken, or the beef producers who conspire to provide them with raw ingredients for fattening homemade meatloaf? Or will they simply wait for the next fad diet trend to come along and go after whoever is producing the unfashionable food of the moment?

Mr. Speaker, there is a cure to the obesity problem in America. By taking the road to reducing the medical costs associated with obesity is the right way to do it, not in the courtroom. It begins when Americans decide to leave a little bit on their dinner plate and to run that extra mile. It begins when a parent decides to take an active role in their child's life and coaches their son or their daughter's Little League team. It begins the next time you or I step up to the counter and order the salad, not the extra cheese pizza. But that should be our choice as Americans, because we know best that we make better decisions than the government or than trial lawyers can make for us. These are decisions that Americans can and should make for themselves. Unlike the opponents of this bill, I trust the American people and believe that Americans are smart enough to make these decisions for themselves.

Mr. Speaker, I support this rule, and I support the well-crafted underlying bill of the gentleman from Florida (Mr. KELLER).

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

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me the customary 30 minutes, and I yield myself 8 minutes.

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

Mr. MCGOVERN. Mr. Speaker, despite the rhetoric coming from the other side, this is not an open rule. This rule requires that any Member who wants to improve this bill must have already preprinted their amendment in yesterday's CONGRESSIONAL RECORD. Now, it is interesting to note that when they were in the minority, the Republicans condemned preprinting requirements, but now that they are in power, they find this and other procedures to close the process completely acceptable. In fact, even the very distinguished chairman of the Committee on Rules, the gentleman from California (Mr. DREIER) agrees that preprinting requirements are wrong, or at least he used to.

On July 20, 1993, the very distinguished chairman of the Committee on Rules said this about a Democratic rule requiring that all amendments be preprinted: ''This rule also requires amendments to be printed in the CONGRESSIONAL RECORD. Now, that might not sound like much, but it is another bad policy that belittles the traditions of House debate. If amendments must be preprinted, then it is impossible to listen to the debate on the floor, come up with a new idea to improve the bill, and then offer an amendment to incorporate that idea. Why do we need this burdensome preprinting process? Shouldn't the committees that report these bills have a grasp of the issues affecting the legislation under their jurisdiction? Again, Mr. Speaker, I think we can do better.''

Well, I agree completely with my friend from California. We can do better. Unfortunately, in this Congress, we are actually doing worse. This year, of the nine rules this body considered, only one has been a truly open rule. That is a batting average of 111, which will get you kicked off of my son's T-ball team. According to the Republicans' own definition, eight out of nine rules have been restrictive, and that one open rule brought a bill to the floor that was approved by a voice vote.

Now, Mr. Speaker, as for the underlying bill, this is an unnecessary distraction from the real problems facing the American people. In August 2002, two children brought suit against McDonald's, claiming the corporation bore legal responsibility for their obesity and health problems. The case got a great deal of media attention which is, I am sure, part of why we are doing this thing today. The judge working on the case quickly recognized that this lawsuit was clearly frivolous and dismissed the case.

In other words, Mr. Speaker, the system worked. But that is not good enough for the Republicans. Now they want to radically change the rules, not just so Americans cannot bring forth so-called frivolous lawsuits, but so that almost any case of negligence against these types of companies is banned. This bill is retroactive: any case currently pending before a judge would be subject to the new law. Mr. Speaker, you do not change the rules during the middle of the game, but that is just what this bill does.

This bill has many, many, many problems, and my colleagues on the Committee on the Judiciary will talk more about the merits or lack of merits of the bill during general debate. But there are bigger issues here.

Mr. Speaker, obesity is a problem, and this week we learned that obesity will soon pass smoking as the leading cause of preventable deaths. Americans, especially children, are gaining weight at alarming rates. In fact, according to the National Alliance for Nutrition and Activity, obesity is the Nation's fastest rising public health problem. According to the Department of Health and Human Services,

unhealthy eating and inactivity cause about 1,200 deaths every day. That is five times more than the number of people killed by guns, HIV, and drug use combined.

Now, adding to this is the fact that it just does not affect the obese person; it puts a burden on the entire system, from hospitals to the workplace to the home. And, according to the U.S. Department of Agriculture, healthier diets could prevent at least $71 billion per year in medical costs, lost productivity, and lost lives. The Centers for Disease Control estimates that if all physically inactive Americans became active, we would save $77 billion in annual medical costs. And this does not even begin to discuss the issue of hunger in America.

Unfortunately, there are many people in this country who suffer from hunger and yet, paradoxically, are obese because the little food they do get is not nutritious. Low-income families face a real need to stretch their food dollars to maximize the number of calories they consume. We are finding that low-income families may eat foods that may cost less, but that have relatively higher levels of calories per dollar to stave off hunger when they lack the money or other resources like food stamps to purchase a healthier balance of more nutritious foods. Simply put, it becomes a trade-off between food quantity and food quality.

Now, it is obvious to everyone, everyone but the House Republican leadership, apparently, that obesity and hunger are serious public health issues that need to be dealt with in serious ways.

□ 1115

But instead of bringing legislation before this body that will help feed the hungry, provide families with information on how to prepare and eat nutritious meals, encourage the food and restaurant industry to be more responsible and help raise the standard of living, we are here today considering a fake bill that pretends to fix a fake problem.

Now, I would like to tell the American public that we are actually having a real substantive debate about obesity in ways to address this national problem but we are not. And although today's bill would undoubtedly restrict lawsuits against restaurants, food manufacturers, and food distributors, what it really does is highlight the priorities, actually the lack of priorities, of this Republican-controlled Congress.

For example, over 760,000 Americans sit at home, jobless and without any income because the Republicans in Congress will not extend them unemployment benefits. But the majority party all of a sudden can find the time to take up this legislation.

While the European Union adds tariffs to American goods because of a trade dispute, the Republican majority continues to let a bipartisan compromise sit and gather dust; but the leadership can find the time to try to ram another partisan corporate tax cut through the House that will not address any real problem.

And while over 40 million Americans woke up this morning without health insurance, last week the majority took precious time out of their limited legislative schedule to set the rules for commercial space flight, which does not even exist yet.

With all the challenges facing this country, and with the limited schedule set by the Republicans this year, is this the best bill to consider? Is this the best use of the House's time? The answer is no. And, unfortunately, the Republican Party continues to ignore the real issues facing this country.

And it just goes to show you how misguided and out of touch the majority party continues to be.

Mr. Speaker, the United States House of Representatives is supposed to be a serious place. This is where the great issues are supposed to be debated. But under this Republican leadership, this House has become a place where trivial issues are debated passionately and serious ones not at all.

We should have a debate about the problem of obesity. And that debate should include serious discussions about the ways we can effectively deal with that issue. But that is not what we are doing here today. What we are doing here today, quite frankly, is, once again, concocting a way to avoid doing the people's business.

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

Mr. SESSIONS. Mr. Speaker, a good number of Members of Congress spend a lot of time trying to promote health and fitness and worthiness, and one of those Members is with us today. He is the chairman of the Committee on Rules, from San Dimas, California.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER).

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

Mr. DREIER. Mr. Speaker, let me just say in responding to my friend from Massachusetts that this is clearly an open rule in the modern House that we have today. We are criticized over the fact that we have not been able move things; and then, Mr. Speaker, when we proceed with moving legislation forward, we do it under a procedure that does allow every single Member, every single Member who wants to offer a germane amendment the right to do that. That is exactly what this rule does.

Mr. MCGOVERN. Mr. Speaker, would the gentleman yield for a question?

Mr. DREIER. Mr. Speaker, no. The gentlemen spoke for a nice long period of time. When I get done with my statement, I look forward to engaging with the gentleman. I never hesitate to do that.

Let me say that, Mr. Speaker, I have to ask somewhat rhetorically, Was there a power surge last night or was it a full Moon? Someone has awakened the Franken-Food Monster. The amendments that have been filed last night appear to be nothing more than an all-out embrace of Ralph Naderism. Who has been in the sauce too much? Or maybe they need a little Hamburger Helper.

Last night I thought that the minority was very serious when they said to us that they wanted to have an open amendment process for unlimited debate on this bill. I thought we were going to have a serious debate, a debate on how to stop the economically debilitating effect of frivolous lawsuits concerning obesity. But the amendments that were filed last night are making a mockery of what is a serious issue.

Americans, Mr. Speaker, are eating themselves to death and looking for someone to blame. Obesity and weight control are very serious subjects, very, very serious subjects. I am reminded regularly by Arnold Schwarzenegger about that. And, of course, we have the great model of President Bush, who is probably the fittest President we have ever had. They talk about the fact that there are many factors to weight control and food consumption and health. And, obviously, fitness is numero uno, very, very important.

Suing Burger King is not going to improve anyone's health. Personal responsibility and accountability are what are most important. We cannot have a serious debate, Mr. Speaker, on real issues, one about those who can use the court system for political purposes on whether it is right or wrong to force concessions or financial gain through legal harassment. We are clogging the judicial system with frivolous lawsuits, we are hurting business, we are putting American jobs in jeopardy, and at the same time we are clogging our arteries without considering the consequences. These are real issues that affect Americans' everyday lives.

So I have to ask, Why are these frivolous amendments being filed by the minority? The majority is trying to govern and get the people's business done. And I must ask the minority why is there this fraudulent frolic of frivolous fluff. Is it intended to highlight frivolous lawsuits, or is it merely intended to change the subject?

Let us get the people's work done, unburden businesses so they can create more jobs, and stop this bumper-sticker gamesmanship. I believe that we should withdraw the silliness and we should see those amendments, if they are offered, resoundly defeated.

Mr. MCGOVERN. Mr. Speaker, I thought the gentleman from California was going to yield to me.

Mr. DREIER. Mr. Speaker, I would be happy to yield to the gentleman from Massachusetts (Mr. MCGOVERN) if he would like to pose a question to me.

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

Mr. Speaker, let me ask the question to the gentleman from California (Mr.

DREIER) that I wanted to ask, which was he says this is an open rule, but if a Member is watching this debate right now, either a Democrat or Republican, and comes up with a great idea for an amendment, will that Member be allowed to offer his or her amendment on the floor right now? It is a simple yes or no answer.

Mr. DREIER. Mr. Speaker, the answer is no, not at this moment. Let me say, if the gentleman would continue to yield, let me say that any Member had the opportunity last night to file an amendment.

Mr. MCGOVERN. Mr. Speaker, I reclaim my time.

I also point out again the gentleman (Mr. DREIER) talks about the openness of the Committee on Rules, but let me use his definitions, the definitions of the Republicans when they were in the minority. Under those definitions, this year of the nine rules we have had, one has been open, one has been closed, one was procedural, and there were six restrictive rules. This is hardly any kind of an example.

Mr. DREIER. Mr. Speaker, would the gentleman yield for a question?

Mr. MCGOVERN. Mr. Speaker, I will not. Mr. Speaker, I control the time.

The SPEAKER pro tempore (Mr. REHBERG). The gentlemen reclaims his time.

Mr. MCGOVERN. Mr. Speaker, I will extend the same courtesy to the gentleman that he extended to me.

Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Connecticut (Ms. DELAURO), who has been a champion on the issue of nutrition issues.

Ms. DELAURO. Mr. Speaker, only with this Republican leadership would an effort to promote personal responsibility begin with allowing companies to be irresponsible without accountability. Unless the public be confused that the Republicans are actually concerned with doing something about the obesity epidemic in this country that we have heard so much about, this legislation has little to do with preventing what the Centers for Disease Control yesterday said will be this Nation's leading cause of preventable deaths by next year.

Rather, by shielding manufacturers, distributors, and food sellers from liability, this bill is the next installment in the majority's series of tort reform bills in disguise, attempting to give yet another industry open-ended protection so irresponsible conduct is not punished or held accountable.

But that should not distract us from discussing the very real problem of obesity in this country. Obesity affects nearly 65 percent of adults. The rates are rising. The problem is even more pressing for teens, teenage obesity rates tripling in the last 20 years. All told, obesity costs the Nation $117 billion a year in health care and related costs, the single largest drain or our Nation's health care system.

Obesity leads to diabetes, high blood pressure, coronary heart disease, stroke and arthritis, conditions the CDC says will kill a half million people every year by 2005.

No one here is under the illusion that there is a one-step solution to reducing obesity. With ads encouraging us to eat too much of the wrong kinds of foods, neighborhoods designed for driving and not walking, restaurants serving ever-increasing portion sizes, McDonalds' announcement this week notwithstanding, slowing the obesity epidemic will take a multifaceted effort.

And Congress has an obligation to engage itself in that effort. There are countless other steps we could take that would support Americans' efforts to eat well, maintain a healthy weight, such as getting junk food out of schools, strengthening the Centers for Disease Control nutrition and physical activity division, fully funding CDC's VERB campaign, which promotes physical activity in young people.

With legislation I have introduced, the Meal Education and Labeling Act, we could strike a real blow at frivolous litigation aimed at restaurants and at the same time we can actually do something about obesity. It addresses one of leading causes of the rise in obesity rates and that is the fact that people are eating out more frequently.

Today, we spend about half of our food dollars at restaurants. In 1970, Americans spent just 26 percent of their food dollars on restaurant meals. Children eat almost twice as many calories when they eat at a restaurant as they do when they eat at home.

The Meal Education Labeling Act would extend nutrition labeling beyond packaged foods that you find at your grocery store to include foods at fast-food and other chain restaurants. It would do it by requiring fast-food and chain restaurants, that is, companies with 20 or more restaurants under the same trade name, not mom and pop restaurants, they would have to list calories, saturated plus trans fats, and sodium on printed menus and calories on menu boards. But most importantly, it would give consumers the necessary nutritional information to make healthy choices for themselves.

You might think that Americans do not want to be bothered with additional information they supposedly already know, but the evidence suggests otherwise. Not only do three-quarters of American adults report using the food labels on a regular basis that they find on packaged foods in the grocery stores, but 48 percent say the nutrition information on those labels has caused them to change their minds about what they buy.

Giving people the information that they need to make informed decisions about what they eat is the kind of approach that this body should be taking today in addressing obesity.

We may avoid litigation if we move in this direction. That is a real step toward helping encourage personal responsibility in food consumption. It can be done in a way that protects industry, does not hurt our mom and pop restaurants. Instead, as we have seen countless times before, this majority has chosen again to use a very important public health issue to pursue a narrow and a completely unrelated political agenda.

Mr. Speaker, we should do something about obesity in this country, but this bill is not the way to go about it.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. NEY), the chairman of the Committee on House Administration.

Mr. NEY. Mr. Speaker, I thank my colleague from Texas (Mr. SESSIONS), who has done such a good job on framing the proper type of debate on this rule today and has done a good job on the rule.

Mr. Speaker, I rise today in strong support of House Resolution 552 and the underlying bill itself, H.R. 339, the Personal Responsibility and Food Consumption Act.

As original cosponsor of H.R. 339, I commend the gentleman from Florida (Mr. KELLER) for introducing, I think, a very important piece of legislation and the distinguished chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for working towards its passage.

When this situation occurred, I think it was the first time in New York, and as a parent I can relate to this, it clearly pointed to the fact that a parent could not control their child, could not control how many times they went to a restaurant per day or where they went to, no form of responsibility. So they just ended up going with some plaintiffs' lawyers and they filed a lawsuit.

Now, there are serious issues that have been discussed by both sides of the aisle about obesity and what, in fact, should happen, and exercise. And we can get into those issues. But I believe, Mr. Speaker, firmly, and I said it at the time the day those lawyers ran around and started this with the lawsuits, our judicial system that day was hijacked.

□ 1130

It has been hijacked by greedy, blood-sucking, immoral plaintiffs' attorneys. They have made a ridiculous situation, and they have made the ridiculous the reality. What was once thought of as a hilarity on late-night comedy shows has been brought into mainstream media by absurd frivolous lawsuits.

The situation really is not laughable, though it is scary. These actions are clogging our courts, driving our doctors out of practice, and are killing business growth in our great Nation, if we want to talk about jobs today.

What is the purpose, you may ask? Will they promote social justice or make America safer? The answer is no. These suits are to line the pockets of America's trial bar. Contingency fees

of 40 percent plus court costs leave lawyers enriched and their clients baffled. In big-time class actions, lawyers are hauling in fees that range as high as $30,000 per hour. I guarantee you that their clients are not receiving awards at that same rate.

Now, Mr. Speaker, the same class-action lawyers that have sued other industries are turning towards our restaurant industry, pure and simple. They have held strategy sessions and seminars to hatch their schemes estimating they could reap hundreds of billions of dollars in settlements from the so-called obesity lawsuits.

The lawsuits charge that children are overweight because of cheap fast food and aggressive food marketing by restaurants. But when you look at the underlying fact, it is clear that the American tort system is being exploited once again, pure and simple. Statistics from the National Bureau of Economic Research show that 60 percent of Americans' weight gain over the past 2 decade is attributable to increases in sedentary life-styles.

The American Academy of Pediatrics has found that only 20 percent of children participated in daily physical education programs in 1999, compared to 80 percent in 1969. Nutritional data shows that teen obesity rose 10 percent in 1980 and the year 2000. Teens' caloric intake rose only 1 percent during that time, while their levels of physical activity dropped by 13 percent.

Mr. Speaker, the judicial system is being used by industrious law firms and plaintiffs' lawyers who sue without repercussion. Their strategy is simple: sue until the defendants concede; once the restaurant company settles, the flood gates will open.

As you can tell, I am not an attorney myself, I am a teacher by degree, but I have been around long enough to know that opening the flood gates of litigation is bad news. It is bad news for our courts. It is bad news for our doctors. It is bad news for business. It is ultimately bad news for America.

The restaurant industry employs more than 12 million Americans. Restaurant companies lose just by being forced to defend these types of crazy lawsuits. They are forced to shift precious resources away from expanding their business and creating jobs and towards defending lawsuits solely filed to satisfy the insatiable appetites of the plaintiffs' bar.

Mr. Speaker, it is the Congress's obligation to give American businesses the tools necessary to defend themselves from this type of litigation. There are proper times for lawsuits; I know that. There is a way to work at this. We have to look at exercise and education and responsibility within the restaurant industry and within the American population, period. But these insane and crazy lawsuits are absolutely not the way. I think the gentleman from Florida (Mr. KELLER) has a responsible approach to this problem.

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

Mr. Speaker, all these insane, crazy lawsuits that people are referring to are getting dismissed and the system seems to be working.

We have a real problem and this bill does not address that problem in any way, shape, or form. If anything, this bill says to the restaurant industry and the food industry, you do not have any responsibility, you do not have any responsibility to our kids and the type of products that you try to peddle to them. I think that is the wrong message.

Mr. Speaker, I include in the RECORD an article that appeared in today's Washington Post entitled ''Obesity Passing Smoking As Top Avoidable Cause of Death.''

[From the Washington Post, Mar. 10, 2004]

OBESITY PASSING SMOKING AS TOP AVOIDABLE CAUSE OF DEATH

(By Rob Stein)

America's weight problem is rapidly overtaking cigarette smoking as the leading cause of preventable deaths, federal health officials reported yesterday.

Although tobacco is still the top cause of avoidable deaths, the widespread pattern of physical inactivity combined with unhealthful diets is poised to become No. 1 because of the resulting epidemic of obesity, officials said.

''Obesity is catching up to tobacco as the leading cause of death in America. If this trend continues it will soon overtake tobacco,'' said Julie L. Gerberding, director of the federal Centers for Disease Control and Prevention, which conducted the study.

If current trends continue, obesity will become the leading cause by next year, with the toll surpassing 500,000 deaths annually, rivaling the number of annual deaths from cancer, the researchers found.

''This is a tragedy,'' Gerberding said. ''We are looking at this as a wake-up call.''

Being overweight or obese makes people much more likely to develop a variety of deadly health problems, including diabetes, heart disease and cancer.

In response, the Bush administration announced a new public education program yesterday, including a humorous advertising campaign that encourages Americans to take small steps to lose weight. In addition, the National Institutes of Health proposed an anti-obesity research agenda. Tomorrow, a special task force will present the Food and Drug Administration with recommendations on what that agency can do to help reverse the cresting public health crisis.

''Americans need to understand that overweight and obesity are literally killing us,'' said Health and Human Services Secretary Tommy G. Thompson. ''To know that poor eating habits and inactivity are on the verge of surpassing tobacco use as the leading cause of preventable death in America should motivate all Americans to take action to protect their health.''

Critics, however, immediately denounced the moves as inadequate, saying the administration should take more aggressive steps to encourage more healthful diets, and force the food industry to improve its products and stop advertising junk food to children.

''The government should have been much more aggressive about this much earlier,'' said Kelly Brownell, director of Yale University's Center for Eating and Weight Disorders. ''Even now, the administration defaults to explaining the problem away by individual responsibility and lack of physical activity rather than focusing on the toxic food environment.''

The new estimates of the rising toll of obesity come in the first update of a landmark paper that ranked the nation's preventable causes of death in 1990.

Cigarette smoking, which increases the risk of a host of illnesses including lung cancer, emphysema and heart disease, topped that list. But antismoking campaigns have led to a steady decline in the number of Americans who use tobacco, slowing the rise in the resulting toll of illness and death.

In the new analysis, published in today's Journal of the American Medical Association, Gerberding and her colleagues conducted a comprehensive review of the medical literature to calculate the most precise estimate possible of the risk of dying from all the leading causes of preventable death, including being obese or overweight. They then multiplied that risk by the number of Americans known to be overweight or obese, based on long-term, ongoing national surveys used to track the nation's health, which are the most accurate data available. The result, the researchers said, is the most reliable such estimate to date.

Tobacco still ranked No. 1, accounting for about 435,000 deaths, or 18.1 percent of the total. But poor diet and physical inactivity were close behind and rapidly increasing, causing 400,000 deaths, or 16.6 percent. That represented a dramatic change from 10 years earlier, when tobacco killed 400,000 Americans (19 percent) and poor diet and physical inactivity killed 300,000 (14 percent).

''There's been a big narrowing of the gap,'' said Ali H. Mokdad, who heads the CDC's behavioral research branch. It is particularly striking because the toll of every other leading cause of preventable death—including alcohol, infections, accidents, guns and drugs—steadily decreased over the same period, Mokdad said.

Despite intense public concern, the number of overweight or obese Americans has continued to climb to epidemic proportions. In 1990, about 60 percent of adult Americans were either overweight or obese, including about 20 percent who were obese. By 2000, that number had climbed to 64 percent being obese or overweight, including about 30 percent who were obese.

''Physical inactivity and poor diet is still on the rise. So the mortality will still go up. That's the alarming part—the behavior is still going in the wrong direction,'' Mokdad said.

Experts praised the government for highlighting the worrisome trend and taking countermeasures. But several said the severity of the problem warrants a much more intensive, innovative response.

''If we just count on the American population to change their eating habits and exercise habits, we're going to continue to have obesity,'' said Richard L. Atkinson, president of the American Obesity Association. ''What we're doing is not working.''

The government should consider more innovative strategies than simply encouraging people to eat better and exercise, such as subsidizing the cost of healthful foods such as fresh fruits and vegetables to make it more affordable to eat well.

''Let's start looking at things that make a difference,'' Atkinson said.

The federal government could take much more dramatic action, said Yale's Brownell. The Department of Agriculture ''has the power to get rid of soft drinks and snack foods in the schools, and they're not. The [Federal Trade Commission] could deal with the tidal wave of unhealthy food advertising aimed at children. The government could change agriculture policy to subsidize the industry making healthy foods instead of unhealthy ones,'' he said.

Officials rejected suggestions that the administration take more dramatic steps, such

as requiring food labeling at fast-food restaurants or prohibiting certain sugary, fatty products in schools.

''I don't want to start banning things,'' Thompson said. ''Prohibition has never worked.''

Officials have ''been elated by the response'' of the private sector to promote more healthful lifestyles, Surgeon General Richard H. Carmona said. ''Everything we've seen from the industry has been positive.''

Thompson urged Congress to pass legislation granting tax credits to people who lose weight, and said he has been lobbying health insurers to cut rates for those who lose weight or exercise.

Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. DEFAZIO).

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

I have been intimidated to follow the chairman to the well since he does have impeccable credentials in the area of nutrition. He is the gentleman responsible for renaming French fries and French toast, although, of course, that did not do much for the caloric content of those food items.

But we do have a serious problem in this country; and, unfortunately, this bill and this debate will not rise to that issue. The statistics show an alarming increase in obesity among adults and, most alarmingly, an extraordinary increase in our youth. This can and will lead to real health problems. Those were talked about previously.

So we have a real problem. This could become a crisis and the question is, Why are we here today? Is there a crisis in litigation? Yes, there have been a few flaky lawsuits filed that have been dismissed, including one being dismissed with prejudice, something judges do not do routinely.

I think the majority is demeaning the intelligence of our juries, of the Americans who will sit there and cast judgment on their peers and say, no, have a little self-control; they did not make you eat that food. That is what the juries and judges have said so far, and I think they will continue to say.

But beyond that, they have said fitness and health cannot be legislated. Well, they might remember a former Republican who had a little more productive idea about this, Dwight David Eisenhower. He brought about the Presidential Fitness Program in the 1950s, mandatory physical education in all the schools in America because of concerns of so many males failing the physical for the draft in World War II and Korea. That was mandated when I was a kid growing up, and then sports were free.

What do we have today? Most States, many States no longer have mandatory physical education. They say they cannot afford it. In my State, kids have to pay to play sports. So many of them do not do it.

What we could do a lot more productively here today on the floor would be to consider legislation to add a little amendment to the so-called No Child Left Behind bill that would help our States, our local school districts reinstate or mandate that they reinstate physical education; but since it will be a Federal mandate, give them some help with the Federal mandate, something that the majority party has failed to do with No Child Left Behind and other mandates here in the Congress.

But let us send down a rule: we will have physical fitness. It will be mandatory. We will have kids able to play sports without having to pay and the Federal Government seeing that being in the national interest to avoid a crisis in health care caused by preventable illness, caused by obesity, we are going to take those steps. But that is not an amendment that would be allowed to this bill; that is not the subject here today. Instead, we will hear little funny speeches on that side where people will link together alliterations, as did the esteemed chairman of the committee, not dealing with the real problem.

Here we are. We will be done early today. Do not have a highway bill. Do not have extended unemployment benefits. We cannot even get labels on our food that are meaningful for country of origin. Congress is being defied by the administration. Do we have time for those real issues? No, but we have time for this little frolic.

This is a pretty sad day in the House of Representatives. Let us deal with this real problem and deal with it seriously and appropriately.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Orlando, Florida (Mr. KELLER), the original sponsor of the bill.

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

I support the rule, and I support the bill as well. I wanted to briefly just touch on three issues. First, a little bit about the bill's substance; second, I want to talk about the process which led up to this fair rule; and, third, just to touch on the childhood obesity issue which recently has been raised by my colleagues on the other side of the aisle.

First, in terms of the bill's substance, the gist of this legislation is that there should be common sense in the food court, not blaming other people in the legal court. We need to get back to the old-fashioned principles of common sense and personal responsibility and get away from this new culture where everybody plays the victim and tries to blame others for their problems.

Now, I have heard from some of the other speakers that this is a frolic; this is just a waste of time. We should be talking about jobs. Well, it is interesting to me because we are talking about protecting the single largest private sector employer in the United States that provides 12 million jobs. Why do these people pretend to love jobs yet hate the employers who create these jobs? It defies common sense as much as their opposition to this bill.

Now, let us talk about the process a little bit. I support this rule, an open modified rule; and let me tell you a little bit about the background here. It is true based on an independent Gallup poll that nearly nine in 10 Americans oppose holding the fast-food industry legally responsible for the diet-related health problems of people who eat that kind of food on a regular basis. Interestingly, overweight people oppose this just like skinny people do; Republicans just like Democrats do. The country overwhelmingly, 89 percent, opposes these types of lawsuits.

Yet, nevertheless, every step of the way we have given this small percent of the people and their representatives who think it is a good idea the opportunity to have their fair say. We had a hearing on this bill and allowed the minority to call witnesses that they wanted. What witness did they call? What guy did they think most helped them? They called a man named John Banzhaf who said, ''Somewhere there is going to be a judge and a jury that will buy this, and once we get the first verdict as we did with tobacco, it will open up the flood gates.'' That is who they called.

So when we talk about opening up the flood gates, that this is a problem, and then they come today and say, it is not a problem, what are we doing here? There is no problem. Yet their own witnesses tell us they want to open up the flood gates. But they had their hearing. We then had a mark-up. We let them offer any amendments they wanted to. The amendments were shot down.

After the mark-up, we then moved it to the floor. I appeared before the Committee on Rules. I did not say I wanted a closed ruled or anything. I said, I trust the Committee on Rules to fashion the appropriate rule, and they gave them this open rule that any Member of 435 can offer something provided it is preprinted in the RECORD. So we have been pretty fair about the process here, especially given the fact that their opposition has so little support among the American people.

Third, let me address the issue of childhood obesity. Childhood obesity is a very serious problem in this country. In the past 30 years the childhood obesity rates have doubled. Why is that? Well, I do not stand before you in the well of Congress and hold myself out as the world's leading expert in fitness and health. But I did have the happy privilege of questioning Dr. Kenneth Cooper on February 12 of this year, who appeared before the Committee on Education and the Workforce who is the father of the aerobics movement, and nobody is more well respected. This is what he said: ''Thirty years ago did kids come home from school and eat potato chips and cup cakes and cookies? They absolutely did, just like they do today. The difference is they then went out and rode their bikes and played with their friends and did all other sorts of things.'' Nowadays, he said, those same kids come home from

school and sit on the couch and play video games and watch TV. He told us the average child spends only 900 hours a year in school and 1,023 hours in front of that TV set playing video games or watching TV.

Meanwhile, we now have only one State in the country, Illinois, that mandates physical education programs. I asked Dr. Kenneth Cooper, Do you think these lawsuits against the fast-food companies are going to make anyone skinnier? He said, absolutely not. Is it going to help to put a tax on Twinkies? Is that going to make people skinnier? Absolutely not. What is the answer? He told us the answer is personal responsibility and getting young people involved in daily physical activity. That is the kind of commonsense approach that most people in this country can relate to.

I urge my colleagues to support the rule and support the bill. They are both very fair.

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

Mr. Speaker, I appreciate the gentleman's comments, but I would just say that what his bill does is it protects an industry that does not need to be protected at this particular point. We are dealing with a problem that does not exist. The problem that does exist is that we do have a problem with obesity in this country. This bill does nothing to deal with that issue. If anything, what it does is it tells the fast-food industry, you have no responsibility to our kids. You can do whatever you want to do. And that is the wrong message we want to be sending at this particular point.

I also want to correct the gentleman on one other thing. He referred a couple of times to this rule as an open rule. This is not an open rule. This is not an open rule. And by the definition taken by the Republicans when they were in the minority, they said any rule that is not considered under a completely open process is considered restrictive, and this is not a completely open process. They further said that these rules are the rules that limit the number of amendments that can be offered and include the so-called modified open and modified closed, as well as completely closed, rules.

This is not an open rule. The Republican majority when they came into power said they were committed to an open process. They have given us anything but an open process. And the question that I asked the distinguished chairman of the Committee on Rules still stands. If a Member is watching this debate and scratching their head, why are we debating such a trivial matter when we have so many other issues to deal with that really do impact the American people very directly, and they wanted to come down here right now and offer an amendment, they would be unable to under this restrictive process that the Republicans on the Committee on Rules have given us today.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank the distinguished Member from the Committee on Rules for yielding me time.

Mr. Speaker, I rise today urging my colleagues to oppose this rule and reject the Personal Responsibility in Food Consumption Act.

I think this is a trivial bill about obesity lawsuits that have not resulted in a cent in damages against anyone. So this is not about fixing something that is broken. This is pursuing something that, most frankly, does not exist. In something that refers to the food industry, it is an old quote, an old hamburger ad, ''Where's the beef?''

There are more pressing issues for us to tackle, particularly regarding food safety.

□ 1145

I want to direct my comments to this area of food safety, and I want to talk about lawsuits that have consequences and very serious consequences.

Meat processors have sued the USDA to block the enforcement of food safety standards that are designed to protect the public from pathogens like e-coli and salmonella. The processors have either won or forced the government to settle these cases, and our food safety system has been terribly weakened. One of the processors failing to meet basic standards on three separate occasions was able to continue to sell meat for use in school lunches.

To fight the impact of these cases, I have introduced a bill called Kevin's Law, named in memory of a 2½-year-old boy named Kevin Kowalcyk who died from e-coli poisoning in 2001.

Kevin's law makes it clear that the USDA can set and enforce food safety standards for deadly pathogens. This is not radical policy. This is something that is supported by the National Academy of Sciences, and this legislation has bipartisan support in both the House and the Senate.

I thank my colleagues the gentleman from Pennsylvania (Mr. ENGLISH) and the gentlewoman from Pennsylvania (Ms. HART) and Senators HARKIN and SPECTER for cosponsoring and supporting this legislation. It is something the Congress should be advancing on.

Mr. Speaker, 5,000 Americans die from food-borne illnesses every year in our country. The lawsuits this bill seeks to stop have not harmed anyone. In fact, as I said earlier and others have mentioned, this is about pursuing something that does not even exist. When we juxtapose what is taking place here on the floor today and what I described that threatens Americans today where 5,000 Americans die from food-borne illnesses, this is what we really should be pursuing.

The American people would support that path to eliminate these pathogens that are actually taking American lives. So if we are talking about ending destructive lawsuits, the House should be debating Kevin's Law to put some teeth into our food safety system.

If there is something that the American people I think have taken for granted are our very, very high standards in terms of food safety, but they do not necessarily exist any longer. So I urge my colleagues to defeat this rule and reject the underlying bill.

Mr. SESSIONS. Mr. Speaker, I would like to notify my colleague that we do not have any further speakers at this time, and I would entertain him to please feel free to run down that time and then I will choose to close.

Mr. MCGOVERN. Mr. Speaker, I will close the debate on our side, and I yield myself such time as I may consume.

(Mr. MCGOVERN asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. MCGOVERN. Mr. Speaker, first, I will enter into the RECORD a letter from the Center for Science in the Public Interest opposing H.R. 339.

CENTER FOR SCIENCE IN THE PUBLIC INTEREST,
*Washington, DC, June 18, 2003.*

Re hearing on H.R. 339.

Hon. CHRIS CANNON,
*Chairman, Subcommittee on Commercial and Administrative Law Committee on the Judiciary, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN CANNON: On behalf of our 700,000 members in the United States, I request that you make this letter part of the record of the June 19, 2003 hearing on H.R. 339, The Personal Responsibility in Food Consumption Act.

The Center for Science in the Public Interest (''CSPI'') strongly opposes H.R. 339. Despite its stated purpose of banning frivolous lawsuits, H.R. 339 bans any lawsuit against a manufacturer, distributor, or seller of a food or a non-alcoholic beverage ''unless the plaintiff proves that, at the time of sale, the product was not in compliance with applicable statutory and regulatory requirements.''

H.R. 339 ignores the fact that both legislatures and administrative agencies frequently are too busy to enact specific standards dealing with a particular food safety or nutrition problem, and so the victims must turn to the courts for help. Meritorious lawsuits can, of course, spur the food industry to improve its practices.

Both Congress and state legislatures, recognizing their inability to deal with the myriad of food safety and nutrition problems, have delegated regulatory responsibilities to specific agencies. Congress, for example, has delegated regulatory responsibility over food to the Food and Drug Administration (''FDA''), the Department of Agriculture, and the Environmental Protection Agency.

However, these agencies, like their state counterparts, do not have enough resources to promptly address all the new concerns about food safety and nutrition. For example, in February 1994 CSPI petitioned the FDA to require the disclosure of trans fatty acids on packaged foods. More than five years later, in November 1999, the FDA published a proposed regulation in response to our petition. The FDA still has not issued a final rule, although FDA Commissioner Mark McClellan has said that a final rule, requiring the disclosure of the amount of trans in packaged foods, will be announced in the near future.

In conclusion, H.R. 339 should be rejected because lawsuits can play a valuable role in

protecting consumers by filling the interstices in legislative and regulatory requirements.

Sincerely,

MICHAEL F. JACOBSON, PH.D.,
*Executive Director.*

Let me conclude my remarks by again expressing my concern, first of all, over the rule because this is a restrictive rule, and what I have been trying to find out from the chairman of the Committee on Rules, and maybe the gentleman from Texas may be able to enlighten me on this, is the wave of the future, no more completely open rules? Are we now going to be forced to deal with restrictive rules on every bill that we now deal with?

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

Mr. MCGOVERN. I yield to the gentleman from Texas.

Mr. SESSIONS. Mr. Speaker, I believe we had an open rule last week.

Mr. MCGOVERN. We have had one open rule out of, I think, nine, but I mean, it seems that now we are being required to preprint all our amendments in advance, which by my colleagues' own definition is a restrictive rule. Is that the wave of the future?

Mr. SESSIONS. I thank the gentleman for allowing me to respond. The Committee on Rules, when we file the rule and when we prepare these documents ahead of time, we notify every Member of Congress of our intent to have a meeting at the Committee on Rules to consider a subject. We ask them to please preprint those things that would be necessary. We ask every Member to please work with legislative staff who would help in preparing those documents to make sure that they are in order, would be made in order under the rule, under the rules of this House, and we believe we are trying to do things to move legislation forward, allow time just as we have done here, notify people ahead of time.

One of the things about this process is that for years and years the House has worked off Jeffersonian rules. We have a Speaker who is up here. We have a parliamentarian. We have people who make decisions about what is right and what is wrong and what is fair and what is not, and we believe what we have done here today from March 4 was said here on the floor of the House, all Members of Congress——

Mr. MCGOVERN. Mr. Speaker, reclaiming my time, I appreciate the answer. I guess the question that I asked to the chairman of the Committee on Rules, and I will ask the gentleman from Texas, if a Member of either party is watching this debate and would like to offer an amendment based on something that they have heard here today, do they have the right to come to the floor and offer an amendment at this particular point?

Mr. SESSIONS. Mr. Speaker, if the gentleman would yield, the answer is no.

Mr. MCGOVERN. Okay. So, again, it kind of makes my point of the restrictive nature of this process, and I raise this issue because I hope that this is not going to be a trend where Members are going to be restricted.

Again, it is not just something the Democrats feel passionately about. Again, I have been reading quotes from Republicans over the years who feel very passionately about the importance of not having preprinting requirements because they believe that that constitutes a restrictive rule. So I think that there is a bipartisan consensus here that we should move away from restricting debate and restricting what can be offered and opening up this process on controversial bills and on noncontroversial bills. That is the only point I would make to the gentleman.

With regard to the bill that we are talking about here today, I will again say that I regret that we are dealing with this particular bill today because it does not address any real problem. This is a bill that corrects a problem that does not exist. These lawsuits that people are complaining about with regard to obesity and the fast food industry are being routinely dismissed. This is not a problem.

The problem is obesity. The problem we should be talking about here is how to make sure that our kids get more nutritious foods. The issue that we need to be dealing with here is how to make sure that the Federal programs that provide breakfasts and lunches to our children in schools meet proper nutrition guidelines.

The issue we should be talking about is better labeling, informing the public in a better way about what, in fact, they are eating. We should be encouraging more corporate responsibility by the fast food industry, and that is not being debated here. In fact, what we are trying to do is we are sending the exact opposite signal to the fast food industry.

We should be encouraging more physical fitness programs in our schools and so that our young people can take advantage of them, and we should also be having a discussion on this floor about the issue of hunger, which is relevant to this issue of obesity.

As I pointed out in my opening statement, people who have precious little resources tend to buy things that are high in calories, that are not nutritious, and there is a relationship between hunger and obesity, and it is something we never even talk about on the floor of this House.

But then we bring this bill to the floor. We bring this bill to the floor, and we are telling the people who are watching here today that we are addressing a huge problem out there, a problem that does not exist, and we are bringing this bill up today and we are only in for a couple of days, notwithstanding the fact that we are not dealing with the issue of extending unemployment benefits to those workers who are unemployed, which is a national disgrace.

I do not know how people can come here and appear on the House floor with a straight face having not dealt with that issue. I know the gentleman from Texas' (Mr. SESSIONS) district, like my district, includes a number of people who are out of work, who have run out of their unemployment benefits, who are desperately trying to figure out how to make ends meet, put food on their table and pay their bills, and they are looking to us to help them out, to provide them a bridge until they can get a job. We are not doing anything here, and we should be ashamed of that fact.

The gentleman from Oregon mentioned the transportation bill that is kind of languishing in committee. That will put people to work, but we are not dealing with that. We are not dealing with the issue of those who do not have health insurance. We are not dealing with anything that matters to anybody, and here we are again dealing with an issue that really is trivial. This place is becoming a Congress where trivial issues are debated passionately and important ones not at all.

So, for a whole bunch of reasons, I oppose the rule because it is restrictive, and I oppose this bill because it is silly. We should not be dealing with this today. We should be dealing with something important.

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

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

(Mr. SESSIONS asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. SESSIONS. Mr. Speaker, this House has, in the 8 years I have served in it had debate after debate, hours on the floor, to make sure that we discuss the issues that are of relevance and important to the American public, but these same things also take place, the debates, in our committee system, and committees hold hearings. Committees go around the country to hear testimony from people about issues like obesity, like prescription drugs, like health care, that are important to the American public and to our health and to our safety.

Mr. Speaker, these issues about obesity and about what the answer would be, we hear from the trial lawyers that they want to open up the floodgates, and we hear from people who are engaged from the nutritional side talking about how better labeling would be good or how food that is served to our children should be leaner and have less fat. We have heard from people like Dr. Kenneth Cooper from Dallas, Texas, talk about how our children need more physical fitness and to be more active. All of these things have contributed to a part of what this bill is about.

Mr. Speaker, I will include in the RECORD at this point the testimony of Dr. Gerard Musante, who is the founder of the Structure House, before the Senate Subcommittee on Administrative Oversight and the Courts on October 16.

TESTIMONY OF DR. GERARD MUSANTE

Good afternoon, Chairman Sessions and Honorable members of the Subcommittee on Administrative Oversight and the Courts. I am Dr. Gerard J. Musante and I appreciate the opportunity to appear before you today. I have been called here to share my expertise and educated opinion on the importance of personal responsibility in food consumption in the United States. This lesson is one I have been learning about and teaching for more than 30 years to those who battle moderate to morbid obesity—a lesson that emphasizes the criticality of taking responsibility for one's own food choices. I am testifying before you today because I am concerned about the direction in which today's obesity discourse is headed. We cannot continue to blame any one industry or any one restaurant for the nation's obesity epidemic. Instead, we must work together as a nation to address this complex issue, and the first step is to put the responsibility back into the hands of individuals.

As a clinical psychologist with training at Duke University Medical Center and The University of Tennessee, I have worked for more than 30 years with thousands of obese patients. I have dedicated my career to helping Americans fight obesity. My personal road, which included the loss and maintenance of 50 of my own pounds, began when I undertook the study of obesity as a faculty member in the Department of Psychiatry at Duke University Medical Center. There, I began developing an evidenced-based, cognitive-behavioral approach to weight loss and lifestyle change. I continue to serve Duke University Medical Center as a Consulting Professor in the Department of Psychiatry. Since the early 1970's, I have published research studies on obesity and have made presentations at conferences regarding obesity and the psychological aspects of weight management. Today, I continue my work at Structure House—a residential weight loss facility in Durham, North Carolina—where participants come from around the country and the world to learn about managing their relationship with food. Participants lose significant amounts of weight while both improving various medical parameters and learning how to control and take responsibility for their own food choices. Our significant experience at Structure House has provided us with a unique understanding of the national obesity epidemic.

Some of the lessons I teach my patients are examples of how we can encourage Americans to take personal responsibility for health and weight maintenance. As I tell my participants, managing a healthy lifestyle and a healthy weight certainly are not easy to do. Controlling an obesity or weight problem takes steadfast dedication, training and self-awareness. Therefore, I give my patients the tools they need to eventually make healthy food choices as we best know it. Nutrition classes, psychological understanding of their relationship with food, physical fitness training and education are tools that Structure House participants learn, enabling them to make sensible food choices. As you know, the obesity rates in this country are alarming. The Centers for Disease Control and Prevention have recognized obesity and general lack of physical fitness as the nation's fastest-growing health threat. Approximately 127 million adults in the United States are overweight, 60 million are obese and 9 million are severely obese. The country's childhood obesity rates are on a similar course to its adult rates, as well as increases in type II diabetes. Fortunately Americans are finally recognizing the problem. Unfortunately, many are taking the wrong approaches to combating this issue.

Lawsuits are pointing fingers at the food industry in an attempt to curb the nation's obesity epidemic. These lawsuits do nothing but enable consumers to feel powerless in a battle for maintaining one's own personal health. The truth is, we as consumers have control over the food choices we make, and we must issue our better judgment when making these decisions. Negative lifestyle choices cause obesity, not a trip to a fast food restaurant or a cookie high in trans fat. Certainly we live in a litigious society. Our understanding of psychological issues tells us that when people feel frustrated and powerless, they lash out and seek reasons for their perceived failure. They feel the victim and look for the deep pockets to pay. Unfortunately, this has become part of our culture, but the issue is far too comprehensive to lay blame on any single food marketer or manufacturer. These industries should not be demonized for providing goods and services demanded by our society.

Rather than assigning blame, we need to work together toward dealing effectively with obesity on a national level. Furthermore, if we were to start with one industry, where would we stop? For example, a recent article in the Harvard Law Review suggests that there is a link between obesity and ''preference manipulation,'' which means advertising. Should we consider suing the field of advertising next? Should we do away with all advertising and all food commercials at half time? We need to understand that this is a multi-faceted problem and there are many influences that play a part. While our parents, our environment, social and psychological factors all impact our food choices, can we blame them for our own poor decisions as it relates to our personal health and weight? For example, a recent study presented at the American Psychological Association conference showed that when parents change how the whole family eats and offer children wholesome rewards for not being couch potatoes, obese children shed pounds quickly. Should we bring lawsuits against parents that don't provide this proper direction? Similarly, Brigham and Women's Hospital in Boston recently reported in ''Pediatrics'' that children who diet may actually gain weight in the long run, perhaps because of metabolic changes, but also likely because they resort to binge eating as a result of the dieting. Do we sue the parent for permitting their children to diet?

From an environmental standpoint, there are still more outside influences that could be erroneously blamed for the nation's obesity epidemic. The Center for Disease Control has found that there is a direct correlation between television watching and obesity among children. The more TV watched, the more likely the children would be overweight. Should we sue the television industry, the networks, cable, the television manufacturers or the parents that permit this? And now we have internet surfing and computer games. Where does it stop? School systems are eliminating required physical education—are we to also sue the school systems that do not require these courses?

Throw social influences into the mix and we have a whole new set of causes for obesity. Another recent study in ''Appetite'' indicated that social norms can affect quantitative ratings of internal states such as hunger. This means that other people's hunger levels around us can affect our own eating habits. Are we to blame the individuals who are eating in our presence for our own weight problems? As evidenced in these studies, we cannot blame any one influencing factor for the obesity epidemic that plagues our nation. Through working with obese patients, I have learned that the worst thing one can do is to blame an outside force to get themselves ''off the hook,'' to say it's not their fault, and that they are a victim. To do this can bring about feelings of helplessness and then resignation. Directing blame or causality outside of oneself allows the individual not to accept responsibility and perhaps even to feel helpless and hopeless. ''The dog ate my homework'' and ''the devil made me do it'' allows the individual not to take serious steps toward correction because they believe these steps are not within their power. We must take personal responsibility for our choices.

What does it mean to take personal responsibility for food consumption? it means making food choices that are not detrimental to your health, and not blaming others for the choices we make. Ultimately, Americans generally become obese by taking in more calories than they expend. But certainly there are an increasing number of reasons why Americans are doing so producing rising obesity rates. Some individuals lack self-awareness and overindulge in food ever more so because of psychological reasons. Others do not devote enough time to physical activity, which becomes increasingly difficult to do in our society. Others lack education or awareness as it relates to nutrition and/or physical activity particularly in view of lessened exposure to this information. And still others may have a more efficient metabolism or hormonal deficiencies. In short, honorable members of the Subcommittee, there is yet much to learn about this problem.

Congress has rightly recognized the danger of allowing Americans to continue blaming others for the obesity epidemic. It is imperative that we prevent lawsuits from being filed against any industry for answering consumer demands. The fact that we are addressing the issue here today is a step in the right direction. No industry is to blame and should not be charged with solving America's obesity problem.

Rather than pointing fingers, we should be working together on a national level to address the importance of personal responsibility in food consumption. The people who come to Structure House have a unique opportunity to learn these lessons, but they are only a select few. These lessons need to be encouraged on a national level, from an early age—in schools, homes and through national legislation that prevents passing this responsibility onto the food or other related industries. In closing, I'd like to highlight the fact that personal responsibility is one of the key components that I teach my patients in their battle against obesity. This approach has allowed me to empower more than 10,000 Americans to embrace improved health. I urge you to consider how this type of approach could affect the obesity epidemic on a national level. By encouraging Americans to take personal responsibility for their health by limiting frivolous lawsuits against the food industry, we can put the power back into the hands of the consumers. This is a critical first step on the road toward addressing our nation's complex obesity epidemic.

For years, I have seen presidents call for ''economic summits.'' I urge that we consider an ''obesity summit.'' Let me suggest instead of demonizing industries that we bring everyone to the table—representatives in the health care industry, advertising, restaurants, Hollywood, school systems, parent groups, the soft drink industry, and the bottling industry. Instead of squandering resources in defending needless lawsuits by pointing fingers, let's make everyone part of the solution. Let us encourage a national obesity summit where all the players are asked to come to the table and pledge their considerable resources toward creating a national mind set toward solving this problem.

That would be in the interest of the American people.

I feel privileged to be a part of the Subcommittee's efforts. I want to thank you for allowing me to testify here before you today and I will now be glad to answer any questions.

Mr. Speaker, let me tell my colleagues what he said. He is a gentleman who has worked for 30 years on obesity in this country, and he said, ''Through working with obese patients, I have learned that the worst thing one can do is to blame an outside force to get themselves 'off the hook,' to say it's not their fault, and that they are a victim. Congress has rightly recognized the danger of allowing Americans to continue blaming others for the obesity epidemic. It is imperative that we prevent lawsuits from being filed against any industry for answering consumer demands. The fact that we are addressing the issue here today is a step in the right direction.''

Mr. Speaker, I will tell my colleagues that the Republican House and the Republican Senate are addressing the issues. We are doing those things that not only Members find of interest to people back home, but also in the interest of what is the right thing for America to do.

I feel like what we are doing today is right in line with what all 50 States have and that is a law that says we will not take these fast food restaurants to task, to go and have a lawsuit against them, and the Federal Government, we, as members of Congress, are going to affirm that, to avoid a problem before it becomes one. We have been warned about the problems. We are trying to do aggressive things and the right thing for it.

I support this rule. I support this underlying legislation, and I think that it will win overwhelmingly because this is the best answer.

Mr. HASTINGS of Florida. Mr. Speaker, we are fat. America is the fattest nation on the planet and getting fatter all the time. It is estimated that as many as one in five Americans is obese, a condition defined as being more than 30 percent above the ideal weight based on height.

Being overweight and obese in the United States occurs at higher rates in racial and ethnic minority populations, such as African Americans and Hispanic Americans, compared with White Americans. Persons of low socioeconomic status within minority populations appear to be particularly affected by being overweight and obese. Also, according to the surgeon general, women of lower socioeconomic status are about 50 percent more likely to be obese than their better-off counterparts.

Obesity is fast becoming our most serious public health problem. Indeed, obesity is linked to disease such as type-2 diabetes, heart disease and certain types of cancer. An estimated 300,000 Americans die each year from fat-related causes, and we spent $117 billion in obesity-related economic costs just last year, according to U.S. Surgeon General David Satcher.

Congress should consider comprehensive legislation aimed at America's obesity epidemic. Instead, Mr. Speaker, here I stand debating a closed rule for a bill that pre-determines that in no plausible circumstance do food companies bear responsibility for their acts.

This bill is so overbroad that it provides immunity even where most would think liability is appropriate.

For instance, as an observant Hindu, Mr. Sharma considers cows sacred. Not surprisingly, Brij Sharma did not eat at fast food restaurants. But in 1990, when McDonald's announced that it was switching from beef fat to ''100 percent vegetable oil'' to cook its French fries, Mr. Sharma began going to the fast food chain to eat what he believed were vegetarian fries.

Imagine Mr. Sharma's terror when he read in a newspaper the following heading, ''Where's the beef? It's in your french fries.'' He was outraged to learn that McDonald's french fries are seasoned in the factory with beef flavoring before they are sent to the restaurants to be cooked in vegetable oil.

McDonald's has apologized, admitted wrongdoing and agreed to pay more than $10 million to charities chosen by vegetarian and Hindus plaintiffs. Is it not preposterous that this bill would bail out the fast food industry from liability for wrongdoing such as this? Of course it is.

In addition, this bill is an unnecessary, premature, overly broad affront to our judicial system and to our system of federalism. Congress is preemptively taking away the ability of judges and jurors to consider the particular facts and evidence of cases, and a plaintiff's ability to have his or her day in court.

Mr. Speaker, regardless of one's position on the merits of lawsuits against the industry, the line drawn between the responsibility of an individual end and society's start should be answered by judges and juries, and not by legislators in the pockets of campaign contributors.

This incredibly large portion of legislative junk food, being served to feed Republican special interests, is as unhealthy as the industry it attempts to protect.

I urge my colleagues to oppose this ill-conceived legislation.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

RECORD votes on postponed questions will be taken later today.

## STATE JUSTICE INSTITUTE REAUTHORIZATION ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2714) to reauthorize the State Justice Institute, as amended.

The Clerk read as follows:

H.R. 2714

*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 ''State Justice Institute Reauthorization Act of 2004''.

**SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

Section 215 of the State Justice Institute Act of 1984 (42 U.S.C. 10713) is amended to read as follows:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 215. There are authorized to be appropriated to carry out the purposes of this title, $7,000,000 for each of fiscal years 2005, 2006, 2007, and 2008. Amounts appropriated for each such year are to remain available until expended.''.

**SEC. 3. TECHNICAL AMENDMENTS.**

(a) STATUS OF INSTITUTE.—Section 205(c) of the State Justice Institute Act of 1984 (42 U.S.C. 10704(c)) is amended by adding at the end the following new paragraph:

''(3) The Institute may purchase goods and services from the General Services Administration in order to carry out its functions.''.

(b) STATUS AS OFFICERS AND EMPLOYEES OF THE UNITED STATES.—Section 205(d)(2) of the State Justice Institute Act of 1984 (42 U.S.C. 10704(d)(2)) is amended by inserting '', notwithstanding section 8914 of such title'' after ''(relating to health insurance)''.

(c) MEETINGS.—Section 204(j) of the State Justice Institute Act of 1984 (42 U.S.C. 10703(j)) is amended by inserting ''(on any occasion on which that committee has been delegated the authority to act on behalf of the Board)'' after ''executive committee of the Board''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

□ 1200

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2714, the bill currently under consideration.

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

There was no objection.

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

Mr. Speaker, Congress established the State Justice Institute as a private nonprofit corporation in 1984. Its purpose is to improve judicial administration in the State courts. SJI accomplishes this goal by providing funds to State courts and to other national organizations or nonprofits that support State courts. SJI also fosters cooperation with the Federal judiciary in areas of mutual concern.

Pursuant to oversight legislation passed in the previous Congress, the

Attorney General, in consultation with the Federal Judicial Center, conducted review of the SJI operations and reported its findings to Congress late last year. The results are encouraging. The Attorney General noted that the Institute has been effective and has complied with its statutory mission, and observed that support for State court innovation and improvement is a Federal interest.

Mr. Speaker, based upon the beneficial work SJI has done, I believe it should be afforded a congressional reauthorization, and that is the purpose of this bill. More specifically, section 2 of the bill authorizes $7 million annually for SJI operations over a 4-year cycle. Appropriated funds under section 2 are to remain available until expended. The last two bills reauthorizing the Institute contain such language which reflects the reality that no grant agency can fully expend all of its funds in the year of appropriation.

In addition, section 3 of the bill authorized the Institute to purchase goods and services from the General Services Administration. Because SJI is not a Federal agency, it is not legally authorized to procure goods and services from the GSA. In some instances, this exclusion can create unnecessary hardship. To illustrate, SJI was recently denied the ability to purchase GSA storage boxes to transfer its records to the National Archives.

Mr. Speaker, in sum, the bill represents a modest authorization for a small but important organization that assists our State court systems. I urge my colleagues to support this bill.

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

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

Mr. Speaker, I rise in support of H.R. 2714, the State Justice Institute Reauthorization Act. As the title indicates, H.R. 2714 reauthorizes the State Justice Institute, SJI. Reauthorization is necessary because Congress last enacted an SJI authorization bill in 1992 for a 4-year authorization period that expired in fiscal year 1996. While the Committee on Appropriations has continued to appropriate $7 million annually for SJI, Congress should also ensure that SJI has the necessary authorization to perform its important work.

Congress created the SJI in 1984 to provide funds to improve the quality of justice in State courts. Congress also directed the SJI to facilitate enhanced coordination between State and Federal courts and develop solutions to common problems faced by all courts. It appears that the SJI has made considerable progress in pursuit of these objectives.

Since becoming operational in 1987, the institute has awarded more than $125 million in grants to support over 1,000 projects. Another $40 million in matching requirements has been generated from other public and private funding sources. SJI is necessary because State court judges and other advocates have historically been weak at restoring resources, especially at the Federal level, from the Department of Justice. Most of the resources they receive at the State level are devoted for personnel and courthouse construction and maintenance, not the educational programs that SJI provides. About one-third of all SJI grants are devoted to educating State judges on how to improve the operations of their courts. The remaining grants are devoted to technology projects such as systems to improve recordkeeping, document imaging, et cetera.

The authorizing statute provides for regular audits of the SJI. The Institute conducts its own oversight of grantees, and the practice of allowing a grantee to draw money for a project only on a monthly or quarterly basis allows SJI to cancel mismanaged projects.

All familiar with the SJI appear to agree it performs worthy work. Federal judges, including Chief Judge Boggs of the 6th Circuit, have contacted me to laud the work of the SJI, and in particular, the educational programs it runs for judges.

The Attorney General gave high marks to the SJI in a November 2002 report which specifically noted that the Institute has been effective, has complied with its statutory mission, and observes that some degree of support for State court innovation and improvement is a Federal interest. It is evident that the SJI deserves reauthorization, H.R. 2714 will do this. I urge my colleagues to support it today.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. SMITH).

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

Mr. Speaker, this legislation will reauthorize the State Justice Institute, which is a nonprofit corporation created in 1994 to provide grants and other funding to help State courts improve their systems.

According to the Institute's mission statement, ''Since becoming operational in 1987, SJI has awarded over $120 million to support more than 1,000 projects benefiting the Nation's judicial system and the public it serves. The Institute is unique both in its mission and how it seeks to fulfill it.''

The SJI provides funding for programs which help improve access to the courts. It trains and assists courts in child custody, domestic violence, juvenile crime, and sexual assault cases. The SJI also works to create the use of technology in the courtroom, as well as create reforms to reduce the amount of time and money associated with litigation.

By reauthorizing the State Justice Institute, we will provide them with $7 million each year for the next 4 years. This money helps Americans have access to a more effective and efficient court system. The State Justice Institute has been successful in its efforts. We should make sure they are able to continue their good work, and this bill will do just that. I urge my colleagues to support it.

Mr. SCHIFF. Mr. Speaker, I rise today in support of H.R. 2714, the State Justice Institute Reauthorization Act—legislation to reauthorize appropriations for the State Justice Institute through FY 2008.

Founded by Congress more than a decade ago, the State Justice Institute (SJI) was established to support efforts to improve the quality of justice in State courts, facilitate better coordination between State and Federal courts, and foster innovative, efficient solutions to common problems faced by all courts. About one-third of all SJI grants are devoted to educating state judges on how to improve the operations of their courts. The remaining grants are devoted to technology projects such as efforts to improve recordkeeping.

The Chief Justice of the California Supreme Court, Ronald M. George, has relayed to me the important work done by the State Justice Institute, and I know his views are shared by a great many of the nation's top judges. In a 2002 report, the Attorney General of the United States also noted that the Institute has been effective and has complied with its statutory mission. In addition, he observed that support for state court innovation and improvement is a federal interest.

As a Co-Chair of the bipartisan Congressional Caucus on the Judicial Branch, I recognize the importance of working in Congress to ensure that we maintain a strong and vibrant court system in our country.

The last time that Congress reauthorized the State Justice Institute was in 1992. In the interim, the Appropriations Committee has continued to fund the important work of the Institute, and I have urged appropriators to support such funding to allow the Institute to continue its fine work. It is now time for Congress to act and to reauthorize this important program that will continue to improve the administration of justice in our courts.

Ms. JACKSON LEE of Texas. Mr. Speaker, I rise in support of H.R. 2714, the State Justice Institute Reauthorization Act of 2003. I worked with my colleagues on the House Judiciary committee to mark this bill up in September of last year, and I offered my support at that time. This bill will authorize the operations of the State Justice Institute (SJI) for Fiscal Years 2005–08 and proposes to allocate grant money to state courts and other entities that support their operation. I understand that this bill has not been reauthorized since 1996, so this bill is indeed timely, as the need certainly does exist.

Since its inception in 1984 and operation in 1987, the SJI's $125 million in grants and $40 million in private and other public funds have played a role in making the state court system in Houston an efficient engine of the administration of justice of which we Houstonians are quite proud. Given the urgent need for us to allocate energy and resources to our critical infrastructure and to the first responders in the context of Homeland security, the insurgence of funds to improve the overall flow of work through the state court systems is extremely important. For example, during the recent blackouts, those agencies and offices that needed this kind of assistance the most had to suffer until power was restored. In some instances, the blackouts were crippling. If there

had been a real threat of terror in those instances, the areas of vulnerability would have translated to disaster. This area of the assessment of threat and vulnerability will be best served by the provision that requires the Attorney General, in consultation with the Federal Judicial Center, to submit a report to the House and Senate Committees on the Judiciary as to the success and effectiveness of the SJI.

Furthermore, the authorization of the Institute to procure goods and services from the General Services Administration (GSA) will be a boon to those administrative areas that are antiquated and non-functioning for want of new equipment and resources. Should this bill pass, I would look forward to conducting a full assessment of need in Houston and make these GSA resources available as soon as possible.

Therefore, Mr. Speaker, for the above reasons, I support H.R. 2714 and I urge my colleagues to do the same.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 2714, as amended.

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

A motion to reconsider was laid on the table.

## COOPERATIVE RESEARCH AND TECHNOLOGY ENHANCEMENT (CREATE) ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2391) to amend title 35, United States Code, to promote research among universities, the public sector, and private enterprise, as amended.

The Clerk read as follows:

H.R. 2391

*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 ''Cooperative Research and Technology Enhancement (CREATE) Act of 2004''.*

***SEC. 2. COLLABORATIVE EFFORTS ON CLAIMED INVENTIONS.***

*Section 103(c) of title 35, United States Code, is amended to read as follows:*

*''(c)(1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.*

*''(2) For purposes of this subsection, subject matter developed by another person and a claimed invention shall be deemed to have been owned by the same person or subject to an obligation of assignment to the same person if—*

*''(A) the claimed invention was made by or on behalf of parties to a joint research agreement that was in effect on or before the date the claimed invention was made;*

*''(B) the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement; and*

*''(C) the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the joint research agreement.*

*''(3) For purposes of paragraph (2), the term 'joint research agreement' means a written contract, grant, or cooperative agreement entered into by two or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention.''.*

***SEC. 3. EFFECTIVE DATE.***

*(a) IN GENERAL.—The amendments made by this Act shall apply to any patent granted on or after the date of the enactment of this Act.*

*(b) SPECIAL RULE.—The amendments made by this Act shall not affect any final decision of a court or the United States Patent and Trademark Office rendered before the date of the enactment of this Act, and shall not affect the right of any party in any action pending before the United States Patent and Trademark Office or a court on the date of the enactment of this Act to have that party's rights determined on the basis of the provisions of title 35, United States Code, in effect on the day before the date of the enactment of this Act.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2391, the bill currently under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 2391 will help spur the development of new technologies by making it easier for collaborative inventors who represent more than one organization to obtain the protection of the U.S. patent system for their inventions.

The bill achieves this goal by limiting the circumstances in which confidential information which is voluntarily exchanged by individual research team members may be asserted to bar the patenting of the team's new inventions.

Today, intellectual property-reliant industries, such as pharmaceuticals, biotechnology and nanotechnology, serve as key catalysts to the U.S. economy, employing tens of thousands of Americans. More often than not, the innovations they develop are not done solely by researchers in-house, but rather, in concert with other researchers who may be located at universities, nonprofit institutions, and other private enterprises.

Carl E. Gulbrandsen, the managing director of the Wisconsin Research Alumni Research Foundation, provided an assessment of the value of university research contributions when he testified before the Subcommittee on Intellectual Property last Congress that, ''In 2000, nonprofits and universities spent a record of $28.1 billion on research and development, much of which involved collaborations among private, public, and nonprofit entities.''

Sales of products developed from inventions transferred from those research centers resulted in revenues that approached $42 billion that year, a portion of which was then reinvested into additional research. As significant as this research activity is, the tangible benefits of its application are also worth noting. Inventions such as the MRI and the sequencing of human genome technology were both made possible through collaborative research.

In 1984, Congress acted to incentivize innovation by encouraging researchers within organizations to share information. That year, Congress amended the patent law to restrict the use of background scientific or technical information shared among researchers in an effort to deny a patent in instances where the subject matter and the claimed invention were under common ownership or control.

This bill will provide a similar statutory ''safe harbor'' for inventions that result from collaborative activities of private, public and nonprofit entities. In doing so, the bill responds to the 1997 OddzON Products, Inc. v. Just Toys, Inc., decision of the Federal Circuit Court of Appeals by clarifying that prior inventions of team members will not serve as an absolute bar of the patenting of the team's new invention when the parties conduct themselves in accordance with the terms of the bill.

In the future, research collaborations between academia and industry will be even more critical to the efforts of U.S. industry to maintain our technological preeminence. By enacting this bill, Congress will help foster improved communication between researchers, provide additional certainty and structure for those who engage in collaborative research, reduce patent litigation incentives, and facilitate innovation and investment.

Mr. Speaker, the Committee on the Judiciary unanimously approved H.R. 2391 on January 21, 2004. I understand that the Congressional Budget Office considers the bill to have an insignificant effect on the U.S. Patent and Trademark Office's spending, and has found that the bill contains no intergovernmental or private sector mandates.

The bill itself is a product of the collaborative efforts of a number of individuals and leading professional patent and research organizations. Among those who contributed substantially to the development of the bill are the USPTO, the Wisconsin Alumni Research Foundation, the American Council on Education, the American University Technology Managers, the Biotechnology Industry Organization,

and the American Intellectual Property Law Association.

Mr. Speaker, the bill is necessary to ensure that tomorrow's collaborative researchers enjoy a full measure of the benefits of the patent law. I urge Members to support the bill.

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

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

Mr. Speaker, I rise in support of H.R. 2391, the CREATE Act, and ask my colleagues to support it as well. The CREATE Act is a rare legislative achievement: It is a truly noncontroversial patent bill. It has achieved this unique status because it is the product of exhaustive discussion, negotiation, and redrafting at both the intellectual property subcommittee and the full Committee on the Judiciary levels.

The CREATE Act effectively overturns the Federal court's decision in OddzON Products v. Just Toys. The OddzON decision held that certain prior art can be used to dismiss a patent application as obvious, one cannot patent the obvious, even if that prior art was confidential, shared among consenting parties or undocumented.

In layman's terms, the OddzON decision means that research collaborations between different institutions may preclude patents arising from that joint research. As a result of its holding, the OddzON decision threatens to chill informal inter-institutional research collaborations. These are just the sort of research collaborations that are increasingly important in today's complex resource constrained research environment. Even more troubling, these sorts of research collaborations disproportionately involve research universities and nonprofit institutions which do not have the same flexibility as private institutions to engage in other research arrangements.

Research collaborations contribute greatly to the U.S. economy. More importantly, they may be the key to curing many life-threatening diseases. Research collaborations are an important part of the technology transfer between universities, nonprofit institutions, and private companies that result in an estimated $40 billion of economic activity each year and support some 270,000 jobs.

Similarly collaborations between Federal laboratories and other entities have resulted in an estimated 5,000 research agreements signed since 1986.

There is no question that Congress should foster an environment in which researchers have the freedom, opportunity and incentive to collaboratively develop inventions and new ideas. By overturning the OddzON decision, the CREATE Act will remove a substantial roadblock to achieving this goal.

The CREATE Act underwent substantial revisions to adjust relevant concerns. The version before us today constitutes a real improvement over H.R. 2391 as introduced. It has the support of the university community, the patent bar, the biotech industry, patent holders, and all other interested parties of which I am aware, and I want to express my appreciation to the gentleman from Texas (Chairman SMITH) for working so closely with us in drafting and redrafting the CREATE Act. I ask my colleagues to vote in favor of this important bill.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, the CREATE Act, which I introduced along with the gentleman from California (Mr. BERMAN), allows researchers and inventors who work for different organizations and collaborate on inventions to share information without losing the ability to file for a patent.

This legislation removes roadblocks to the patenting of collaborative inventions. It empowers researchers to choose to collaborate when it is in their interest, and to compete for inventions when it is not.

Under current law, individuals who did not work on an invention or project can challenge patent applications. This leads to invalidated patents which harms our economy and the inventors, researchers and entrepreneurs who want to create new products.

Today's biotech, pharmaceutical, and nanotechnology companies conduct much of their research with partners such as universities and other public or private organizations.

In fact, the University of Texas ranks fourth on the list of universities that receive the most patents. Many of these patents result from working with the private sector on research.

America's universities, private companies, public organizations and nonprofit institutions all have a stake in ensuring the U.S. patent system rewards rather than inhibits their innovations, from life-saving therapies to fuel cells.

Yesterday, my subcommittee received a letter from the Biotechnology Industry Organization, which supports this legislation. The organization stated, ''The majority of our members routinely engage in collaborative research. We believe that encouraging this type of research will greatly enhance the ability of the biotechnology industry to develop life-saving and life-enhancing products.''

The CREATE Act: (1) Promotes communication among team researchers located at multiple organizations; (2) discourages those who would use the discovery process to impede coinventors who voluntarily collaborated on research resulting in patentable inventions; (3) increases public knowledge; and (4) accelerates the commercial availability of new inventions.

The CREATE Act benefits all industries that engage in collaborative and cooperative research involving more than one organization. The classic example is biotechnology, since it has a culture and a business model that is multi-disciplinary.

When a biotechnology company decides to partner with a university, we want to prevent that partnership from being harassed by a third party. Biotech investment dollars dedicated to research should and must be used in an effective way without the possibility of a lawsuit or a grievance filed against it.

The CREATE Act was inspired by two principles essential to a democracy: The protection of intellectual property rights and the freedom to exchange goods and services.

Research collaborations are essential to the discovery of new inventions, the creation of new jobs, and the health of the U.S. economy. Protecting them will provide greater incentives to develop new technologies.

Mr. BERMAN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, cooperative research among private, public, and nonprofit entities has become a common feature of modern research and development. Many technology start-ups in my home in Silicon Valley rely on university-based researchers to support their basic R&D programs, and the result of these collaborations benefit both the economy and consumers.

However, as has been mentioned by other Members, since the Federal Circuit decision in OddzON Products v. Just Toys, collaboration has become too risky. The OddzON decision created an environment where an otherwise patentable invention can be rendered nonpatentable on the basis of information routinely exchanged between research partners.

Collaborative research is absolutely vital to our economy. A 1988 report by the National Science Foundation found that nonprofits and universities spent a record $23.8 billion on research and development, the majority of which came from collaborations. Congress needs to act to ensure that our patent laws provide the proper incentives for private, public, and nonprofit entities to work together to make all our futures brighter, and I am happy to say that the CREATE Act that is before us today does that.

Mr. Speaker, I would like to thank the gentleman from Texas (Mr. SMITH) and the gentleman from California (Mr. BERMAN), the ranking member, for their hard work on this bill. I support it, and I urge all Members to support it as well.

□ 1215

We often come on the House floor and engage in debates on things that divide us which, when all is said and done, will not necessarily be very important to the American economy or the American public.

This is an item that may be a little bit of a sleeper. I do not see a cast of

thousands here on the House floor, and yet passing this bill will be very important for the economy of our Nation and for the advance of science, and it is something we can do together proudly and serve our country quite well. I am happy to be involved in this effort.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 2391, the Cooperative Research and Technology Enhancement (CREATE) Act introduced on June 9, 2003. We held a markup hearing for this legislation in January of this year, and I offered my support at that time. To spur innovation and accelerate new technologies, this bill encourages cooperative research efforts that involve the private sector, universities, non-profit institutions and public entities. In a recent decision (*Oddzon Products, Inc.*, v. *Just Toys, Inc., et al.*, 122 F.3d 1396, 43 U.S.P.Q.2d 1641 (Fed. Cir. 1997), or Oddzon), the Federal Circuit Court of Appeals narrowed the scope of a 1984 law that promoted collaborative research. I support H.R. 2391 because it will only result in the overall improvement of the quality of research that is done by collaborating members of the academic community in the areas of science, art and information resourcing.

In Oddzon, the Federal Circuit found that in the case of an inventive collaboration involving researchers from multiple organization, the novelty (§ 102) and non-obvious (§ 103) requirements of the Patent Act could be read to cover prior art so as to invalidate a patent. The court wrote:

> The statutory language provides a clear statement that subject matter that qualifies as prior art under subsection (f) or (g) cannot be combined with other prior art to render a claimed invention obvious and hence inpatentable when the relevant prior art is commonly owned with the claimed invention at the time the invention was made. While the statute does not expressly state . . . that § 102(f) creates a type of prior art for purposes of § 103, nonetheless that conclusion is inescapable; the language that states that § 102(f) subject matter is not prior art under limited circumstances clearly implies that it is prior art otherwise.

In making this ruling, the court states ''[t]here is no clearly apparent purpose in Congress's inclusion of § 102(f) in the amendment other than an attempt to ameliorate the problems of patenting the results of team research.'' Finally, the court added ''while there is a basis for an opposite conclusion, principally based on the fact that § 102(f) does not refer to public activity, as do the other provisions that clearly define prior art, nonetheless we cannot escape the import of the 1984 amendment.'' The holding creates a significant problem due to the way that most public-private sector research and development projects are structured. Since the early 1980s, universities, States and the Federal Government have become much more adept at generating licensing revenue from intellectual property developed by their faculty, staff and students. Many States and the Federal Government now operate under laws and practices under which they cannot or will not assign their rights to inventions to a private-sector collaborative partner. Typically, the university, State or Federal Government retains sole ownership of the invention, while the invention is licensed for commercial exploitation to their research partner.

The Oddzon decision has created a situation where an otherwise patentable invention may be rendered nonpatentable on the basis of information routinely exchanged between research partners. Thus, parties who enter into a clearly defined and structured research relationship, but who do not or cannot elect to define a common ownership interest in or a common assignment of the inventions they jointly develop, can create obstacles to obtaining patent protection by simply exchanging information among them. There is no requirement that the information be publicly disclosed or commonly known; all that is required is that the collaborators exchange the information.

The CREATE Act's purposes are to promote communication among team researchers from multiple organizations, to discourage those who would use the discovery process to harass co-inventors who voluntarily collaborated on research, to increase public knowledge and to accelerate the commercial availability of new inventions. Overall, this bill will serve to create a more technology-friendly environment and encourage continued collaboration and innovation.

Mr. Speaker, I support this bill and hope that my colleagues will do the same.

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

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

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 2391, as amended.

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

The title of the bill was amended so as to read: ''A bill to amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises.''.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 339.

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

There was no objection.

## PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT

The SPEAKER pro tempore (Mr. SMITH of Texas). Pursuant to House Resolution 552 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 339.

□ 1223

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 339) to prevent frivolous lawsuits against the manufacturers, distributors, or sellers of food or non-alcoholic beverage products that comply with applicable statutory and regulatory requirements, with Mr. CULBERSON in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

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

Mr. Chairman, the food industry is our Nation's largest private sector employer, providing jobs to some 12 million Americans. Today, that industry is threatened by an array of legal claims alleging that it should be liable to pay damages for the overconsumption of its legal products by others. H.R. 339, the Personal Responsibility in Food Consumption Act, is designed to foreclose frivolous obesity-related lawsuits against the food industry.

From June 20 to the 22nd of last year, personal injury lawyers from across the country gathered at a conference designed to ''encourage and support litigation against the food industry.'' Attendees were required to sign an affidavit in which they agreed to keep the information they learned confidential and to refrain from consulting with or working for the food industry before December 31, 2006, apparently setting a deadline for bringing that vital industry to its knees in a nationally coordinated legal attack.

The hatred of some lawyers for the food industry is stark. Ralph Nader, for example, has compared food companies to terrorists, saying that the double cheeseburger is ''a weapon of mass destruction.''

H.R. 339 prohibits obesity or weight-gain-related claims against the food industry, with reasonable exceptions, including those in which a State or Federal law was broken and as a result the person gained weight, and those in which a company violates an expressed contract or warranty. Also, because this bill only applies to claims based on ''weight gain'' or ''obesity,'' lawsuits could go forward under the bill, if, for example, someone gets sick from a tainted hamburger.

The bill also contains essential provisions governing the conduct of legal proceedings. H.R. 339 includes the very same discovery provisions designed to prevent fishing expeditions that are already a part of our Federal securities laws. It also contains provisions that appropriately require that a complaint set out the fact as to why the case should be allowed to proceed.

Some trial lawyers are mounting an attack on personal responsibility

against the advice of the Nation's leading weight-loss experts. Listen to the insightful words of Dr. Gerard Musante, a clinical psychologist with training at Duke University Medical Center, who has worked for more than 30 years with thousands of obese patients. He is the founder of Structure House, a residential weight-loss facility in Durham, North Carolina. Dr. Musante said the following at a Senate hearing on this legislation:

''Through working with obese patients, I have learned that the worst thing one can do is to blame an outside force to get themselves 'off the hook,' to say it's not their fault and that they are a victim. Congress has rightly recognized the danger of allowing Americans to continue blaming others for the obesity epidemic. It is imperative that we prevent lawsuits from being filed against any industry for answering consumer demands. The fact that we are addressing the issue here today is a step in the right direction.''

The chairman of the American Council for Fitness and Nutrition, Susan Finn, has also written that ''if you are obese, you don't need a lawyer; you need to see your doctor, a nutritionist and a physical trainer. Playing the courtroom blame game won't make anyone thinner or healthier.''

Even the Los Angeles Times, which rarely agrees with people on this side of the aisle, has editorialized against such lawsuits, stating, ''People shouldn't get stuffed, but this line of litigation should.''

On the other hand, the lobbying organization for personal injury attorneys, the Association of Trial Lawyers of America, which opposes this legislation, has published a litigation instruction manual that openly belittles jurors who believe in ''personal responsibility.'' According to that instruction manual, ''Often a juror with a high need for personal responsibility fixates on the responsibility of the plaintiff. According to these jurors, a plaintiff must be accountable for his or her own conduct. The personal responsibility jurors tend to espouse traditional family values. Often these jurors have strong religious beliefs. The only solution is to identify these jurors and exclude them from the jury.''

Besides threatening to erode values of personal responsibility, the legal campaign against the food industry threatens the separation of powers.

□ 1230

Nationally coordinated lawsuits seek to accomplish through litigation that which has not been achieved by legislation and the democratic process. As one mastermind behind lawsuits against the food industry has stated, ''If the legislatures won't legislate, then the trial lawyers will litigate.'' In order to preserve the separation of powers and support the principle of personal responsibility and to protect the largest private sector employer of the United States, let us pass H.R. 339.

Mr. Chairman, at this time, I will insert in the RECORD jurisdictional letters the gentleman from Texas (Chairman BARTON) and I have exchanged regarding this legislation.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, March 4, 2004.*

Hon. F. JAMES SENSENBRENNER, Jr.,
*Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.*

DEAR CHAIRMAN SENSENBRENNER: On January 28, 2004, the Committee on the Judiciary ordered reported H.R. 339, the Personal Responsibility in Food Consumption Act. As ordered reported by your Committee, this legislation contains a number of provisions that could fall within the jurisdiction of the Committee on Energy and Commerce.

Specifically, I believe that H.R. 339 would impose a new scienter requirement with respect to certain enforcement actions taken by agencies and statutes within our jurisdiction. This requirement could fundamentally alters how agencies, such as the Federal Trade Commission and the Food and Drug Administration, enforce violations of laws they administer.

Recognizing your interest in bringing this legislation before the House expeditiously, the Committee on Energy and Commerce agrees not to seek a sequential referral of the bill. In exchange, you have agreed to eliminate our jurisdictional concerns with a floor amendment that expressly eliminates lawsuits brought under the Federal Trade Commission Act and the Federal Food, Drug, and Cosmetic Act from the definition of ''qualified civil liability action'' under the legislation.

By agreeing not to seek a sequential referral, the Committee on Energy and Commerce does not waive its jurisdiction over the bill as your committee ordered it reported. In addition, the Committee on Energy and Commerce reserves its right to seek conferees on any provisions within its jurisdiction which are considered in any House-Senate conference.

I request that you include this letter and your response as part of the Congressional Record during consideration of this bill by the House.

Sincerely,

JOE BARTON,
*Chairman.*

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CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, March 5, 2004.*

Hon. JOE BARTON,
*Chairman, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC 20515*

DEAR CHAIRMAN BARTON: Thank you for your letter regarding H.R. 339, the ''Personal Responsibility in Food Consumption Act.'' I appreciate your willingness not to seek a sequential referral of the bill.

I strongly disagree with your assertion of jurisdiction over the bill. I do not believe that H.R. 339, as reported, contains provisions that affect lawsuits by the Federal Trade Commission or the Food and Drug Administration, and the drafters did not intend such suits. Nor do I agree with the description of the bill in the second paragraph of your letter. However, I will include language (a copy of which is attached) in a manager's amendment on the floor to make it clear that such suites are not precluded or otherwise affected by the bill. I will also include language our staffs have discussed in the Committee's report (a copy of which is attached) to further clarify this point.

By agreeing to this resolution of this matter, the Committee on the Judiciary does not acknowledge that the Committee on Energy and Commerce had jurisdiction over provisions of the bill. In addition, the Committee on the Judiciary does not waive any of its jurisdictional claims in these matters.

I will include your letter and this response in the Committee's report on H.R. 339 and in the Congressional Record during the consideration of this bill in the House. I appreciate your cooperation in this matter.

Sincerely,

F. JAMES SENSENBRENNER, Jr.
*Chairman.*

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AMENDMENT LANGUAGE

Strike the current §4(5)(C) (the language that excludes suits relating to adulterated foods) and insert:

''(C) Such term shall not be construed to include an action brought under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or the Federal Food, Drug, and Cosmetic Act (21 U.S. 301 et seq.).''

REPORT LANGUAGE

After the Committee on the Judiciary's markup of H.R. 339, the Committee on Energy and Commerce expressed concerns that the definition of ''qualified civil liability action'' might be construed to include actions under the Federal Trade Commission Act or actions under the Federal Food, Drug, and Cosmetic Act. The Committee on the Judiciary did not intend to include such actions in the definition and did not believe that the actions were included within its clear terms. Notwithstanding that, both Committees agree on the policy that such actions should not be precluded by H.R. 339. To make this policy agreement abundantly clear, a manager's amendment to be offered during floor consideration of H.R. 339 will strike the current language in §4(5)(C) excluding adulteration suits and replace it with language stating explicitly that the definition shall not be construed to include actions under the Federal Trade Commission Act or the Federal Food, Drug, and Cosmetic Act. The Committee on the Judiciary believes that this language will resolve the practical concerns of the Committee on Energy and Commerce.

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

Mr. WATT. Mr. Chairman, I ask unanimous consent to substitute myself for the gentleman from Virginia (Mr. SCOTT) and control the time in opposition to the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

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

I want to start by putting a couple of things in perspective. First of all, I agree with a lot of what the gentleman from Wisconsin (Chairman SENSENBRENNER) has said about personal responsibility, so I want to go on record as saying that. I personally like fast food on some occasions, but I also take personal responsibility for my own fitness. So I am not here about personal responsibility. People do have personal responsibility. Let me put that on record.

I am here as the ranking member of the Subcommittee on Commercial and Administrative Law, a subcommittee of the Committee on the Judiciary and, for that reason, I have the responsibility to control the disposition of time on this bill. And because I am standing

in the middle of it, I suspect there will be a number of things said that I need to clarify in advance to position myself.

First of all, I suspect that my colleagues are going to hear that I am somehow a defender of fat, irresponsible people today. I suspect that at some time during the course of this debate, I am going to be characterized as the defender of irresponsible litigation. I suspect at some point during the course of this debate today I am going to be characterized as the defender of trial lawyers, the hated trial lawyers that many of my Republican colleagues just despise so much.

Let me make it clear at the outset of this debate that I am not here as any of those things. I personally do not think much of these kinds of lawsuits, and I want to go on record as saying that. But that is not the criteria in which I can evaluate this proposed legislation.

As a member of the Committee on the Judiciary, I have some other responsibilities. I have a responsibility to defend the federalist system that has been set up under which we operate and which is a constitutional framework over which States and local governments have certain responsibilities and over which the Federal Government has certain responsibilities. And too often, what we hear in this body is lip service to that federalist system and lip service to the proposition that people support States' rights and, yet, when the rubber meets the road, they walk away from any commitment to it. I think that is what is happening with this legislation that we are debating today, because this has been an area that has been uniquely within the province of States and State judiciaries and State legislatures.

I also want to warn us against this notion that somehow or another, our court system is run amok and that we should take responsibility as Members of Congress in trying to correct every aspect of our court system. Now, I want to tell my colleagues, I suspect that if there was anybody here who ought to be suspicious and concerned about State courts and State courts running amok, it would be me. I grew up in the era of the civil rights movement, and many of the State court judges during that era were not especially sensitive to people who looked like me and had the racial characteristics that I do. But one of the things that I learned during that process is that I do not always like the result that a court comes out with, but the system of justice and judicial responsibility and the division of responsibilities between the legislative branch and the judicial branch, between the Federal, State, and local governments is a pristine, wonderful system that we should honor, and sometimes we have to be patient and let this work itself out in a way over time, and that is exactly what has happened in this case. From the dropping of this bill to the time that we have come to the floor to debate it today, every single lawsuit that has been filed dealing with this issue, every single lawsuit has been dismissed by the courts.

So when I say this is a solution in search of a problem, understand that there is no problem out there. The court system has already addressed this perceived problem that we have. This, I say to my colleagues, is an effort to take this politicized notion of personal responsibility and try to rub people's faces in it without regard to the federalist system in which we are operating.

This bill would insulate an entire industry from liability and would undermine and insult, insult our State judiciaries in the various States around the country, and the State legislatures and the whole concept of Federalism. The growing trend in this body to attempt to preempt by legislation litigation that is deemed ''undesirable'' or ''frivolous'' is very troublesome. It gets us to a legislation by anecdote, a legislation by result, rather than any kind of honoring of the process that we should be working within.

I believe it is arrogant and disrespectful of our system of government. This bill and others like it presume that State courts, State legislatures, and the citizens of the States themselves are woefully incompetent to address burdens on their systems of government and that, somehow, we, as Members of Congress, have some great intellectual capacity and responsibility up here to control everything that exists in our country. It is a wrong-headed approach that we have set upon.

There is absolutely no evidence in support of the proposition that our States cannot handle these matters. The details of this bill drafted in haste will be aptly debated throughout the amendment process. But my major concern, and one that I will reflect in the amendments to the bill that I offer, is what we should be doing as national policymakers. I do not believe that overreacting to every headline constitutes responsible legislating. I hope that this body will get back to the business of evaluating the serious problems confronting the American people and developing some solutions to those problems: employment, the economy, deficits, war. And this bill does not do that. Simply put, as I indicated before, this is a solution in search of a problem, and it would not even be on the floor, I think, today if we were dealing with some of the problems that we really ought to be confronting.

Mr. Chairman, with that, having set the framework, I will reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. KELLER), the author of the bill.

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

Mr. Chairman, the food industry is the largest private sector employer in the United States, providing jobs for 12 million American citizens. The consequences of these obesity lawsuits against the food industry is that consumers will pay a higher price for food in restaurants. Mom and pop restaurants would face unaffordable insurance rate hikes, and jobs could be cut as a result.

This legislation, in essence, provides that a seller or maker of a lawful food product shall not be subject to civil liability where the claim is premised upon an individual's weight gain relating to the consumption of that food. This is a narrowly-drawn, measured piece of legislation. It does not immunize the food industry. This legislation does not preclude suits from false advertising, mislabeling of food, adulterated foods, or injuries from eating tainted food. The gist of this legislation is that there should be common sense in the food court, not blaming other people in the legal court.

Most people have enough common sense to realize that if they eat an unlimited amount of french fries, milk shakes, and cheeseburgers without exercising, it can possibly lead to obesity. But in a country like the United States where freedom of choice is cherished, nobody is forced to supersize their fast food meals or to choose less healthy options on the menu. Similarly, no one is forced to sit in front of their TV all day and play video games, instead of walking or bike riding.

Richard Simmons, the famous exercise guru, recently said that people who bring these lawsuits against the food industry do not need a lawyer, they need a psychiatrist, and the American public seems to agree. In a recent objective Gallup poll, nearly nine out of 10 Americans, 89 percent, oppose holding the fast food industry legally responsible for the diet-related health problems of people who eat that kind of food. Interestingly, overweight people agreed with skinny people that the fast food industry should not be held responsible for these types of claims.

Which brings me to the subject of lawyers. And, while we are here, some of the same lawyers who went after the tobacco industry now have a goal of suing the food industry for $117 billion, which is the amount the Surgeon General estimates as the public health costs attributable to being overweight.

Now, based on a standard contingency fee of 40 percent, that means these selfless lawyers interested in public good would be recovering $47 billion for themselves in attorneys' fees, and that is, ultimately, what this is about. In fact, in June of 2003, lawyers from all across the United States gathered in Boston for what they called the first annual conference on legal approaches to the obesity epidemic. To attend each work shop, the people had to sign an affidavit to attend the legal work shop in which it said, ''This is intended to encourage and support litigation against the food industry.''

One of the ringleaders of this litigation conference is a lawyer named John Banzhaf. Mr. Banzhaf freely admits that his goal is to open the floodgates of litigation against our Nation's largest private sector employer: the food industry.

□ 1245

Specifically, Mr. Banzhaf said this: ''Somewhere there is going to be a judge and a jury that will buy this. And once we get the first verdict, as we did with tobacco, it will open the flood gates.''

Now, the Democrats could have called anybody they wanted to. We had a hearing on this. But they chose to call this man who says it will open the flood gates. He wants to open the flood gates. That is what they said then. Then they come here today and it is, What do you mean? There is no intent to sue the food industry. Well, indeed, lawsuits have been filed against McDonald's, Burger King, Wendy's, KFC, Kraft/Nabisco with new suits now threatened by Mr. Banzhaf and others against the makers of ice cream.

The New York suits included one with a man named Caesar Barber, who went on ''60 Minutes'' and told them, ''I want compensation for pain and suffering.'' ''60 Minutes'' said, ''How much money do you want?'' Caesar Barber: ''Maybe $1 million. That is not a lot of money right now.''

We must think of what this is about. The litigation against the food industry is not going to make a single person any skinnier; it is only going to serve to make the trial attorneys' bank accounts a lot fatter.

In summary, we need to make it tougher for lawyers to file frivolous lawsuits. We need to care about each other more and sue each other less. We need to get back to the old-fashioned principles of common sense, of personal responsibility and get away from this new culture where everybody plays the victim and sues others for their problem.

This legislation is a step in the right direction. I urge my colleagues to vote ''yes'' on H.R. 339.

Mr. WATT. Mr. Chairman, I yield myself 1 minute simply to respond to the prior speaker.

Here we go, exactly what I said was about to happen is happening. 89 percent of the public support does not support these kinds of lawsuits, but that does not mean that we need a Federal statute to deal with this issue. In fact, it probably means exactly the opposite of that.

Second, there have been a number of suits filed and every single one of them has been dismissed up to this point. So the process is working. And you are already beginning to see that this is really about having this opportunity in an official context to beat up on trial lawyers. We ought to be trying to do some serious legislating rather than just politicking with this bill.

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia, Mr. SCOTT.

Mr. SCOTT of Virginia. Mr. Chairman, I thank the gentleman for yielding.

Whatever the merits of the lawsuits which provoke this legislation are, we ought to focus on the fact that lawsuits ought to be tried in court, where evidence can be heard and objective law applied.

Today, we are allowing one industry to have the privilege of trying its lawsuit with politicians who will take politics and polls into consideration instead of being treated the same as other citizens who have to try their cases in court. If the case on behalf of the food industry is strong, then courts will know what to do; they can dismiss the cases.

Furthermore, if based on the evidence and the law the court finds that the law suit is frivolous, the court may assess sanctions against the plaintiffs and lawyers who file the suits. In fact, it is my understanding that all of the lawsuits have in fact been dismissed. So what is wrong with the food industry being treated the same as other industries when it comes to courts deciding whether or not there is responsibility for injuries to others? And what is wrong with trying cases in court with unbiased judges and juries hearing both sides of the case according to rules which allow both sides to produce all relevant witnesses who will be heard and cross-examined?

This process is in stark contrast to the congressional procedure where committee chairmen invite the witnesses they want and cross-examination of witnesses is severely constrained both in time and by the fact that the interested parties are not able to cross-examine anyone.

Mr. Chairman, in a democracy it is fundamentally wrong for some industries to have the privilege of trying their cases in a forum where their political allies will decide the merits of the case while everyone else is relegated to the court system where evidence is heard and the law applied by judges and juries without political considerations. This bill sets a bad precedent. I therefore hope my colleagues will oppose this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. GRANGER).

Ms. GRANGER. Mr. Chairman, on Saturday I handed out awards to some 4,600 kids that participated with me in the Cowtown 5–K running race the weekend before. I was happy to promote an activity that gets kids moving. And I think that getting young people in events like the Cowtown race is a much better way to combat obesity than targeting fast-food restaurants with frivolous lawsuits.

The question before this body today is simply, Should it be just as easy to file a lawsuit against a restaurant for causing obesity as it is to drive through the nearest take-out window for a quick burger and fries? The answer is no.

The issue before us is responsibility, individual and personal responsibility for how we eat and how we exercise. We all know the statistics: two-thirds of Americans are overweight; 15 percent of our children are too heavy; obesity rates among teenagers have tripled in the last 20 years. Blaming the fast-food industry is not the answer to reducing obesity in America.

Americans can sue the McDonald'ses and Burger Kings of the world until these establishments can pay no more, but not one American will lose weight until they eat better and exercise more frequently.

I support this legislation because I do not want Americans to have a crutch for their overweight problem: restaurants and the fast-food industry. Instead, I want to provide Americans a better way, a healthy life-style.

If we really want to address the obesity epidemic, we must focus on educating youngsters about the dangers of being overweight and how eating the wrong foods only packs the pounds on. You could utilize programs such as the CDC's Youth Media Campaign, otherwise known as the VERB program.

VERB is a proven program that encourages kids to get out and walk, bike, run, jog, play basketball, baseball, skateboard, anything but just sitting in the house and watching television.

The net result of lawsuits that blame the fast-food industry for our overweight problems will be higher prices and lost jobs, not healthier Americans. Eating right and increasing physical activity is the answer to a slimmer, trimmer, fitter America, not lawsuits.

Mr. WATT. Mr. Chairman, I yield 5 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman from North Carolina (Mr. WATT), the subcommittee chair, for yielding and for his very sensible approach to this issue.

I do not know if my good friends on the other side of the aisle are trying to change their political identity, but I thought they stood for federalism and local control. They are, however, developing a pattern of coming to the floor in response to interest groups to knock out lawsuits even when they are winning in the courts. What a waste of time.

Fast-food suits can hardly be the American answer to obesity, a public health problem; but they may be part of a revolution that is occurring in the fast-food industry. And I say to the fast-food industry, keep bringing on those changes at McDonald's and all the rest of these fast-food places that are hearing us one way or the other.

We all believe you have to take responsibility for what goes into your own mouth. I come to the floor because I think there is a great audacity in coming to the floor, as the other side is, to talk about personal responsibility when we are talking about a public health problem for which our government has not taken responsibility.

I worked with Chairman Porter, who, a couple years ago, retired from the House, on an appropriation that started at $125 million. He started with children. I had a bill called Lifetime Improvement in Food and Exercise, LIFE; and we joined forces. He came to the Congress to a reception just to press the notion once again last year.

Secretary Thompson had the audacity to go on television yesterday talking about some penny ante things that the administration is going to do. After having reduced this amount from $125 million this year to $5 million, they tried in the last 2 years to get it to zero. This is money that was going into reducing obesity among children.

In today's Washington Times, the front page says, and I quote, ''Inactive Americans are Eating Themselves to Death at an Alarming Rate. Their unhealthy habits are approaching tobacco as the top underlying preventable cause of death, a government study found.''

What is the government going to do about its government study? I hope it does more than stop the trial litigation in the States, obviously not the answer to this problem when 60 percent of our people are overweight or obese.

An ad campaign as described by the Secretary himself consists of humor when they say you should get off your duff and walk your children around the block. Mr. Chairman, this is far more serious than that. This is the major health problem second only to smoking.

I am grateful to the Committee on Appropriations that instead of zeroing out public health money for the last 2 years, the appropriation has put in money. We are going to be trying to get money again this year so we do more than talk about obesity or try to stop litigation.

When you look at the amount of money that we have put into this problem ourselves, we started with a good Republican Chair of the HHS subcommittee, starting at $125 million. Then he retires and the administration, his administration tries to zero it out.

This Congress says, no, we will not put 125. If the President wants it gone, we will put 68, then the third year 51, last year $35.8 million. Well, we are going down, not up; but people rush to the floor, the Committee on the Judiciary regards it as a priority to stop some lawsuits that are stopping themselves. That is my concern.

My bill, Lifetime Improvement in Food and Exercise, which I joined with Chairman Porter in producing this first, first significant public health money, is now being eroded by the administration. And I now find myself with only $5 million in the administration's budget this time rather than zero; $5 million reduced from $125 million means they want public health money to combat obesity gone.

I am going to ask the Members of this House to help me in restoring money to face this public health problem so that people who are bringing lawsuits out there know that we can do more than try to knock out lawsuits that are knocking themselves out, but that we are taking public health responsibility for a public health crisis, just as we expect them to take personal responsibility for what they eat every day.

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

Mr. Chairman and Members, I would just reiterate a couple of points. It strikes me that given what has transpired since this bill was introduced, even if it was originally a good idea and even if you accepted the notion that State courts were going to be irresponsible and not do what they are supposed to be doing, now that we have seen the passage of time and had the proof that State courts will dismiss these lawsuits, even if this bill was a good idea, it seems to me that we have proven with the passage of time that it is now definitely a solution in search of a problem. The lawsuits have been dismissed.

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So, in effect, the system has worked exactly like we would like it to work. That is the way our system is set up. If an individual believes that he has a cause of action and they believe that they have been wronged, or somebody has failed in meeting a standard that is applicable, they have the right to file a lawsuit, go to court, and have that court make a determination on their lawsuit. And that is exactly what has happened.

Now, quite often people make those judgments in different ways and you end up with lawsuits being filed that get dismissed. And that happens to probably well over 90 percent of the cases that get filed in court—they get dismissed before they come to trial.

Does that mean that they are all frivolous? Well, some of them probably are frivolous. And there are rules in place that allow the courts to sanction people and fine them and charge them attorneys fees of the opposing party when they file frivolous lawsuits. But people still file frivolous lawsuits, and those rules then are triggered and the courts handle that.

Does it mean that even the frivolous lawsuits should not have been dismissed? Well, there is another category of cases where there is not enough law to support filing a lawsuit. Whether you have a good lawsuit is a function of whether you have got the facts and a function of whether you have got the law on your side. But our system is set up to allow courts to make that determination, and I would submit that State courts have as much expertise, probably more expertise, in making these determinations than our Federal judiciary.

The next point I would draw from this is that as these lawsuits have been dismissed, it strikes me that it is less and less and less likely that subsequent lawsuits will be filed because then you have got a backdrop against which people can go into court and say, well, this issue has been determined by a court adversely and so it should not be here. There is an increased possibility, probability that courts will find that subsequent lawsuits are frivolous in this area. But all of those things argue for our staying out of this and not building a whole new Federal framework for dealing with a problem that does not exist because our system is working.

Now, the next point I want to make that I have heard come out of this general debate up to this point is this job loss notion. I have heard some really interesting explanations by this administration about why we are losing jobs in this country. But this about takes all I have heard. Here we are now with some of my colleagues saying, well, if we allow these lawsuits to be filed against McDonalds or whatever the fast food chains are, we are going to result in job loss, and that is what is causing the big job loss in this country.

Give me a break. We ought to know better. And there are a bunch of reasons that I could go into about why we are losing jobs, but this would be about the 999,000th reason that I would get to before I would be identifying a source for job loss in this country. So we are kind of grasping at straws here, from my perspective, on that argument.

Finally, it amazes me how the same people who, over and over and over, had campaigned saying they believe in local control and States' rights. When they do not get the result that they want at the State level or even in this case when they do get the result that they want at the State level because all of these cases have been resolved adversely that have been filed, it is amazing to me why we think in our arrogance in this body that we ought to just take over because we do not like the result or we think State legislators are incompetent or local elected officials are incompetent, we ought to take it over at the Federal level and forget about the constitutional framework that we are operating in. And it is more inexcusable to me when these bills come out of the Committee on the Judiciary, where there should be the highest of respect for the constitutional parameters in which we operate.

This is not something that we should be doing from a number of different perspectives. And I just beg my colleagues, I guess it is a good debate. It is a good way to get us out here on the floor and take up some time when we really ought to be talking about the things that are really causing job loss. We are out here grasping at straws looking for some something to do today. Do we not have something else that we could be doing on the floor today that really honors our constitutional framework? Surely there must be something better.

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

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

Mr. Chairman, I have been listening to this debate since it began and until the gentleman from North Carolina (Mr. WATT) got up and brought in the whole subject of job loss, I did not hear anything about job loss at all.

Well, this bill is about preventing job loss because if a franchisee of a major national fast food chain ends up getting sued, he will be out of business, even if he wins his lawsuits because of all the legal fees and deposition fees and expert witness fees that he is going to have to pay.

So it seems to me that for once, Congress is getting ahead of the curve on this because we do have the evidence that a bunch of plaintiffs lawyers got together and they required everybody who went to this conference to sign an affidavit of confidentiality and a promise that they would not consult with or represent the food industry until the end of 2006.

Now, let us get back to what this bill consists of. This bill consists of imposing personal responsibility. And in my part of the general debate, I quoted Susan Finn, who is the head of the American Council on Fitness and Nutrition. She said, ''If you are obese, do not get a lawyer. See your doctor. See a nutritionist and see a personal trainer, because you made yourself obese. It was not the system that did it or the local fast food chain that did it. You did it yourself.''

And then I quoted the doctor who runs the residential facility in Durham, North Carolina, and he said, ''The worst thing in the world you can do for an obese person is to give them a way out, to let them blame somebody else. They are going to have to look in the mirror if they want to get better and they want to prevent themselves from having all the health problems and lowered life expectancy as a result of eating too much and eating too much of bad stuff.''

So, let us talk about saving jobs before they go. Let us talk about not giving people who are in denial a reason to get themselves off the hook. And let us talk about putting some sense in our legal system because it is not the food industry or those who sell a legal product that make people obese. It is people buying too much and consuming too much of that legal product. That is what this bill attempts to address and that is why it ought to pass.

Mr. CANTOR. Mr. Chairman, I rise today in support of legislation to end misguided obesity-related lawsuits. The Personal Responsibility in Food Consumption Act, H.R. 339, would take a strong step forward in accomplishing this goal. I strongly support this common sense legislation and believe it is time to end frivolous lawsuits against our nation's 878,000 restaurants and their 12 million employees.

In recent years, our nation's vast restaurant industry has come under attack from absurd obesity lawsuits. This litigation has bogged down the judicial process and threatens small business owners. A recent poll shows that 89 percent of Americans believe that restaurants should not be held liable for an individual's obesity or weight gain. The National Restaurant Association believes lawsuits attacking food is not the answer to our nation's obesity problem. Emphasis must be placed on education, personal responsibility, moderation, and healthier lifestyles.

This legislation would prevent food companies from being held liable for the condition of obese and overweight consumers. Our public health would remain protected and any establishment distributing food that has a defect or that is improperly prepared will be held accountable.

Mr. Chairman, the time has come to end these lawsuits against our American restaurants and small business owners.

Mr. STARK. Mr. Chairman, I rise in opposition to the so-called Personal Responsibility in Food Consumption Act. This legislation is unnecessary. Lawsuits brought against fast food companies for allegedly causing obesity have been routinely thrown out. The fact is the law has worked in repelling bogus legal claims.

Yet, I suppose just like every other self-serving business lobby in Washington, the fast food industry wants the Republicans to protect them from being responsible. It's as if they're asking the GOP to ''super size it'' with a massively overreaching bill that grants fast food companies broad and unprecedented liability protection even in instances where they are clearly negligent.

Remember now that this legislation is an unnecessary response to a completely imagined problem. Consider then the impact it will have on ordinary Americans if they are injured by reckless behavior.

Well, to start with, this bill says that if a fast food chain is reckless and causes injury in a manner that is not already prohibited under state or federal law, they can't be held accountable. Second, if a fast food restaurant does break a state or federal law but says they didn't mean to do it, they get off just as easy.

This is a question of responsibility. I don't think most Americans believe anyone ought to get this kind of special treatment, especially when the result might well be more reckless and dangerous behavior.

Finally, let me just say that I find it interesting we would bring up the issue of obesity without a meaningful discussion of ways in which we can promote better health.

There is no discussion in this chamber today about making sure children are learning about and getting better nutrition. There is not a word mentioned about better food labeling so that Americans are better informed about the impact their choice of diet has on their health and longevity. We aren't talking about making sure the fast food industry fully discloses the health risks of high fat food that they have continually marketed and made easily accessible in every corner of this country.

I ask my colleagues to vote down this unneeded and potentially damaging legislation—it's a matter for the courts, not Congress. We ought to focus on bringing Americans to better health, rather than the healthy profits of the fast food industry.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I strongly oppose this bill. It is advertised as a bill that stops frivolous lawsuits. Essentially, it really is frivolous legislation. Fast food lawsuits are extremely rare, and existing court procedures already weed most of them out before they get to trial. This is a manufactured issue, and this bill was created just to get a political score, catering to big corporations. The real problem is that to get that political score, this bill compromises the rights of states, denies citizens their right to be heard in a court of law, and impinges on the judiciary.

Furthermore, this bill will stifle a dialogue that is leading to better information and education about the health effects of various ingredients, and encouraging the food industry to develop more healthful products. This silly bill could cost lives.

Court procedures that have been carefully developed over the centuries already ensure that defendants are treated fairly. It is up to the courts to decide if a case is frivolous. Our legal system has multiple procedural safeguards to ensure defendants' rights. For example, judges monitor filings at every step, and can dismiss cases that lack merit at any time. Sufficient quality evidence must be present for any case to proceed. Attorneys can be punished and, in some cases, may be required to pay monetary penalties if they bring frivolous cases to court, or otherwise abuse the process. Also, the contingency fee system keeps attorneys from taking baseless cases. Usually, they only get paid if a judge or jury determines that the case was not frivolous.

However, just the threat of such cases has made our food supply safer and more healthful. Since the press coverage of obesity lawsuits began, fast food chains and junk food producers have taken more responsibility for their products. Consider the following developments: after publicity over a lawsuit against Kraft Foods regarding the dangerous trans-fat found in Oreo cookies, the FDA issued requirements that food labels reveal exact levels of the artery-clogger. According to the Associated Press; ''the FDA has estimated that merely revealing trans-fat content on labels would save between 2,000 and 5,600 lives a year, as people either would choose healthier foods or manufacturers would change their recipes to leave out the damaging ingredient.''

The New York Times has reported that Kraft and other major food companies, like McDonalds, Kellogg and PepsiCo, have promised to change how they produce foods and to take health concerns into greater consideration. The New York City public school system banned candy, soda and other sugary snacks from school vending machines to combat obesity among schoolchildren.

Although the most recent lawsuit against McDonalds was dismissed in September, it was still followed by a sudden wave of corporate responsibility. McDonalds will now offer a ''Go Active Meal'' for adults modeled after the children's Happy Meal. It will contain a healthy salad along with exercise tools. Burger King has joined the effort by creating low fat chicken baguettes for health conscious consumers, and Pizza Hut is offering the Fit 'N Delicious pizza that is only 150 calories per large pizza compared to the 450 calories in just one slice of its Stuffed Crust pizza.

I am against frivolous lawsuits, and hope the courts will continue to exercise restraint and control in protecting the defendants from

ridiculous claims. But the few suits that have come up have cost very little overall, and have started a public dialogue that has led to a new level of corporate responsibility and consumer awareness. We should not interfere with that dialogue.

In effort to lessen the frivolous nature of this bill, I offer two amendments and ask that my colleagues join me to save what promises to be an attempted legislative fix to a problem that has already been addressed in the courts. First of all, for the sake of clarification, this bill prohibits suits against food manufacturers, and relies on the definition of ''food'' under the Food, Drug and Cosmetic Act. In 1994, Congress passed the Dietary Supplement Health and Education Act to clarify that ''a dietary supplement shall be deemed to be a food'' for all purposes within the Food, Drug and Cosmetic Act (21 USC 301 (ff)). Because this bill relies on this definition of ''food,'' it also applies to dietary supplements.

The first of these amendments, ''MJ–004,'' will ensure that dietary supplement manufacturers don't get away with murder. This bill, as drafted, bans not only so-called ''obesity-related suits,'' but any civil action that ''relate[s] to . . . a person's consumption of a qualified product . . . and any health condition that is associated with a person's weight gain.'' Note that the person with the health condition does not have to be obese, they only have to have a health condition that obese people also have. Heart disease and kidney problems would be some of those diseases, for example. Hidden in this convoluted definition is the fact that this bill will shield the producers of dietary supplements from all liability. I offer this amendment to ensure that makers of these highly dangerous—and highly unregulated—drugs are held accountable for their actions.

Now that ephedra is gone, new diet drugs are already taking its place: bitter orange, aristolochic acid and usnic acid. All three have been associated with kidney and liver problems. While the FDA claims that it will look into the matter, we all saw what happened the last time the FDA began its cumbersome process. How many people will die this time? While the government works through its bureaucratic process, we have to let people have their day in court to stop these tragic events from happening again.

I offered an amendment, ''WATT–019,'' in addition to ''MJ–004.'' This amendment would prohibit the food industry—which enjoys broad immunity under this bill—from initiating lawsuits against any person for damages for other relief due to injury or potential injury based on a person's consumption of a qualified product and weight gain, obesity, or any health condition that is associated with a person's weight gain or obesity.

This amendment is necessary to insure that the public debate on the health and nutritious effects of mass marketed food products is not completely squelched by this bill.

In 1996, Oprah Winfrey was sued under my home state's ''food disparagement'' laws by the beef industry for comments she made following the first ''Mad cow'' scare this country witnessed. After years of litigation, transfer of her television show to Texas, and an expenditure of over $1 million, Ms. Winfrey prevailed at trial and on appeal.

My amendment insures that what's good for the geese is good for the gander. Those advancing healthy diets by discouraging the consumption of certain foods because of their adverse effects on a person's health and weight gain should not be subject to litigation from the food industry while it stands immunized from any accountability under this bill.

I will vote against this bill and urge my colleagues to do the same.

Mr. SHUSTER. Mr. Chairman, I rise today in support of H.R. 339, the Personal Responsibility in Food Consumption Act. This common sense legislation would prohibit lawsuits that claim a food manufacturer or seller is responsible for an individual's weight gain or obesity.

The food service industry is our nation's largest private sector employer, providing more than 12 million jobs in this country. Due to the industry's success of selling a legal product and meeting consumer demands, they have become the next target for the personal injury trial lawyers. If we do not pass this legislation, we will clear the way for the next free-for-all and litigation-lottery created to line the pockets of trial lawyers and send the message to Americans that they no longer have to be responsible for their actions. Make no mistake about it, this legislation is about personal responsibility. Each individual must be held accountable for their own personal choices and that includes the choices they make regarding what and how much they eat.

By supporting this legislation, we are not turning our backs on this country's problem with obesity but will in fact take one step closer in addressing the issue in a responsible and reasonable manner. As a nation, we must look for solutions to this public health problem. However, the solutions will not be found in the courtroom. Baseless and frivolous lawsuits are a misguided attempt to correct the poor eating habits of Americans and will not help a single individual in their struggle with obesity. The answers to our nation's struggle with weight and the associated health problems can be found by educating individuals about healthy lifestyle choices. It is doctors, nutritionists, and other health care providers that can offer help to overweight Americans—not personal injury lawyers. If lawsuits that blame the food industry for an individual's weight gain are allowed, we will simply make it easier for individuals to shift the blame to someone else. In a society that values choices and personal freedom, I believe we must take responsibility for our own choices in order to preserve them. We cannot stand by and let trial lawyers attempt to legislate through litigation. I urge my colleagues to vote for common sense and personal responsibility by supporting this important legislation.

Mr. BLUMENAUER. Mr. Chairman, if anyone needed an example of how Congress misses opportunities to make a difference, they need only to look at today's discussion of H.R. 339, a fast food tort reform bill. The very title invites parody. At a time when obesity is the fastest growing health care in America, affecting over one-third of American adults and touching almost every family, and when we have particular concern about an explosion of childhood obesity and related illnesses, there is good reason for Congress to become concerned.

Congress could make a real difference by providing reasonable diet standards including school lunch programs to help remedy this epidemic. Another step would be to have education reform and ''leave no child behind,'' have a provision dealing with children's health. Physical education is not a part of Congress' answer to school reform, and we find today that most of our children do not get regular physical activity as a daily part of the school curriculum. In our transportation bill we could provide major opportunities for safe routes to school so that our children could walk and bike to school on their own. These would be simple, commonsense, cost-effective steps to improve the health of our children and their families, while improving the environment and quality of life.

Instead of dealing substantively with the obesity problem, Congress in its wisdom has seen fit to continue selectively tinkering with the legal system by providing immunity from litigation. Never mind there has never been a jury verdict for a plaintiff in an obesity lawsuit. Corporations like McDonalds are well suited to take care of themselves, but the House leadership is taking a page out of their recent outrageous, unprecedented immunity for gun manufacturers. Not only is this legislation unneeded, but it would immunize defendants for negligent and reckless behavior including mislabeling of food products, something that I find impossible to explain to American consumers.

I find this trivializing a serious issue, undercutting fundamental legal protections, and providing a remedy for a problem that does not, at this point, appear to exist.

Mr. HAYES. Mr. Chairman, I rise today in support of H.R. 339—the Personal Responsibility in Food Consumption Act. This legislation will help to avoid frivolous lawsuits that will serve only to victimize innocent restaurants and make the American consumer pay a price. Frivolous lawsuits are driving up the cost of doing business in this country and it's costing us jobs. The simple fact is that responsibility for obesity here in America rests with the individual choices made by each citizen. And this legislation makes that clear.

Recently, an editor in my district made this point very clear. I would like to quote from his column, which ran in the Richmond County Daily Journal, which I believe represents the spirit of this important legislation.

> McDonald's nor any of its comrades in the fast-food world, doesn't hold a gun to your head and force you to eat Supersize fries. You—and you alone—make that decision; McDonald's is simply following supply-and-demand protocol by offering Supersize fries.
>
> The Big M in the Sky didn't make you obese; you did.

It is past time in this country for all individuals to take responsibility for the choices and freedoms available to us as Americans and cease passing the buck through frivolous lawsuits that blame others for our poor decisions.

I strongly urge my colleagues to support this legislation that will prevent lawsuits based on poor decision-making.

Mr. CONYERS. Mr. Chairman, I rise in strong opposition to this legislation which is both misleading and frivolous.

H.R. 339 goes much further than its stated purpose of banning the small handful of private suits brought against the food industry. It also bans suits for harm caused by dietary supplements and mislabeling which have nothing to do with excess food consumption, and would prevent state law enforcement officials from bringing legal actions to enforce their own consumer protection laws.

If you don't believe me, I implore you to read the bill. Section 4(5) would prevent any

legal action relating to ''any health condition that is associated with a person's weight gain or obesity'' stemming from consumption of a ''qualified food product,'' which in turn is defined to include food and nutritional supplements. There is no requirement whatsoever that the person actually have gained weight as a result of consuming the product. As a result, the bill would prevent persons who develop heart disease and diabetes from dietary supplements such as Ephedra and Phen Phen from being able to obtain redress. Moreover, under the Manager's amendment, private actions for harm caused by adulterated or poisoned products would also be limited.

Even worse, the bill bans these lawsuits on a retroactive basis, so it would throw out dozens of Ephedra and Phen Phen cases currently pending in court. This is a far cry from the concerns that led to this legislation.

H.R. 339 would also prevent state law enforcement officials from enforcing their own laws. Under section 4(3) the bill applies to legal actions brought by any ''persons,'' which in turn is defined to include any ''governmental entity.'' That means state attorneys general will be prevented from pursuing actions for deceptive practices and false advertising against the food industry. Again, this is a vast departure from most of the so-called tort reform bills considered by this Congress, which are drafted to apply to private lawsuits.

The legislation is frivolous because it deals with a non-existent problem. To date every single private lawsuit against the industry—a total of five—have been dismissed. The system is working fine, there is absolutely no crisis. Frivolous suits are thrown out of courts, and lawyers who bring them are subject to fines and other sanctions. It is absurd that this Congress would even consider eliminating liability when today's Washington Post is reporting that obesity is passing smoking as the leading avoidable cause of death in our nation.

Lets not pass a bill which harms the victims of Ephedra and Phen Phen, or handcuffs our state attorneys general from protecting consumers.

I urge a ''no'' vote.

Mr. PAUL. Mr. Chairman, Congress is once again using abusive litigation at the state level as a justification nationalizing tort law. In this case, the Personal Responsibility in Food Consumption Act (H.R. 339) usurps state jurisdiction over lawsuits related to obesity against food manufactures.

Of course, I share the outrage at the obesity lawsuits. The idea that a fast food restaurant should be held legally liable because some of its customers over indulged in the restaurants products, and thus are suffering from obesity-related health problems, is the latest blow to the ethos of personal responsibility that is fundamental in a free society. After all, McDonalds does not force anyone to eat at its restaurants. Whether to make Big Macs or salads the staple of one's diet is totally up to the individual. Furthermore, it is common knowledge that a diet centering on super-sized cheeseburgers, french fires, and sugar-filled colas is not healthy. Therefore, there is no rational basis for these suits. Some proponents of lawsuits claim that the fast food industry is ''preying'' on children. But isn't making sure that children limit their consumption of fast foods the responsibility of parents, not trial lawyers? Will trial lawyers next try to blame the manufactures of cars that go above 65 miles per hour for speeding tickets?

Congress bears some responsibility for the decline of personal responsibility that led to the obesity lawsuits. After all, Congress created the welfare state that popularized the notion that people should not bear the costs of their mistakes. Thanks to the welfare state, too many Americans believe they are entitled to pass the costs of their mistakes on to a third party—such as the taxpayers or a corporation with ''deep pockets.''

While I oppose the idea of holding food manufactures responsible for their customers' misuse of their products, I cannot support addressing this problem by nationalizing tort law. It is long past time for Congress to recognize that not every problem requires a federal solution. This country's founders recognized the genius of separating power among federal, state, and local governments as a means to maximize individual liberty and make government most responsive to those persons who might most responsibly influence it. This separation of powers strictly limits the role of the federal government in dealing with civil liability matters; and reserves jurisdiction over matters of civil tort, such as food related negligence suits, to the state legislatures.

Finally, Mr. Chairman, I would remind the food industry that using unconstitutional federal powers to restrict state lawsuits makes it more likely those same powers will be used to impose additional federal control over the food industry. Despite these lawsuits, the number one threat to business remains a federal government freed of its Constitutional restraints. After all, the federal government imposes numerous taxes and regulations on the food industry, often using the same phony ''pro-consumer'' justifications used by the trial lawyers. Furthermore, while small businesses, such as fast-food franchises, can move to another state to escape flawed state tax, regulatory, or legal policies, they cannot as easily escape destructive federal regulations. Unconstitutional expansions of federal power, no matter how just the cause may seem, are not in the interests of the food industry or of lovers of liberty.

In conclusion, while I share the concern over the lawsuits against the food industry that inspired H.R. 339, this bill continues the disturbing trend of federalizing tort law. Enhancing the power of the federal government is in no way in the long-term interests of defenders of the free market and Constitutional liberties. Therefore, I must oppose this bill.

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

The CHAIRMAN pro tempore (Mr. OSE). All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

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

H.R. 339

*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 ''Personal Responsibility in Food Consumption Act''.*

***SEC. 2. PURPOSE.***

*The purpose of this Act is to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.*

***SEC. 3. PRESERVATION OF SEPARATION OF POWERS.***

*(a) IN GENERAL.—A qualified civil liability action may not be brought in any Federal or State court.*

*(b) DISMISSAL OF PENDING ACTIONS.—A qualified civil liability action that is pending on the date of the enactment of this Act shall be dismissed immediately by the court in which the action was brought or is currently pending.*

*(c) DISCOVERY.—*

*(1) STAY.—In any qualified civil liability action, all discovery and other proceedings shall be stayed during the pendency of any motion to dismiss unless the court finds upon motion of any party that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party.*

*(2) RESPONSIBILITY OF PARTIES.—During the pendency of any stay of discovery under paragraph (1), unless otherwise ordered by the court, any party to the action with actual notice of the allegations contained in the complaint shall treat all documents, data compilations (including electronically recorded or stored data), and tangible objects that are in the custody or control of such person and that are relevant to the allegations, as if they were the subject of a continuing request for production of documents from an opposing party under applicable Federal or State rules of civil procedure, as the case may be. A party aggrieved by the willful failure of an opposing party to comply with this paragraph may apply to the court for an order awarding appropriate sanctions.*

*(d) PLEADINGS.—In any action of the type described in section 4(5)(A), the complaint initiating such action shall state with particularity the Federal and State statutes that were allegedly violated and the facts that are alleged to have proximately caused the injury claimed.*

***SEC. 4. DEFINITIONS.***

*In this Act:*

*(1) ENGAGED IN THE BUSINESS.—The term ''engaged in the business'' means a person who manufactures, markets, distributes, advertises, or sells a qualified product in the person's regular course of trade or business.*

*(2) MANUFACTURER.—The term ''manufacturer'' means, with respect to a qualified product, a person who is lawfully engaged in the business of manufacturing the product in interstate or foreign commerce.*

*(3) PERSON.—The term ''person'' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.*

*(4) QUALIFIED PRODUCT.—The term ''qualified product'' means a food (as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f))).*

*(5) QUALIFIED CIVIL LIABILITY ACTION.—The term ''qualified civil liability action'' means a civil action brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, penalties, declaratory judgment, injunctive or declaratory relief, restitution, or other relief arising out of, related to, or resulting in injury or potential injury resulting from a person's consumption of a qualified product and weight gain, obesity, or any health condition that is associated with a person's weight gain or obesity, including an action brought by a person other than the person on whose weight gain, obesity, or health condition the action is based, and any derivative action brought by or on behalf of any person or any representative, spouse, parent, child, or other relative of any person, but shall not include—*

*(A) an action in which a manufacturer or seller of a qualified product knowingly and willfully violated a Federal or State statute applicable to the manufacturing, marketing, distribution, advertisement, labeling, or sale of the product, and the violation was a proximate cause of injury related to a person's weight gain, obesity, or any health condition associated with a person's weight gain or obesity;*

*(B) an action for breach of express contract or express warranty in connection with the purchase of a qualified product; or*

*(C) an action regarding the sale of a qualified product which is adulterated (as described in section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342)).*

*(6) SELLER.—The term ''seller'' means, with respect to a qualified product, a person lawfully engaged in the business of marketing, distributing, advertising, or selling a qualified product in interstate or foreign commerce.*

*(7) STATE.—The term ''State'' includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any political subdivision of any such place.*

*(8) TRADE ASSOCIATION.—The term ''trade association'' means any association or business organization (whether or not incorporated under Federal or State law) that is not operated for profit, and 2 or more members of which are manufacturers, marketers, distributors, advertisers, or sellers of a qualified product.*

The CHAIRMAN pro tempore. No amendment to that amendment shall be in order except those printed in the designated place in the CONGRESSIONAL RECORD and pro forma amendments for the purpose of debate. Amendments printed in the RECORD may be offered only by the Member who caused it to be printed or his designee and shall be considered read.

Are there any amendments?

AMENDMENT NO. 5 OFFERED BY MR. SENSENBRENNER

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. SENSENBRENNER:

Section 3(c)(1), strike ''In any qualified civil liability action,'' and insert ''In any action of the type described in clause (i) or (ii) of section 4(5)(B),''.

Section 3(d), strike ''section 4(5)(A)'' and insert ''section 4(5)(B)(i)''.

Section 4(5), strike ''The term'' and insert ''(A) Subject to subparagraphs (B) and (C), the term''.

Section 4(5), strike ''any person, but shall not include—'' and insert ''any person.''

Section 4(5), insert after ''any person.'' (as inserted by the preceding instruction) the following:

(B) Such term shall not include–

Section 4(5), strike ''(A) an action'' and insert ''(i) an action''.

Section 4(5), insert ''or'' after ''obesity;''.

Section 4(5), strike ''(B) an action'' and insert ''(ii) an action''.

Section 4(5), strike ''; or'' and insert a period.

Section 4(5), strike subparagraph (C) and insert the following:

(C) Such term shall not be construed to include an action brought under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

Mr. SENSENBRENNER. Mr. Chairman, my amendment does not alter the substance of the bill, it simply clarifies it further. First, to clarify and ensure consistency in interpretation, it simply amends one phrase in the bill's stay provisions in Sec. 3(c) to track language used in the bill's pleading requirements in Sec. 3(d). Second, it replaces Sec. 4(5)(c) with language making it clear that the term ''qualified civil liability action'' does not include an action brought under the Federal Trade Commission Act or the Federal Food, Drug and Cosmetic Act.

I believe that this change satisfies the objections that the Committee on Energy and Commerce levied against the bill.

I would urge the Members to support my clarifying amendment.

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment.

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

Mr. DINGELL. Mr. Chairman, I rise in support of this amendment. I rise in support of the thesis that we should be considering these matters.

This legislation is a very important part of the administration's program. Just think what it does for this Nation. It says that civility liabilities actions in Federal, State courts against food manufacturers, distributors or sellers that are based on a claim that the person's food consumption resulted in weight gain, obesity or a health condition that is associated with weight gain or obesity is terminated. A very important step.

Now let me give you the history of what we are talking about here, because the administration has an economic program and it is an important economic program and the American people need to know what it is.

First, the Chairman of the Council of Economic Advisors said that the transportation of American jobs abroad or outsourcing is a normal part of trade and he supports it. Second, the administration has come forward with a serious attempt to expand the definition of manufacturing in this country, something which is very important, especially if you are sending manufacturing jobs overseas. And this administration has sent 2.7 million manufacturing jobs overseas. They have also lost 3.3 million jobs in the United States. So there is a serious attempt on the part of this administration to grapple with that problem.

They seek to see to it that we can change the definition of manufacturing jobs now so that they cover fast food handling. Just think of what this means in terms of jobs for the American people. Jobs in manufacturing that paid $27 an hour will now pay minimum wages at McDonalds or Wendy's or Burger King or somebody like that. But just think of the number of new jobs that they can create.

Now, this bill is going to protect those new manufacturing jobs against the prospect of lawsuits which might, in some way, jeopardize the expansion of the American economy and the creation of new jobs in manufacturing.

□ 1315

I think that this tells us many things. First of all, it says they no longer care about autos or steel or aircraft or other important manufacturing concerns and interests that mean jobs, real jobs for the American people, but at least it means that they are paying attention to the fact that we have got to have something done for job creation in this country. It means that they are finally recognizing that we have to protect some portion of the American economy.

The fact that they are beginning with fast food, and food should not be a source of condemnation but rather one of praise, because it means that after a long slumber, they have come alert to a significant problem, the fact that they are not competent to come forward with a real solution, which puts Americans back to work in real jobs, which would enable Americans to have jobs, which will enable them to feed their families, to house them properly, to see to it that they are properly educated or go to college is only a beginning.

We must hope that with the assistance of this body and the passage of this important legislation that perhaps, just perhaps, we will begin down the road towards doing something about protecting American manufacturing, about protecting American manufacturing jobs and about seeing to it that Americans go back to work.

I do not want my colleagues to denigrate the administration. It is not funny. It is sad, and what I want to say to my colleagues is, it is time we do something more than just pass this kind of legislation.

Let us address the problem of the sanctions that the Europeans are getting ready to put on American manufacturers and American industry and the American economy. There is a discharge petition down here at the clerk's desk. My colleagues can sign on it if they want. We can begin to address the fact that this administration does not care about manufacturing, that they have lost millions of manufacturing jobs, that they are not able to be truthful about it.

Last month, we got 22,000 jobs through. In these jobs, 21,000 of them were government jobs, State and local. They were not manufacturing. They were not jobs that put people to work, and they were not jobs that increase productivity for the economy. They were just jobs in the service industry.

If my colleagues look, they will find that there are hundreds of thousands of Americans every month who are falling off the unemployment rolls. If my colleagues look, they will find that there are millions of Americans looking for jobs. They will find that the real unemployment level is around 7.4 million instead of the 5.6 percent that they are

talking about. This is a serious problem. It needs to be addressed. This kind of legislation will not do it.

Mr. WATT. Mr. Chairman, I move to strike the last word, and I am going to ask the gentleman from Michigan if I can ask him a question or two, if he will go back to the microphone because he touched on a subject that I talked about in the general debate here, and he at least has tried to put this in perspective for me.

I could not quite figure out what it was that the argument was that this bill was about job creation. Is the gentleman now saying that the production of hamburgers is a manufacturing job?

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

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

Mr. DINGELL. Mr. Chairman, that is what the administration would tell us, but I would say to my friend, that I am as confused on what the administration's policy is as the administration is and as my good friend is, because they do not seem to know what they are doing, what they are standing for or what they are about. They like jobs going overseas. They think that manufacturing jobs should be flipping hamburgers or handling trays or dealing with mopping the floor in a McDonald's. Those, to this administration, are massive manufacturing jobs.

At the same time, they are not giving tax cuts to the people who would buy those hamburgers or who would buy American automobiles or do other things to make the economy really move and go as it should.

Mr. WATT. Mr. Chairman, I appreciate the gentleman giving me that enlightenment because I had been trying to stretch my imagination to figure out how this debate was about jobs, and I think the gentleman has put his finger on it. I do not necessarily agree with him, but at least that gives the argument some plausibility if one is trying to argue that the processing of hamburgers is manufacturing jobs and it is a manufacturing process and that we have got to protect manufacturing jobs in this country, then we want to do everything we can, but I think it is a stretch.

As I said before the gentleman arrived on the floor, I have heard some pretty interesting explanations for job loss in this country, but this would be way, way, way down the list, like 999,000 on my list of the problems that is creating job loss in this country. I am surprised that the sponsors of this bill have couched it in terms of job creation, but the gentleman has certainly, with the years of experience he has been here, given me some framework within which to evaluate that. I am most appreciative to him.

I yield to the gentleman.

Mr. DINGELL. Mr. Chairman, I thank the gentleman. I will observe that the creation of jobs is one of the major functions of government and seeing to it that we have the prosperity that is needed, that people can work, they can raise their families well, that they can heighten expectation of this generation and the next generation for the future of this country.

I would say that sending jobs to India or China is not a function of which the administration could be proud. I would say that the administration's got to start functioning and focusing on those questions. I would say they are not. I would say this body, with this legislation, is not focusing on those questions either.

It is time we get down to the serious business of addressing jobs, manufacturing, opportunities for Americans and stop all of this piddling around with nonsense that accomplishes nothing in the broad public interest.

Mr. WATT. Mr. Chairman, reclaiming my time, I am going to join my colleague from Michigan in supporting the amendment. I am not sure whether it was tongue-in-cheek that he was supporting the whole concept, but I cannot join him in supporting the bill if he is supporting the bill. I doubt that that is what he is doing. I think that was kind of tongue-in-cheek that he was proceeding, but I certainly support this amendment. It makes a terrible bill less terrible. We could not make it any worse, I do not think, and more importantly, from the sponsor's perspective, it keeps the bill from having to go to the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Chairman, if the gentleman would yield, we will receive this bill most kindly in the Committee on Energy and Commerce, and we would have some splendid questions for the sponsors of this legislation about jobs and job creation.

Mr. WATT. But this is such a critical piece of legislation that it must be considered on the floor today and anything that would delay the consideration of it on the floor today, even if it went to the Committee on Energy and Commerce, which has jurisdiction over most food issues and matters of commerce of this kind, would surely be counterproductive.

Mr. DINGELL. Mr. Chairman, it would be helpful, I believe.

The CHAIRMAN pro tempore (Mr. OSE). The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, as the designee of the gentleman from North Carolina (Mr. WATT), I offer an amendment.

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

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. SCOTT of Virginia:

At the end of the bill (preceding the amendment to the long title), insert the following new section:

**SEC. 5. STATE CONSUMER PROTECTION ACTIONS.**

Notwithstanding any other provision to the contrary in this Act, this Act does not apply to an action brought by a State agency to enforce a State consumer protection law concerning mislabeling or other unfair and deceptive trade practices.

Mr. SCOTT of Virginia. Mr. Chairman, this amendment reads simply: ''Notwithstanding any other provision to the contrary in this Act, this Act does not apply to an action brought by a State agency to enforce a State consumer protection law concerning mislabeling or other unfair and deceptive trade practices.''

Mr. Chairman, if the House is going to decide that we will try some cases instead of letting them be tried in court, we ought to at least limit that to the fast food rhetoric that we have heard on the floor. This bill, in fact, covers not only fast food lawsuits, but also litigation involving consumer protection when obesity may be one of the elements of the case.

Every single State has laws in the books to protect its consumers. Each State has laws to protect its consumers from misleading practices. As written, the bill will prevent States' Attorneys General from enforcing these laws. It will not just stop the fast food suits that my colleagues have discussed, but because a person is defined in section 4(3) of the bill to include governmental entities, it will prevent States from getting injunctions, cease and desist orders, or imposing fines against those who endanger consumers.

The exception for a willful and knowing violation is not just enough. State deceptive practices are just like the Federal Trade Commission Act. They allow civil enforcement actions whether or not the defendant knowingly or willfully violated the law. In fact, food labeling and deceptive practices often have exacted strict liability, that is, that the government can get an injunction whether or not the person was intentionally or knowingly in violation.

Mr. Chairman, my State of Virginia has a Consumer Protection Act which prohibits, and I quote, representing that goods and services have characteristics, ingredients, uses, benefits or qualities that they do not have or any other conduct which similarly creates a likelihood of confusion or misunderstanding. A court may order an injunction or restitution to injured parties, even if the violation was unintentional.

The fact is Virginia is not alone. Twelve States have adopted the Uniform Deceptive Trade Practices Act section 3 which says intentional deception is not necessary to get injunctive relief, and at least 23 other States have similar standards.

So, Mr. Chairman, the amendment I present today will fix the problem. It will ensure that States can still put an end to mislabeling, deceptive practices and false advertising within their borders. Whatever we think of the fast food suits, please do not prevent States Attorneys General from protecting their citizens.

Mr. KELLER. Mr. Chairman, I move to strike the last word.

I am not going to support this amendment, and I would ask all of my colleagues to vote no on this amendment on two grounds.

The first ground is that the bill only precludes lawsuits in which the injury claimed is obesity and weight gain. State consumer protection statutes are not lawsuits in which the injury claimed is obesity or weight gain. Rather, in the State consumer protection cases, the injuries claimed are unfair and deceptive trade practices or misleading labeling.

However, because the amendment implies that the State consumer protection laws somehow do allow lawsuits in which the injury claim is obesity or weight gain, Courts may well read it to grant all State agencies new power to use their State consumer protection laws to seek damages against the food industry for obesity-related claims. In other words, this would essentially gut the bill by allowing State Attorneys General to bring the very same claims that we are trying to get rid of.

I cannot think of a single State consumer protection law right now that allows a State agency to sue because someone got fat from eating too much.

The second ground I object to this amendment on is the gentleman from Virginia (Mr. SCOTT) said he does not like the fact we have the knowing and willful standard. The knowing and willful standard is exactly the same standard used in H.R. 1036, the Protection of Lawful Commerce and Arms Act that overwhelmingly passed this House in a bipartisan fashion. It got 285 votes, and so anyone who voted for H.R. 1036 and who votes for this amendment will literally be voting for stronger protection for gun manufacturers than for the food industry, which is the largest private sector employer, providing jobs to some 12 million Americans.

I urge my colleagues to vote no on this amendment.

Mr. WATT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the gentleman from Virginia's (Mr. SCOTT) amendment. It seems to me to be absolutely consistent with the manager's amendment which said that this legislation was not going to be construed to include an action brought under the Federal Trade Commission Act.

State consumer protection laws are characteristically State counterparts to the Federal Trade Commission Act. They are States' efforts to protect the same kind of things at the State level that the Federal Trade Commission has jurisdiction over at the Federal level.

□ 1330

Now, this kind of takes me back to the argument before, I had the notion that the reason that they really were striking the Federal Trade Commission Act from the applicability of this proposed law was because they really did not want this legislation to have to go to the Committee on Energy and Commerce, so it was more about them not wanting to delay today's proceedings and not wanting them to let the Committee on Energy and Commerce, for which there has been a long-standing tension on many issues between the Committee on the Judiciary and the Committee on Energy and Commerce, they did not want them to have any jurisdiction over this.

But if we are going to exclude actions brought under the Federal Trade Commission Act at the Federal level, in fairness, unless we are saying to the States that somehow or other they are less attentive to these issues or less intelligent or have less of an interest in protecting your citizens than your big brother Federal Government has, then it seems to me that we ought to be following the same process at the State level, and it is the State consumer protection laws that are the equivalent of the Federal Trade Commission Act on the Federal basis.

So if we are going to be parallel or consistent in our evaluation of these things, it seems to me that the amendment of the gentleman from Virginia (Mr. SCOTT) makes patently good sense. And of course I am not sure that any of this is designed to make patently good sense, but I think it is our obligation in this body to at least try to bring some consistency to it.

Now I am assuming that under the Federal Trade Commission Act, if there are any individual causes of action, those things would be protected also. I do not know that. We have not had any hearings on this to make that kind of determination, but certainly the word ''person,'' as it is defined, would exclude State consumer protection laws that are typically administered by the attorney general for the protection of the citizens in that particular State, and perhaps that is the reason that the State attorneys general are so vigorously opposed to this legislation. They do not view us or the Federal Trade Commission as being their big brothers, and more brilliant, sometimes more arrogant, they would tell you. They think that they serve a pretty valuable role in this Federal system that we have. Again, we are dishonoring that role. I urge support for the gentleman's amendment.

Mr. CANNON. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to this amendment. Recently, the food industry has been targeted by a variety of legal claims which allege businesses should pay monetary damages and be subject to equitable remedies based on legal theories of liability for the overconsumption of its legal products.

In our subcommittee hearings last year, we explored the threat the food industry faces from frivolous litigation, the threat to personal responsibility posed by the proliferation of such litigation, and the need for H.R. 339, the Personal Responsibility in Food Consumption Act.

H.R. 339 currently has 119 cosponsors. A similar bill was signed into law by Louisiana Governor Mike Foster on June 2, 2003, with huge bipartisan support. Every Republican in both legislative Chambers voted for the measure, as did 93 percent of Democrats in the Louisiana House and 83 percent of Democrats in the Louisiana Senate.

Recent history shows why similar legislation is necessary at the Federal level. We have seen industries brought to the verge of bankruptcy by frivolous lawsuits seeking billions of dollars. Today we have Ralph Nader comparing fast food companies to terrorists by telling The New York Times that the double cheeseburger is ''a weapon of mass destruction.'' In a hearing before our subcommittee last year, a law professor who helped spearhead lawsuits against the tobacco companies has said of fast food litigation, ''If the legislatures won't legislate, then the trial lawyers will litigate.''

It is clear that obesity is a problem in America. Equally clear, however, is the simple availability of high-fat food is not a singular or even a primary cause. For example, recent findings drawing on government databases and presented at a scientific conference of the Federation of American Societies for Experimental Biology biological showed that over the past 20 years, teenagers have, on average, increased their caloric intake by 1 percent. During that same time period, the percentage of teenagers who said they engaged in some sort of physical activity for 30 minutes a day dropped by 13 percent. Not surprisingly, teenage obesity over that same 20-year period increased by 10 percent, indicating it is not junk food that is making teenagers overweight, but rather a lack of activity.

In short, it is unlikely that lawsuits against food establishments over their menu offerings will do much, if anything, to make us healthier. On the other hand, such lawsuits will threaten thousands of jobs that are today available to teenagers and other entry-level workers who need those jobs. Further, such lawsuits send the wrong message regarding personal choices and responsibility. Do we want our kids growing up believing it is a restaurant's fault that they are eating too many cheeseburgers?

Besides threatening to erode values of personal responsibility, the legal campaign against the food industry threatens our notion of government. Nationally coordinated lawsuits seek to accomplish through litigation what has not been, and will likely not be, achieved through legislation.

Last year, the House passed H.R. 1036, the Protection of Lawful Commerce in Arms Act by a large, bipartisan vote. That bill bars frivolous lawsuits against the firearms industry for the misuse of legal products by others. H.R. 339 similarly seeks to bar frivolous lawsuits against the food industry for overconsumption of its legal products by others. It is appropriate for Congress to respond to this growing legal assault on the concept of personal responsibility.

Mr. Chairman, it is not only important, but also fundamental that Americans have access to courts to redress legitimate wrongs and the harms they cause. The trial bar serves an invaluable purpose in helping average Americans gain rightful and proportionate compensation when harm is done. However, frivolous lawsuits such as the ones this legislation seeks to prevent serve only to undermine our legal system and those who truly need its protections.

Mr. Chairman, I urge my colleagues to oppose this amendment and support the underlying bill, H.R. 339.

Mr. ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

I would like to speak in favor of the Scott amendment. The wisdom of the common law has evolved and worked for centuries. It is older than the United States of America. It is bizarre that this House created one exception to the common law in the case of gun manufacturers, now it is trying to create another one in the case of certain food purveyors.

If you can sum up the history of the western jurisprudential system, it is that common law is usually right and statutory interferences with common law is usually wrong.

Mr. SCOTT of Virginia. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, I think we need to review what the amendment actually is. In section 4.3, they define person who can bring these lawsuits as individuals, corporations, companies, but it includes any governmental entity.

The lawsuits we are talking about are lawsuits arising out of, related to, or resulting in injury or potential injury resulting from person's consumption of a qualified product and weight gain, obesity or any health condition that is associated with a person's weight gain or obesity, including, and it goes on. This is overly broad.

Let us just read what the amendment says. It says that the Act does not apply to an action brought by a State agency to enforce a State consumer protection law concerning mislabeling or other unfair or deceptive trade practice. We do not need protection from State attorneys general enforcing our consumer protection laws. I would hope that we adopt the amendment.

The CHAIRMAN pro tempore (Mr. OSE). The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

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

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

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

□ 1345

AMENDMENT NO. 7 OFFERED BY MR. WATT

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

The CHAIRMAN pro tempore (Mr. OSE). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. WATT:
Section 3(a), strike ''or State''.

Mr. WATT. Mr. Chairman, the amendment that is being offered simply strikes two words from the bill. Those words are ''or State.''

This is an opportunity for those of us who really believe in the Federalist system in which we operate. Those of us who believe truly in the rights of States to control what happens in their States and in their communities, those who believe truly in States' rights to get it right, I am giving you the opportunity.

If there is a rationale for our involvement in this and if there is something that we should be exercising jurisdiction over, it is what comes into the Federal courts, and not what goes into the State courts. So the effect of this amendment is simply to take out the State court component of this.

I want to confess up front that I think this is a bad idea, whether it is in the Federal court or the State court; so I am going to vote against the bill even if this amendment passes. But for those who believe that this is a good bill, that this is a worthy cause, if you have any belief in the Federalist form of government in which we operate, that States and State judiciaries and legislators have certain powers, then you should be supporting this amendment.

State courts and legislatures are perfectly capable of determining which lawsuits are appropriate and which lawsuits constitute an undesired drain on their resources. Right now, 11 State legislatures, including California, Colorado, Florida, Idaho, Louisiana, Missouri, Nebraska, Ohio, South Dakota, Washington and Wisconsin, the chairman's own State, have introduced or passed legislation to ban some form of obesity-related lawsuits. Some of those States have banned a broader range of cases than this proposed legislation would ban.

H.R. 339, this legislation that we are considering, would displace and disrespect the actions of those State legislatures that have acted and impose a ban on those States that have not perceived a need to enact legislation banning obesity suits.

The bill arrogantly presumes that State court judges are incapable; and I am going to keep saying that over, and over and over again. I have said it a million times; I may say it a million more times before this debate is over. It is arrogant for us to assume that State court judges are incapable of carrying out their judicial responsibilities. Should State court judges determine that any lawsuit lacks merit or appropriate proof, they can dismiss it. If they determine that a case is frivolous, they can dismiss it and sanction the attorneys involved.

The proponents of this bill seek to prevent cases that have already gone through the system and have been dismissed. This bill is a solution in search of a problem, believe me.

If there is a rationale for this bill, and I do not believe there is, we at least ought to respect the Federalist form in which we are operating and limit the application of the bill to cases filed in the Federal court. We are not Big Brother here in this body, and my colleagues have reminded us of that many, many times rhetorically. They say they believe in States' rights. If they do, if you do, my colleagues, please support the Watt amendment.

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

Mr. Chairman, the gentleman from North Carolina and I have a little bit different view of the role of federalism in our country. All I can say is I am happy that his view did not prevail during the great debates on civil rights that occurred in this Chamber and down the hall in the Senate Chamber during the sixties, seventies and eighties, because the notion of States' rights would not have been agreed to by the gentleman from North Carolina.

I think this amendment must be defeated because it would gut the bill and also fail to protect the decisions of State legislatures regarding food policy. I do not think we want to see a single judge in a single State court deciding to establish national policy. We have seen far too much of that, and the Watt amendment would allow that type of judicial misinterpretation to occur in a State court somewhere in this country.

This bill is also about protecting the separation of powers and the legislative prerogatives of the elected representatives at the State level. The amendment would gut those provisions.

The drive by overeaters' personal injuries attorneys to blame those who serve them food and to collect unlimited monetary damages is an attempt to accomplish through litigation that which has not been achieved by legislation and the democratic process.

John Banzhaf, a law professor at George Washington University who helped spearhead lawsuits against tobacco companies, has said, ''If the legislatures won't legislate, then the trial lawyers will litigate.'' National Public Radio, August 8, 2002.

Various courts have described similar lawsuits against the firearms industry for harm caused by the misuse of its products by others as an attempt to ''regulate through the medium of the judiciary'' and ''improper attempts to have the court substitute its judgment for that of the legislature, something which the court is neither inclined to

nor empowered to do.'' Such lawsuits break down the separation of powers between the branches of government.

Large damage awards and requests for injunctive relief have the potential to force the judiciary to intrude into the decision-making process properly within the sphere of another branch of government, namely, State legislatures. That is the intent behind these fast-food lawsuits, to circumvent legislatures, to circumvent the Congress and the popular will of the people who elect us.

Further, Congress has the clear constitutional authority and the responsibility to enact H.R. 339. The lawsuits against the food industry H.R. 339 addresses directly implicate core federalism principles articulated by the United States Supreme Court, which has made clear that ''one State's powers to impose burdens on the interstate market is not only subordinate to the Federal power over interstate commerce, but is also constrained by the need to respect the interests of other States.''

Congress can, of course, exercise its authority under the Commerce Clause to prevent a few State courts from bankrupting the food industry.

In fast-food lawsuits, personal injury lawyers seek to obtain through the court stringent limits on the sale and distribution of food beyond the court's jurisdictional boundaries. By virtue of the enormous compensatory and punitive damages sought, and because of the types of injunctive relief requested, these complaints in practical effect would require manufacturers of lawfully produced food to curtail or cease all lawful commercial trade in that food in the jurisdictions within which they reside, almost always outside of the States within which the States are brought, to prevent potentially limitless liability. Insofar as these complaints have the practical effect of halting or burdening interstate commerce in food, they seek remedies in violation of the Constitution.

Such personal injury attorneys' claims directly implicate core federalism principles articulated by the Supreme Court in BMW of North America v. Gore, 1996. The Gore case makes clear that ''one State's power to impose burdens on the interstate market is not only subordinate to the Federal power over interstate commerce, but is also constrained by the need to respect the interests of other States.''

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin (Mr. SENSENBRENNER) has expired.

(By unanimous consent, Mr. SENSENBRENNER was allowed to proceed for 1 additional minute.)

Mr. SENSENBRENNER. Mr. Chairman, the Supreme Court in Healy v. Beer Institute, 1989, elaborated on these principles concerning the extraterritorial effects as follows: ''The critical inquiry is whether the practical effect of the regulation is to control conduct beyond the boundaries of the State. The practical effect of the statute must be evaluated not only by considering the consequences of the law itself, but also by considering how the challenged law may interact with the legitimate regulatory regimes of other States and what effect would arise if one, but many or every, State adopted similar laws. Generally speaking, the Commerce Clause protects against inconsistent laws arising from the projection of one State regulatory regime into the jurisdiction of another State.''

So this bill is supported by sound federalism principles, there is a national interest involved, and that is why the amendment should be defeated.

Mr. ANDREWS. Mr. Chairman, I rise in support of the Watt amendment.

Mr. Chairman, I must say with respect to the issue of federalism and the proper role, I think the comparison of this issue to civil rights is completely inapposite. The principle of civil rights is when State legislation or State action violates a fundamental constitutional right, it cannot stand. There is no fundamental constitutional right involved here. This is the power the 10th amendment expressly meant to be reserved to the States, either through their legislatures or their courts.

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

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

Mr. WATT. Mr. Chairman, I thank the gentleman for yielding. The gentleman puts it a lot milder than I do.

I am not surprised, but I am extremely insulted, that this piece of crap, this bill, would be put on the same level that our civil rights laws in this country have been put on.

Now, I am not surprised. I knew that was coming, because we have had this discussion with my chairman on several occasions on this floor. But I want you to know that the notion that there are basic constitutional rights that the civil rights laws had to enact to enforce was based on rights that were articulated in the Constitution. The right to vote, and it is a shame that we had to have legislation at the Federal level to make it clear that the right to vote applied to all of our citizens in this country, there is no comparison between this bill and that.

The right to travel on a bus and sit where you want, it is a shame that we had to have Federal legislation to tell the States that they had to enforce that basic human constitutional right.

I am insulted that this piece of legislation, and if I went too far in calling it a piece of crap, I apologize to the Chair. I knew he shuddered when I said that, so maybe that is going too far. But it is an abomination for us to be trying to compare this statute to the civil rights laws.

I am really disappointed that this kind of expansive, unprecedented interpretation of the Commerce Clause would be articulated by the chairman of our committee on the floor of the House of Representatives. Under the theory that has just been advanced, to tie it back to the Commerce Clause, to tie this legislation back to the Commerce Clause, anything could be taken over by the Federal Government. There would not be any State legislatures or State courts. Anything in commerce of any kind could be taken over.

That is not what the Commerce Clause says. And with all due respect, I went to law school too. I took my constitutional law under a guy named Robert Bork. I do not think he would say that is what the Commerce Clause says.

I am flabbergasted that we would be told on this floor that this proposed legislation is sanctioned by the Commerce Clause and that it is anywhere in the ball park close to what the civil rights laws were designed to do.

We ought be ashamed of ourselves. And we ought be ashamed of ourselves for destroying the Federal concept that our Founding Fathers made for us. It would be something else if we were doing it about something that is real. There is not a single pending lawsuit now involved that has not already been dismissed. The States are already acting on this. It is not as if they are ignoring it.

If you were in the State legislature, if you want to go vote on stuff like this, go to the State legislature. Many of us came out of the State legislatures. There are people there that are just as smart, just as intelligent as we are here in this body. For us to insult our State legislators and our State judiciary for some political purpose is unforgivable, in my opinion.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. The Chair would urge Members to exercise discipline in vocabulary to preserve the decorum of the House.

Mr. KELLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the enthusiasm of the gentleman from North Carolina (Mr. WATT), and as the author of the bill that was described that way, I can assure you that I take no offense. Sometimes in the heat of passion things come out, so there is no need to apologize to me.

Let me just say this with respect to the gentleman from North Carolina (Mr. WATT), he is at least consistent. He offered this same amendment in committee, made the same arguments, it was rejected in committee. I urge my colleagues to reject it once again here on the House floor and for the very same reason.

This amendment would essentially gut the bill and encourage venue shopping among very creative trial lawyers. Let me just give you one example.

The Louisiana legislature, which, by the way, is a Democrat legislature, both the House and the Senate, passed a very similar bill to mine after I filed mine with 94 percent of the legislators voting ''yes,'' broad bipartisan support.

So, yes, you cannot bring an obesity lawsuit in Louisiana.

So if you are an ambitious trial lawyer, what about Mississippi? Well, they do not have such a law, and that is exactly where the suit would be filed, or some other State that is a nice haven for tourists.

We do not have to guess about this, because we had a hearing on this matter; and the Democrats could have chosen anyone to appear, and they chose a man named Mr. Banzhaf, who says it is his goal to open the flood gates of litigation against our major employers such as McDonald's.

This is what he said. Keep in mind the potential Mississippi lawsuit: ''Somewhere there is going to be a judge and a jury that will buy this, and once we get the first verdict, as we did with tobacco, it will open the flood gates.'' We do not have to guess what their theories are; they have already told us.

So Congress, of course, can exercise its authority under the Commerce Clause to prevent a few States from bankrupting the food industry, which is the largest nongovernmental employer in the United States. Congress, of course, has the authority under the Commerce Clause. That is not just the opinion of the gentleman from Wisconsin (Chairman SENSENBRENNER) or myself. The U.S. Supreme Court in Healy v. Beer Institute said, ''Generally speaking, the Commerce Clause protects against inconsistent laws arising from the projection of one State regulatory regime into the jurisdiction of another State.''

I urge my colleagues to vote ''no'' on the Watt amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

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

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

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

AMENDMENT NO. 2 OFFERED BY MR. ANDREWS

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

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

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. ANDREWS: Section 4(4), insert before the period at the end the following: ''", except that a food that contains a genetically engineered material is not a qualified product unless the labeling for such food bears a statement providing that the food contains such material and the labeling indicates which of the ingredients of the food are or contain such material''.

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

□ 1400

Mr. ANDREWS. Mr. Chairman, the rationale of the underlying bill, with which I disagree, but the rationale of the underlying bill is that educated and knowing consumers who make a choice as to what they eat are responsible for the consequences of what they eat. So that if someone eats a lot of food that is high in saturated fat and suffers heart disease or other health-related problems as a result, that they are responsible for that result, and it should not be the person who sold them the food. Frankly, I think that the judicial system of the country is reaching the same answer and does not need our interference to push them toward that answer, but that is the underlying premise of the bill. Informed consumer choice trumps litigation.

My amendment is designed to provide an informed consumer choice, and here is what it says. It says that if a seller of food is selling genetically-altered food, it can only receive the immunity granted by this bill if the seller of the genetically-altered food fully discloses to the person buying and eating the food the fact that it has been genetically-altered and the nature of the genetic alteration that took place. Let me explain.

We have had instances where, for example, the cornmeal that is used for taco shells has been found to be genetically-altered. People have three objections to this. The first is that they are fearful it will make them sick. The jury is out on this. There are people who will say that these foods are dangerous. There are people who will say that the foods are not dangerous. But there are people who want to make that choice for themselves as to whether or not they eat genetically-altered food.

The second problem is that people may have allergies to genetically-altered food, but if they are not aware of the fact that the food has been altered in such a way, they may be subjecting themselves to the health hazards associated with an allergic reaction.

Thirdly, there are people who, for religious or cultural reasons, do not wish to eat genetically-altered food, particularly if the genes that are used for that genetic alteration come from a food product that they do not ordinarily eat as part of their religious or cultural practices.

So what this bill says is that we offer the food purveyor a choice. If the food purveyor discloses fully to the consumer the fact that the food has been genetically-altered and is precise in disclosing the nature of the genetic alteration, then that food purveyor will enjoy the immunity granted by this bill. But if the food purveyor chooses not to make that disclosure, if it chooses not to disclose the fact that the food has been genetically-altered and chooses not to disclose the nature of the genetic alteration, well then, under those circumstances, that food purveyor would not enjoy the immunities granted by this bill.

Mr. Chairman, between 1987 and 2000, the United States Department of Agriculture authorized 14 field tests of crops engineered with animal or human genes. An example of some of the combinations being done are chicken genes in corn, wheat, and Creeping Bent Grass. Human genes in barley, corn, tobacco, rice, and sugarcane. Mouse genes in corn, along with human genes. Cow genes in tobacco, carp genes in safflower, pig genes in corn, Simian Immunodeficiency Virus, or SIV and Hepatitis B genes in corn.

Now, as I said a minute ago, Mr. Chairman, the jury is out as to whether there are deleterious health effects with respect to genetically-altered food. We are going to have scientific evaluation and come to a conclusion on that question. But I would certainly think the majority, which believes so strongly in informed choice by consumers, would extend that principle to this case and would want consumers to be fully informed that they are choosing genetically-altered food and they would want them to know the nature of the genetic alteration. The idea behind this amendment is to encourage that disclosure, not require it, but to encourage that disclosure by granting the underlying immunity that is granted in the bill to food purveyors who make the disclosure and denying the underlying immunity in the bill to those who fail to make that disclosure.

The argument for this bill, as I understand it, is that personal responsibility should trump litigation. If you know what you are eating and you choose to eat it, and you get sick as a result of eating it, you live with the consequences and you cannot visit those consequences through civil litigation on the person who sold you the food.

Well, if you accept that underlying principle, then you ought to accept the argument that in the case of genetically-altered food, the consumer has the right to know, because if the consumer does not have the right to know, then the consumer is not making a knowing and intelligent choice as to what he or she is eating. That has consequences for potential health risks, it has consequences for exposure to allergic reaction, and it has consequences for the religious and cultural practices that many of our fellow citizens and many other residents of America follow in their dietary practices.

I disagree with the underlying premise of this bill, but I would implore those who disagree with me on that point to embrace this amendment, because if you want to support knowing and voluntary choice in the food you are eating, then let us really make it a knowing and voluntary choice when it comes to the very controversial question of genetically-altered foods.

There are many Members of this Chamber who believe that genetically-altered foods are appropriate. They oppose legislation that would limit or prohibit the use of genetically-altered foods. There are other Members who

feel strongly that genetically-altered foods should be limited or prohibited. Irrespective of where one comes down on that debate, it seems to me one ought to embrace the position that the consumer has the right to make that choice.

Mr. Chairman, I urge the adoption of the amendment.

Mr. KELLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am going to ask my colleagues to vote ''no'' on the Andrews amendment on several grounds. This amendment opposes additional regulations on the food industry, increasing their cost of doing business and threatening additional jobs in the food industry, our Nation's largest private sector employer. But more problematic, the amendment contains no definitions of what would constitute a proper label and, therefore, it would expose even those companies who could afford to comply with the new regulations to lawsuits that would cost yet more jobs.

This amendment is an attempt to regulate an entire industry with one clause, and that is a recipe for confusion and disaster. Even companies who labeled, in an attempt to gain the benefits of the bill, might not get such protections because some judge somewhere will deem their attempt to label inadequate, and the amendment provides no standards to guide either the private sector or judges. Additionally, there is no definition in the amendment of genetically engineered, so people will not even know if their products have to comply with these additional regulations.

Essentially where the gentleman from New Jersey (Mr. ANDREWS) should have his day is trying to amend the Federal Food, Drug and Cosmetic Act and make his changes there, but not here where it is so vague that it does not have those definitions that would be needed.

Also I would point out that if there is some State statute dealing with genetically-altered foods and it requires certain labeling and so on and so forth or advertisement requirements, and if that State statute is violated, under the provisions of this bill, the claims could go forward.

So I would ask my colleagues to vote ''no'' on the Andrews amendment for the reasons suggested earlier.

Mr. WATT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Andrews amendment, and I would say that this is one of the areas, one of several areas, in fact, that the processing of this bill without really letting it go through the Committee on Commerce or without really a whole heck of a lot of deliberation in the Committee on the Judiciary, and hearings, this is just one of those areas that might have been dealt with if the bill were being considered in a serious legislative process, rather than just a political vehicle.

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

Mr. WATT. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, I thank my friend for yielding, and I would say to my friend, the gentleman from Florida, who just spoke, that I respectfully believe that he is in error in two points in criticizing the amendment. First, he says that my amendment imposes regulation on the food industry; that is not the case. It provides the industry with a choice. If it chooses to reach for the immunity granted by the underlying bill, yes, then it is subject to this disclosure requirement. But if it chooses not to reach for that immunity, then it is not subject to the disclosure requirement.

Second, the gentleman is critical of the lack of definitions in the amendment. I would submit that this amendment will be defined and interpreted in the same way his underlying bill is, which is to say there will be litigation over the meaning of ambiguous terms and the courts will determine what they mean. Unless I am missing something, I notice that the underlying bill does not define the word ''obesity,'' for example, and there could be a spate of litigation as to whether a suit is over a product associated with obesity or not, because you claim it is associated with diabetes or it is associated with heart disease or it is associated with mental illness. I mean, one could make a lot of different claims to work one's way around the bill.

As the gentleman knows, and I know he is a skilled attorney, as the gentleman knows, one of the functions of our judiciary is to provide case law that defines terms not specifically defined in statute. So no one should oppose this amendment if they believe that it imposes regulations on the food industry, because it does not.

I would conclude by saying that when the gentleman says that this subject matter is best dealt with through the Committee on Commerce and the Food and Drug Administration, he is right, which is one of the reasons why we should defeat the underlying bill on the floor.

Mr. WATT. Mr. Chairman, reclaiming my time, I would just say that the gentleman need not worry about whether there is a definition of obesity. If they do not like the definition of ''obesity'' that the courts give, I guarantee my colleagues we will be back here next year or the year after next with a Federal piece of legislation that is designed to solve that problem. That is the way this bill is being processed and the spirit in which it is being processed. Unfortunately, nobody has any good ideas or can protect their own States, other than this Congress or my colleagues on this committee, and that is the way they proceeded.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am very supportive of food labeling requirements, including labeling requirements for a genetically-modified food, and would support such legislation if it were coming as an amendment to the Pure Food, Drug and Cosmetic Act. However, the amendment of the gentleman from New Jersey is the wrong way to do it, and here is why.

If the amendment of the gentleman from New Jersey passes and the bill is enacted into law with his amendment, then all someone needs to do to defeat the immunity that is given to the food industry under this bill is to simply allege that there was not the proper notice that was given. This allegation, at least in terms of the preliminary motions in court, is taken as true, and that sets up a question of fact. All of the expenses that are needed in terms of defending a lawsuit, such as depositions and the like, are going to have to be incurred in order to prove that there was the proper notice given or that there were no genetically-modified organisms that were supplied in the food that the plaintiff consumed.

So as a result, in the name of better labeling rather than attacking this issue as an amendment to the Pure Food, Drug and Cosmetic Act, which is where I think it belongs, the gentleman attempts to have what is in the jurisdiction of another committee and which deals with another enactment on the statute books of the United States of America through this method.

I would support the gentleman from New Jersey if he was doing it the proper way through an amendment to the Food, Drug and Cosmetic Act, but this is not the way to do it.

Now, secondly, there is nothing in the gentleman's amendment that says what constitutes an adequate notification. Does an adequate notification consist of the nutritional sign on the wall of a fast food restaurant that talks about ingredients and that nobody stands and stares at unless the line is so long that they have to do it? Does it require that there be this kind of a label on every package that is handed to the customer with the food contained in it? These are the types of things that really should not be left up to the courts to, in their infinite imagination, determine what is adequate and what is not; it should be done in the proper way by the proper committee, and that is why this amendment ought to be rejected.

□ 1415

Mr. DOOLEY of California. Mr. Chairman, I move to strike the requisite number of words.

(Mr. DOOLEY of California asked and was given permission to revise and extend his remarks.)

Mr. DOOLEY of California. Mr. Chairman, I also rise in opposition to this amendment. I do not think this is the proper vehicle for us to be attaching this to. The issue of genetically enhanced products is something that we have spent a lot of time on. I think our existing regulatory structure gives us the opportunity to really get

verification in whether or not any of these new approaches do pose any health risk to consumers.

And I think now we can have great confidence that the products that are coming onto the market, that are containing genetically enhanced products are, in fact, determined to be safe for human consumption.

I think when we have an amendment such as this it poses, I think, a situation where we will actually impede the development of an industry and of a technology that has the potential to actually have tremendous benefits in dealing with the obesity problem that we have in this country.

There are a number of genetically enhanced products that are being developed now that are going to result in some of our oils being lowered and some of the trans fats and saturated fats that actually can be incorporated into some of our food products that are going to result in less obesity.

I think we would be running the risk of setting back the industry and setting back some of the developments in new technology that actually could be a benefit in improving the nutrition of a lot of our food products and this amendment would actually pose an impediment, would impose a liability that would deny some of these new developments that actually can be of great benefit in terms of enhancing the nutrition that a lot of our citizens are consuming.

Mr. Chairman, I hope we will oppose this amendment.

Mr. GOODLATTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of H.R. 339, the Personal Responsibility in Food Consumption Act and in strong opposition to the amendment offered by the gentleman from New Jersey (Mr. ANDREWS).

The food service industry employs some 11.7 million people, making it the Nation's largest employer outside of the government. However, this vital industry has recently come under attack by waves of lawsuits arguing it should be liable for the misuse or overconsumption of its legal products by others.

Frivolous lawsuits require businesses to devote crucial resources to litigate unmerited claims. In order to help ensure that America continues to be an advantageous place to do business, and to help create and maintain American jobs, it is important that we not allow opportunistic trial lawyers to extort money from legitimate companies.

Simply put, businesses in the food industry should not be held responsible for the bad eating habits of consumers. The people of America agree. According to a recent poll, approximately 89 percent of Americans oppose holding the fast-food industry legally responsible for the diet-related health problems of people who eat fast food on a regular basis.

H.R. 339 will help prevent frivolous lawsuits against the foods industry while preserving State and Federal laws. Specifically, the bill would prevent frivolous lawsuits that claim that the consumption of lawful food products cause injuries resulting from obesity or weight gain.

While the bill would prohibit frivolous lawsuits, it would protect legitimate ones. For example, the bill would not protect businesses that knowingly or willfully violate a State or Federal statute when the violation is a proximate cause of an injury. In addition, the bill would not protect those that violate State or Federal food labeling laws or those that offer adulterated food products.

H.R. 339 is a commonsense bill that will protect legitimate businesses from frivolous lawsuits. I urge my colleagues to support this important legislation. But the amendment offered by the gentleman from New Jersey (Mr. ANDREWS) runs the risk, if it is passed, of gutting this legislation.

The reasons set forth by the gentleman from Wisconsin (Mr. SENSENBRENNER), who has done an outstanding job bringing this legislation to this point, are all valid reasons for opposing this amendment; but in addition there are more. There is absolutely no reason why we have to draw a distinction between two different types of perfectly legitimate products that the appropriate regulatory agencies have found to have no ill effect upon consumers. There would be no difference whether it was a natural product or whether it was one that had been changed through hybridization and all the other ways that we have improved food through the decades, in fact through the centuries, or through biotech-enhanced foods either.

And so for that reason, I strongly oppose this. If the amendment were to pass, it is a back-door way to try to impose labeling in this country. We have opposed this for a long time because there is no distinction between foods that contain biotech crops and those that do not. And the issue is very clear that if you will require it, virtually every product produced in this country made with corn, virtually every product made in this country using soy beans, virtually every product grown in this country with any kind of livestock that have been enhanced, and virtually any kind of product that may be developed in the future, there would become a disincentive to produce these improved products, as the gentleman from California (Mr. DOOLEY) just correctly noted.

This is a huge problem. It would effectively gut this important legislation. H.R. 339 generally prohibits obesity or weight-gain-related claims against the foods industry. This amendment would require manufacturers to label genetically engineered material before being afforded the protections of the underlying bill. The irony is that, as the gentleman from California (Mr. DOOLEY) noted, the opportunity exists with genetically modified food to improve the problem for people who have obesity, not to make the problem worse.

So I do not understand how this amendment relates to H.R. 339. Biotech crops do not lead to obesity. In fact, biotech research may lead to food products that help combat the obesity problem in America and nutrition problems in the developing world.

Farmers have been growing hybrid and other genetically engineered crops safely for decades. Biotechnology is as safe as conventionally bred crops, according to numerous studies by the National Academy of Sciences, the American Medical Association, and other scientific bodies.

Furthermore, before biotech foods can be sold to consumers, their safety is reviewed by three government agencies: the U.S. Department of Agriculture, the Environmental Protection Agency, and the Food and Drug Administration.

The Andrews amendment runs counter to long-standing U.S. Government food labels policy which preserves food labels for help safety and nutritional information. This amendment is just another ill considered attempt to discourage consumption of biotech foods, which every American, every American consumes on a daily basis and encourages frivolous lawsuits.

I urge my colleagues to oppose this amendment.

The CHAIRMAN pro tempore (Mr. OSE). The question is on the amendment offered by the gentleman from New Jersey (Mr. ANDREWS).

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

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

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

AMENDMENT NO. 3 OFFERED BY MR. INSLEE

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

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

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. INSLEE:

Section 4(5)(A), insert after ''knowingly and willfully'' the following: ''or negligently''.

Mr. INSLEE. Mr. Chairman, I think there is a bipartisan consensus here today that educated and informed consumers regarding what is in their food should not have a claim relating to obesity and that we would all attempt to write a law that will effectuate that goal. But as Mark Twain said, the difference between the right word and almost the right word is the difference between lightening and a lightning bug. And the difference between a well-crafted bill and one that misses the mark a little bit is the difference between a radical restructuring of civil

liability law in the United States and a bill that we want to produce. And, unfortunately, this bill lacks two words. And our amendment would cure that defect.

Mr. Chairman, it is a very well-accepted principle, if I can compare this scenario, it is a very well-accepted principle that in America if a person is inattentive for a few moments and violated a law by going through a stop sign, they are responsible to the injured party for the wreck. It is a very well-accepted principle that if a person who manufactures jet airplanes is inattentive for a moment, and they fail to put a bolt on an engine and the engine falls off and 250 people are killed, they are legally, or their corporation is legally, responsible for that violation of the law.

It is clear at this moment that if an employee of a company is inattentive and puts the wrong information on the box of a food or a bench or a medical product and someone dies as a result, that corporation is liable for their inattention.

But because of the absence of the word ''negligence'' in this bill, we would have removed liability for that very, very well-accepted principle. Let me tell you why that is important. Take the case of Steve Beckler, former pitcher for the Baltimore Orioles who took a product called Xenadrine RFA–1. It is a dietary supplement, and it appears to be covered under the definition of food of this statute or proposal. It was sold and Mr. Beckler died. It was advertised as having the quality of a rapid fat-loss catalyst. The medical examiner concluded that his death was a proximate result of this medication.

Now, I do not know exactly about the circumstances of the warnings or lack of warning on that product; but under this bill as currently drafted without the Inslee amendment, if the clear testimony was that the label that said do not take this if you have high blood pressure was left off due to inattention, there would not be a responsibility. And the widow of this gentleman would be out of luck.

If, in fact, someone violated the clear mandate of Congress or a State legislative body to give a specific warning that is identified in law, and if that warning did not get on the product, the victim would still be out of luck.

And I want to make sure people understand this. By inserting the word ''negligence'' into this bill, we will not be giving jurors the right to determine what warnings or information should be on the product. That is not giving jurors that ambit. All this will say is if my good friend, the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from North Carolina (Mr. WATT), and all of us get together and we pass a law that certain information has to be on the box, like do not take this weight loss supplement if you have high blood pressure, or do not take it if you have evidence of stroke or previous history of stroke, and due to someone's inattention or the fact that they were asleep at the switch or they just were not doing their job, the victim will not have a claim under law. And I do not think that is what the majority of us ought to be about if we are imposing this obligation.

I ask the majority party, let me just pose this as a friendly question to my friends, if indeed we pass a bill here that requires, for instance, that a warning be on a weight-loss product that says do not take this weight loss product if you have an evidence of high blood pressure, and if an employee is asleep at the switch or is inattentive at the brief moment and the product goes out without the label and somebody dies, I am asking the majority party why the widow or family of such a victim who died as a result of an obligation we voted to impose in United States Congress, why do you intend to deny that person a remedy? That is an open question to anyone in the majority.

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

Mr. INSLEE. I yield to the gentleman from Florida.

Mr. KELLER. Mr. Chairman, that scenario you just posed about someone taking some kind of improperly labeled diet drug has nothing to do with this legislation. That claim would still go forward and be unimpacted.

This legislation specifically is narrowly targeted to claims based on weight-gain or obesity.

Mr. INSLEE. Mr. Chairman, I reclaim my time.

The CHAIRMAN pro tempore. The gentleman's time has expired.

Mr. KELLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at the committee there was an attempt to strike the knowing and willful standard from the bill. That was unsuccessful. I would ask my colleagues to vote ''no'' on this amendment as well, which is kind of a new twist there, keeping the knowing and willful, but then they also add ''negligently,'' which in effect does the same thing, strike it. So all you have to do is prove negligence.

This bill already allows a case to go forward any time a Federal or State statute has been knowingly and willfully violated and that violation is a proximate cause of the injury.

□ 1430

Let me tell you why it is important to have this knowing, willful standard and what the precedent is.

The knowing and willful standard is the exact same standard used in H.R. 1036, the Protection of Law Commerce and Arms Act that overwhelmingly passed this House in a bipartisan fashion. In fact, it received 285 votes. Therefore, anyone who voted for H.R. 1036 and who votes for this amendment will be voting for stronger protections for firearms manufacturers than for the food industry, which is the largest private sector employer in the country providing 12 million jobs.

The claim that it is too burdensome to require a person to knowingly violate a law before they can be said to meet the exceptions to this bill, fails to understand the flexible nature of the requirements. Let me give you an example. A typical jury instruction regarding what the so-called mens rea requirement for knowing means states as follows: ''Knowledge may be proved by all the facts and circumstances surrounding the case. You, the jury, may infer knowledge from a combination of suspicion and indifference to the truth. If you find a person had a strong suspicion that things were not what they seemed or that someone had withheld important facts yet shut his eyes for fear of what he may learn, you may conclude that he acted knowingly.''

Therefore, the knowing standard is certainly flexible enough to produce justice in our courts in all circumstances. There is precedent for it, and it should be used here as well. I also would point out that under the bill, claims can go forward for breach of contract, or breach of warranty as well.

I ask my colleagues to vote ''no.''

Mr. WATT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the gentleman from Washington's (Mr. INSLEE) amendment; and I want to yield to him, but I want to make one comment before I do so.

My colleague, the sponsor of this bill, has on several occasions told us a persuasive, powerful reason for doing something related to this bill is something that we did related to H.R. 1036. First of all, many of us voted against H.R. 1036. It did pass this body, but then it went to the Senate and the Senate jettisoned the bill. So to use as some powerful reason that something is in a bill that had not even gone through the legislative process, was not even worthy of sending to the President's desk for signature, strikes me as being about as far a stretch as saying that this bill is about employment rather than politics.

Mr. Chairman, I yield to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, I want to again reiterate I think there is a mutual desire to try to find the right language that will accomplish our mutual end, but this bill does not use the right language to do it.

I want to respond to the gentleman from Florida's (Mr. KELLER) statement that my situation was inappropriate. I think I would refer the gentleman to the language of section 5 which cuts off claims for a whole host of injuries including ''any health condition that is associated with a person's weight gain or obesity.''

Any health condition that is associated with a person's weight gain or obesity. The fact of the matter is if someone forgets to put the label on that says do not take this if you have high blood pressure, and you gain weight and your high blood pressure

goes through the roof, you have a claim associated to your obesity. There is no reason to have to include that language. And if you are going to include that language, you ought to at least include the well-accepted principle of American jurisprudence in 50 States which is this:

If someone refuses to honor the legal mandate for conduct that the U.S. Congress imposed due to inattention or negligence, there is legal responsibility for that. And for the first time as I know it, and I think the gun law is not applicable because that applied to creating an obligation through the obligation of exercising reasonable care, what this amendment does is say if Congress imposes an obligation to say X, Y or Z, it is not the jurors coming up with that obligation to say something on the label. We are simply saying if you do not follow the law, there is a responsibility.

I am asking my colleagues to consider this closely for an additional reason. Yesterday, Julie Gerberding, the director of the Federal Center of Disease Control and Prevention said, ''Obesity is catching up to tobacco as the leading cause of death in America. If this trend continues, it will soon overtake tobacco. This is a tragedy,'' Gerberding said. ''We are looking at this as a wake-up call,'' suggesting that over 500,000 deaths annually will occur due to obesity.

Now, in light of this scientific information, what is the first thing the House of Representatives does? It rushes to immunity for corporations, which may be appropriate in this particular case; but let us show a little care how we define which cases, so the people who die as a result of negligence and people asleep at the switch and their refusal to do what Congress told them to do are not swept up in this bill.

Mr. WATT. Reclaiming my time, I would just reiterate the points that the gentleman from Washington (Mr. INSLEE) has made and suggest to him and the body and the chairman that it is unfortunate that the Committee on the Judiciary in the House has become the repository of everything essentially political. And so two things quite often result from that: number one, just about every vote is a party-line vote because we know that there is a political reason, not a substantive reason that the legislation is being put forward.

The CHAIRMAN pro tempore (Mr. OSE). The time of the gentleman from North Carolina (Mr. WATT) has expired.

(By unanimous consent, Mr. WATT was allowed to proceed for 2 additional minutes.)

Mr. WATT. Number two, it quite often puts us in a position of thinking, well, this legislation is not serious and it is not going anywhere anyway, and as happened with the legislation that has been referred to on several occasions here, well, the United States Senate, the more deliberative body, will bail us out and save us from ourselves.

I think that is a dangerous slippery slope that our committee has gotten on, and I wish there was some way to pull us back from that so that we would in our committee anticipate, have hearings, and deal with the kind of serious problem that has been identified by the gentleman from Washington (Mr. INSLEE) here; and it would not be just a question of whether the sponsor of the bill thinks that this does not apply or may not apply. Maybe under those circumstances the committee and its members would look at what this stuff really says, the bill, look at the drafting of the bill. That is part of our responsibility as legislators, and it is even more a part of our responsibility as members of the Committee on the Judiciary; and I fear that we have failed in that responsibility.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, listening to the gentleman from Washington (Mr. INSLEE) I think shows the differences between those of us who support this legislation and those of us who oppose this legislation.

First, the example that he used relative to the professional baseball player who unfortunately passed away, this bill does not apply to. It is a complete unrelated argument and the gentleman from Florida (Mr. KELLER) has pointed that out. But the gentleman from Washington (Mr. INSLEE) persists on using this as an example. And then the gentleman from Washington (Mr. INSLEE) quotes the story of the press conference that was held yesterday relative to obesity catching up to tobacco as the number one killer of people in the United States of preventable conditions.

Now, the problem with that attitude is that those who espouse it expect the government to take over personal responsibility. The victim always finds someone else to blame for his or her own behavior. And what this bill does is that it says, do not run off and file a lawsuit if you are too fat and you end up getting the diseases associated with obesity. It says, look in the mirror, because you are the one who is to blame. And I have referred twice to a doctor in North Carolina and to the woman who is the president of the American Council on Fitness and Nutrition in saying that if you are obese, do not get a lawyer. See your doctor. See a nutritionist. See a personal trainer. And what this bill does is it will pin the responsibility of those whose job it is to correct the problem to begin with and that is the person who caused the condition which could have been preventable.

Mr. Chairman, I yield to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Chairman, to go back to the gentleman from Washington's (Mr. INSLEE) question about the diet drug, I have explained it does not apply. It talks about ''a person's consumption of a qualified product.'' What is that? That is food under the definition. Food means articles used for food or drink, chewing gum and articles used or components of such article.

The second part of it is of a weight gain, obesity or any health condition that is associated with a person's weight gain. What are the health conditions associated with a person's weight gain? High cholesterol, for example, diabetes, for example, cardiovascular disease. This has nothing to do with diet drugs or labeling of diet drugs or mislabeling. Whatever that person's claim under State law for negligence can go forward and is completely and totally unrelated to this bill.

Mr. TIERNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, I want to respond to my friend, the gentleman from Wisconsin's (Mr. SENSENBRENNER) appropriate reference to the idea of accountability because, as I said, we on a bipartisan basis ought to be able to craft a bill that appropriately says if a person has information about their food and they are not personally responsible and become obese due to their own lack of personal responsibility, they should not have a claim. And I am first to say that, or second or third. But there is another personal accountability that the way this bill is drafted ignores. And that is that if the gentleman from Wisconsin (Mr. SENSENBRENNER) and I both voted for a bill that imposed a personal legal responsibility to put on every package of phenadrine or any other product that you can think of that says do not take this if you have history of a stroke, and they do not do this, and this is not a jury-imposed obligation, it is one imposed by the gentleman from Wisconsin (Mr. SENSENBRENNER) and myself, together, and they fail to do it, they ought to be held accountable because accountability and personal responsibility work two ways in our society.

Hold the person who has information about fatty products and they get fat because they are irresponsible, hold them accountable and they have no claim, and this bill should accomplish that end. But for the person who refuses to abide by the mandate of this Congress what to put on food products, they should be held accountable for their lack of responsibility; and this bill clearly obviates that in the language that says ''any health condition that is associated with a person's weight gain or obesity.'' You are cutting off, perhaps unintentionally, claims for injury due to high blood pressure, stroke, cardiac arrest and a whole other group of diseases associated with weight gain.

Frankly, I do not think you are intending to do that. Because if I think that you think your constituents, if somebody fouls up a label and they die due to a stroke, I do not think you intend to cut that off; but you are doing

it. And it is unfortunate, and I wish you would help me fix it.

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

The amendment was rejected.

AMENDMENT NO. 1 OFFERED BY MR. ACKERMAN

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

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

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. ACKERMAN:

Section 4(2), insert after the period at the end the following: ''However, such term shall not include any slaughtering, packing, meat canning, rendering, or similar establishment that manufactures or distributes for human consumption any cattle, sheep, swine, goats, or horses, mules, or other equines, that, at the point of examination and inspection as required by section 3(a) of the Federal Meat Inspection Act (21 USC 603(a)), are unable to stand or walk unassisted at such establishment.''.

Section 4(6), insert after the period at the end the following: ''However, such term shall not include any slaughtering, packing, meat canning, rendering, or similar establishment that distributes for human consumption any cattle, sheep, swine, goats, or horses, or mules, or other equines, that, at the point of examination and inspection as required by section 3(a) of the Federal Meat Inspection Act (21 USC 603(a)), are unable to stand or walk unassisted at such establishment.''.

Mr. ACKERMAN. Mr. Chairman, this amendment has nothing to do with trial lawyers or any other issue that has been basically discussed here today, but it is merely to correct what I think is an inadvertent omission in the bill.

My amendment would expand the definitions in the act to exclude any establishment that manufactures or sells meat from downed animals for human consumption from the protections of the bill.

Mr. Chairman, nearly 3 months have passed since the first mad cow was discovered in the United States and the very first food-related bill has reached the House floor. It is not a bill to protect the American people from mad cow disease and to safeguard the food chain, but it is instead a bill to protect lawsuits against food manufacturers for injuries related to weight gain.

□ 1445

With America's food and meat supply at risk, it is embarrassing that this special interest legislation is our first response to reforming food safety in the United States.

The USDA banned downers from the food supply noting that a non-ambulatory animal was 49 times more likely to have mad cow disease, and they issued a regulation banning it. Those who oppose this amendment will tell us that the amendment is not necessary because the bill before us already says companies that knowingly violate Federal or State law get no protection in the bill and that the USDA banned downers, but the USDA is not the Congress and a USDA ban on downers is not the law. It is merely a regulation.

So this amendment is needed to make it a law, as was, I believe, intended. Otherwise, slaughterers who knowingly violate the regulation, not a law, get protection from legal action for selling diseased meat from mad cows to someone whose brain may rot some 8 years from now.

In the aftermath of our first discovery of mad cow disease, Americans deserve more from Congress than just a bill preventing frivolous lawsuits which have already been successfully defeated in U.S. courts. Instead, we should be working to assure our constituents that the meat they are eating and feeding to their children is safe and free of mad cow disease.

Personal responsibility, yes, add me to the long line of people who have already said that they believe in it, but people should take personal responsibility from acts that they knowingly take and knowingly violate and voluntarily take.

A person cannot know that they are eating the meat of a sick animal because it is not labeled, and that is another issue. What about personal responsibilities of companies that knowingly sell meat from downers, from diseased animals, too sick to walk to the slaughter? We could take personal responsibility if the corporations took personal responsibility and put labels that said the meat we are eating is from a diseased downed cow or that the meat we are about to eat had a 99 percent chance of never being inspected.

According to a Consumers Union poll, seven in 10 Americans who eat meat say they would pay more for beef to support increased testing in the cattle, and in a Zogby poll, three out of four Americans find it unacceptable to have downed animals in our food system. In fact, the USDA tells us that it was a downed animal from Washington State that proved positive for mad cow disease this past December, and early last year in Canada, the infected mad cow was also a downed animal. That is not a coincidence.

The USDA ban on slaughtering downed animals for human consumption is based on sound science and is nearly identical to the Ackerman-LaTourette amendment that failed just three votes short of passage in this House in the past summer, and that was before the discovery of mad cow disease in the United States. Surely there are three more people in this House who now better understand this issue.

Mr. Chairman, we should not be passing bills to protect the irresponsible establishments that may knowingly sell meat from sick and fallen animals. This amendment would ensure that manufacturers and sellers who ignore the proven health risks from downed animals who ignore the USDA ban, not a law, and sell tainted meat from downed animals to the American public, are not protected from lawsuits under this Act. I do not believe that was the intention.

Mr. Chairman, the time is long overdue for this issue. This issue is so ripe it is beginning to get rotten. The American people deserve better than that, Mr. Chairman, and this Congress has the opportunity to act right now to do the right and proper thing to protect all of our constituents from an inadvertency that occurs within this bill.

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

Mr. Chairman, this bill provides for a specific exemption for adulterated food, and anybody who eats meat which may have been infected with mad cow disease and comes down with the human variant of mad cow disease under this bill will have a cause of action against those who are responsible.

Secondly, if a person eats an adulterated hamburger and becomes seriously ill or perhaps dies of salmonella infection, this bill does not apply. The survivors will have a cause of action against those who provided the adulterated meat in the food chain.

What this bill does apply to is lawsuits that currently can be filed as a result of people eating too much, becoming obese and coming down with the diseases that are associated with obesity. That has nothing to do with downer cattle. It has nothing to do with mad cow disease. It merely means that people who have eaten too much cannot go back at those who have sold or provided a legal product in legal commerce.

Now, I wish that this debate would concentrate on the issues that are posed in this bill. The issue that the gentleman from New York (Mr. ACKERMAN) has brought up is a very serious issue, but that issue is not presented in this bill, and if the gentleman from New York would look at page 6, lines 9 through 12 inclusive of the bill as reported by the Committee on the Judiciary, he would see that exemption there plain as day.

Mr. WATT. Mr. Chairman, I move to strike the last word.

The chairman of our committee may be correct about that part of the bill, but only if the manager's amendment passes, I think would he be correct in what he has said, and at this point, while all of us are in support of the manager's amendment, I guess until this bill passes, I mean, we are still here.

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

Mr. WATT. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, I thank the gentleman for yielding, and then again, the distinguished Chairman of the committee, although very knowledgeable, may very well be wrong.

I am holding the page with the very lines that he asked me to refer to, and what it basically does is it refers to

government action, government action against those companies, not individual actions of those people. The government is not getting sick or certainly not getting sicker from eating the meat of diseased animals, but human beings are denied under this, not the government. Human beings who have eaten diseased meat from downed animals have no recourse under the law the way this is written.

Yes, if a person gains weight, and some of us have done that, from eating wrong and indulging a little bit too much, sometimes that evidence is all too evident, but when a person eats the meat of a diseased animal, they have already eaten the evidence, and the case is difficult enough to prove.

People have no protection, no ability to sue, and the gentleman, what he sought to do, if he rereads what he has asked me to do, he will see very, very clearly that they are not exempted from government action, but they are still protected from private citizens bringing private courses of action.

Mr. WATT. Mr. Chairman, reclaiming my time just for a second, because when we are in the middle of a debate and we are trying to figure out the impact of amendments and coordinate them, it becomes a little unclear what is happening.

The original bill did say that an action regarding the sale of a qualified product which is adulterated, as described in section 402 of the Federal Food, Drug and Cosmetic Act was one of the things that was not covered under the base bill. The manager's amendment, however, struck that language and inserted instead, such terms shall not be construed to include an action brought under the Federal Trade Commission Act. It makes no reference to adulterated, I believe. Maybe I am misreading this, but this is one of those things where I think we should take absolutely no chance.

Even if it is redundant in some way, it clearly was not intended and I would hope that my colleagues would just accept the amendment. If it turns out to be redundant, then there are a whole bunch of things in the law that are redundant. That has never been something that we have shied away from. If we want to make something patently clear, we quite often make it redundant. We might say it three, four or five times in the same statute, and this is a point that I think needs to be made patently clear.

I yield back to the gentleman from New York (Mr. ACKERMAN).

Mr. ACKERMAN. Mr. Chairman, the distinguished chairman assured us at the outset of his remarks that private citizens would not be precluded from bringing private actions. It is very clear, to at least some of us who read the language of what is in the actual bill, that that is what happens, but given the chairman's genuine assurance that citizens would not be precluded, I fail to see what harm would be done if we specifically say that people have a right to bring action against those companies that knowingly and willfully sell meat from diseased fallen animals to the consuming public.

Mr. WATT. Reclaiming my time, the gentleman seems to be shaking his head yes. Maybe that means he is going to accede to the argument. If he is, I am happy to yield to him for that purpose.

Mr. KELLER. Mr. Chairman, it is not worth yielding then. I am not going to accede to this.

Mr. WATT. The gentleman is not there yet. In that case, I hope he will get there, because if there is any ambiguity in this, we need to make sure that it is cleared up, and I think it is very ambiguous at this point. I would rather have a redundant provision in the bill than to have an ambiguous or no provision in the bill.

Mr. KELLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am going to ask that my colleagues vote ''no'' on the Ackerman amendment on three separate grounds.

First, the concept of adulterated food claims are specifically allowed, both under the base bill, where it specifically says adulterated in section 402 of the Federal Food, Drug and Cosmetic Act, and under the manager's amendment, which specifically says that the term ''qualified civil liability action'' does not include an action brought under the Federal Trade Commission Act or the Federal Food, Drug and Cosmetic Act.

Under the Federal Food, Drug and Cosmetic Act, it specifically defines adulterated food in section 342. A food shall not be deemed to be adulterated if it is considered in whole or part of any filthy, putrid or decomposed substance, which, clearly, mad cow disease or e-coli or anything else would be considered.

The second reason to reject this that it does not apply is the language of this particular bill expressly says that we are talking about claims relating to weight gain, obesity or any health condition that is associated with weight gain or obesity: diabetes, high cholesterol, heart disease. It does not have anything to do with mad cow disease. If a person eats a mad cow burger, their claim goes forward. If a person eats an e-coli burger, their claim goes forward.

□ 1500

A final reason. The gentleman says, well, if that is the case, why does the gentleman care about my amendment? Well, let me address that as well.

This amendment would exclude from the protections of the bill any company that uses particular methods to slaughter perfectly healthy animals. For example, if a company during the slaughtering process places cattle in positions, like in a coral, in which they cannot walk unassisted, then these perfectly law-abiding companies that make meat from perfectly healthy animals would be unfairly excluded from the bill. That is wrong.

Perfectly healthy animals may be unable to stand or walk unassisted during the production process, so this amendment unfairly excludes many law-abiding sellers or perfectly healthy meat from perfectly healthy animals.

For the aforementioned reasons, that it is not needed; and even if it was, it is inappropriate.

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

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

Mr. WATT. Mr. Chairman, I am just wondering whether we have the right manager's amendment, because I do not for the life of me see any of what the gentleman just described as being in the manager's amendment, or in the amendment that I have. Perhaps I have the wrong one.

The manager's amendment I have substitute language that says nothing about adulteration.

Mr. KELLER. Reclaiming my time, Mr. Chairman. The manager's amendment specifically says, ''Such terms shall not be construed to exclude an action brought under the Federal Trade Commission Act or the Federal Food, Drug and Cosmetic Act.'' I read the gentleman a section under the Federal, Food, Drug and Cosmetic Act dealing with adulterated products.

Mr. WATT. Mr. Chairman, if the gentleman will continue to yield, is it not true that only the government could bring an action there? It would not be an individual action. And would that not be the exact point that the gentleman from New York (Mr. ACKERMAN) is making?

Mr. KELLER. Reclaiming my time once again, Mr. Chairman, I still, on the other grounds I mentioned earlier, it is still not needed because we are not talking about a claim based on weight gain or obesity.

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

Mr. KELLER. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, I think the gentleman is overlooking something. The government brings lawsuits for violation of the FDA act. Individuals cannot bring actions under the FDA act. Individuals bring civil cases under the tort laws, and that is what we are talking here.

This bill allows the government to bring a lawsuit. I want Mrs. JONES to be able to bring a lawsuit because her 8-year-old son was just made brain damaged and is going to die in 3 months because he ate a hamburger that somebody knowingly sold him that came from a downed animal that had mad cow disease. They cannot do that under this act because they are not the government.

Mr. KELLER. Mr. Chairman, reclaiming my time, and I respect the gentleman's enthusiasm, but his claim that that would be barred is patently

untrue. Brain damage or death as a result of eating meat from an animal with mad cow disease is not a claim for weight gain or obesity. It is just totally not. It has nothing to do with this.

Mr. ACKERMAN. Mr. Chairman, if the gentleman will continue to yield, I would then ask, Why is the gentleman protecting companies that allow that?

Mr. KELLER. Why do people allow mad cow burgers to be sold? I do not know that any company does knowingly allow mad cow burgers to be served.

Mr. ACKERMAN. We do not prevent it.

Mr. KELLER. Well, that is for another day and another forum. It has nothing to do with this particular bill.

Mr. ACKERMAN. It certainly does. That is exactly the point of this amendment the gentleman is speaking on.

Mr. STENHOLM. Mr. Chairman, I move to strike the requisite number of words.

I want to begin by acknowledging the tenacity of my friend from New York in continuing to attempt to pass what is basically an animal rights question. We have had this discussion many times. It is interesting listening to the debate on this, because as a cosponsor of this base legislation today, I am opposed to frivolous lawsuits. But we make a mistake when we leave the impression with our colleagues that there is a connection between a downed animal and a diseased animal. That in itself is grounds for a frivolous lawsuit, because a downed animal is not necessarily a sick animal. And a downed animal is not necessarily a BSE animal. That is what, if this amendment shall pass, is intended to do, is to make a tie between the two.

Now, I am sure the gentleman knows that a lot has transpired since we had this discussion on the floor last summer. USDA has already banned all downer cattle from the human food supply, period. His amendment, though, includes all livestock; and this would provide the grounds for a lawsuit under the general argument I have heard from too many of my colleagues over here today, that any firm that could be accused of slaughtering a hog that could not walk, and if you have ever raised hogs you know that many times something happens to their body physique that will cause them to just drop and you cannot get them up for any other reason other than just pick them up and carry them. Now, what that would have to do with adulterated food, I do not know; but if this legislation should pass with this amendment in it, that would be grounds for a lawsuit.

It is not fair or just to exclude some manufacturers from these legal protections who are processing food legally and in accordance with USDA regulations simply because some folks have an unrelated animal welfare concern about downer animals. That needs to be thoroughly understood by my colleagues on the floor. There is no connection whatsoever between a downed animal and a food safety concern, it is only after examination of a downed animal that shows that it is, in fact, a sick animal and should and must be excluded.

And as I said this last summer, any firm that puts a diseased animal knowingly into our food chain should be hung to the nearest tree. That, as the chairman has explained, is what this legislation is all about. It does not take away the right to sue for those things that are so clear.

I conclude by again saying, please, please do not continue to attempt on this bill or any other bill to associate downed animals with diseased animals with BSE. That is not a fair comparison. It is not. There is plenty of attention being given to the issue of animal health and welfare in other arenas. The House Committee on Agriculture has held one hearing on BSE, a field hearing on animal identification was held last Friday in Houston; and we will be holding more hearings on these issues in the months ahead.

No one is more interested in seeing that our food supply remain as safe as it is today. We are making progress. We will continue to make progress. But it is not in the best interest of anyone to continue to make the tie between downers and food safety.

Mr. KING of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I stand here on the floor of this Congress, and I sometimes think I have passed through the looking glass. I wonder what our Founding Fathers would think if 200-some years later we would be standing here with a piece of legislation on the floor debating about someone ordering a supersized order of french fries and not being able to push themselves away from the table soon enough so that that personal responsibility, so ingrained in the American character, is being pushed off across the entire American society. We might have to add on to every order of french fries if we are not able to protect these food suppliers.

I declined to sign onto this bill, although I support it, for that reason, that if we have to go down the path of protecting individuals and individual professions, we will never get done. I would like to see some blanket reform. But I stand in opposition to the Ackerman amendment.

A couple of points I would make. The Department of Agriculture, on balance, even though they have been more aggressive on downer livestock than I would have cared for, has done an excellent job in response to the BSE. The beef supply in the United States of America is the safest in the world, and the credibility that is there with our producers and the quality of that beef has been established by the confidence, as has been demonstrated by our consumers. That is what has held this market up.

The system we have in place does not need to be shaken up, nor does it need to have the safety of our food supply challenged on the floor of Congress when it has got such an outstanding record. I urge my colleagues to vote ''no'' on the Ackerman amendment. The purpose of H.R. 339 is to protect the food industry from having to defend themselves from frivolous lawsuits. Baseless lawsuits drain away our economic productivity and interfere with economic growth.

It is important to point out that this bill does not change the fact that anyone legitimately injured by substandard food can sue. However, the Ackerman amendment would open the door for countless groundless suits that could potentially bankrupt our agra businesses and our farmers.

I believe this amendment is a schematic way to gut the purpose of the entire bill, allowing Americans to continue to avoid taking responsibility for food choices.

With that said, I am opposed to the amendment that defines a downer animal. I am from western Iowa. In my State, we raise about 25 percent of the pork. This amendment would put market hogs in the same category as older cows that are to be tested for BSE; but as clearly stated by the gentleman from Texas, there is no linkage there between a downer animal and a diseased animal.

Market hogs can suffer unintended injuries on the way to market that cause walking problems and thus subject them to this amendment. But these injuries have nothing to do with the safety and quality of the meat we eat. It is also important to note that hogs are not subject to neurological diseases like BSE. So I urge the body to oppose the Ackerman amendment.

Mr. ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

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

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

Mr. WATT. Mr. Chairman, I just want to respond to one thing that the gentleman just said who just debated. I, obviously, did not know any of our Founding Fathers personally, so it is hard for me to imagine what would make them turn over in their grave or whatever, as he indicated. But I think they would be a lot more distressed that we were here in this body today saying that State legislators are incompetent to handle these issues in our Federalist form of government than they would likely be incensed with us dealing with this mundane issue having to do with french fries and hamburgers. I think that is what would distress our Founding Fathers. And I regret that the gentleman missed that part of the debate earlier here. I think that is the distressing thing about this debate.

Mr. ANDREWS. Reclaiming my time, Mr. Chairman, I would agree with my friend from North Carolina. I think the

Founding Fathers would be appalled that we were invading the 10th amendment purview of the States to determine these questions and imposing this standard for reasons that are lost on me.

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

Mr. ANDREWS. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, I thank the gentleman from New Jersey for yielding to me.

The gentleman from Iowa took it upon himself to speak for the Founding Fathers, which gives me the initiative to speak for the founding mothers. I think they would be aghast to see that this Congress is looking to protect rather prurient corporate interests at the expense of the health and safety of the American people.

It is not about protecting pigs, my colleague. It is about protecting people. And I say to the gentleman from Iowa, as well as the gentleman from Texas, my good friend, who has had many discussions with me on this issue, that the Ackerman amendment does not take away anybody's right to sue. It does not give anybody, as the gentleman asserted, the right to sue. People have a right to sue now. That is the status quo under the American system of jurisprudence. You can bring a lawsuit.

What the Ackerman amendment attempts to do is to prevent what the opposition is trying to do, and that is to provide an escape clause for those corporations who say it is a regulation, not a law; and, therefore, we are exempt from lawsuits.

The bill before us protects those people who knowingly and willfully sell bad meat to good people and says the public cannot sue them. The government can bring action for violating the FDA law, but people cannot sue under this provision.

It is appalling to think of who we are protecting here. I would have thought that those who represent the States that have cattle and pigs, and so many people make an important living from livestock, would understand the magnitude of the damage that they are doing to their own industry and their own constituencies. The world does not believe what they are saying, that the American food is the safest food in the world. You have lost billions of dollars.

The Japanese will not eat American hamburgers, and they are the ones who have been buying it all over the world. Europeans test every cow before they put it on the market. America, with all our wealth, cannot do that to protect our own people, and my colleagues' constituents are paying the price. Billions of dollars you have cost them. Wake up.

The American people do not want to eat this meat. And it is not because they are just a bunch of animal lovers. They will eat meat if they know that it is safe. And it is your job to protect that industry as well as the public. And the way to do that is to keep the deck honest; to allow people to bring a lawsuit if they think harm was done to them and do not exclude the industry and those who knowingly and willfully sell products that are tainted to the public.

How can one exercise personal responsibility if you do not know the facts? There is no label on your hamburger that says that this hamburger came from a diseased or downed cow. People would not eat it, and you know that. It is a charade that we are playing here. This has nothing to do with trial lawyers. This is a simple amendment that closes an escape clause that I believe, with all due respect, was inadvertently created by an oversight, regardless of your feeling on trial lawyers or anything else.

And I should make it clear, talking about pigs, that my amendment does apply to all livestock, not just cattle.

□ 1515

The gentleman from Texas is right because all livestock, cattle, sheep and pigs can bear the animal form of mad cow that can be passed on.

The CHAIRMAN pro tempore (Mr. BASS). The time of the gentleman from New Jersey (Mr. ANDREWS) has expired.

(On request of Mr. WATT, and by unanimous consent, Mr. ANDREWS was allowed to proceed for 2 additional minutes.)

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

Mr. ANDREWS. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, the USDA, which is selectively cited by the gentleman from Texas giving it such great authority, happens to be the authority that says that downed animals are 49 times more likely to have mad cow disease than ambulatory animals. There is the connection. It is not that there is no connection, it is not just that a cow fell and cannot get up and does not have a button to press.

If it is a downed animal, regardless of why it is a downed animal, it is 49 percent more likely to have mad cow disease. Do Members want to play that game of Russian roulette with their children? I do not. I think others really do not, either. If Members want to protect the American people, guarantee that we are playing straight with the American people. It is their interest that we are trying to protect. For the sake of trying to make a few more pennies on the pound, you are jeopardizing the entire industry, as well as the safety of the American public.

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

Mr. ANDREWS. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, with all due respect, the gentleman from New York keeps talking about BSE and mad cows and downers in the same breath. We are not arguing that today. With all due respect, the argument that the gentleman has just made, we have stock shows going on all over the country. A young boy or girl has raised this calf. They have shown it. Unfortunately, it breaks its leg. Under the gentleman's thinking, that calf immediately goes to the dump. It is unfit for human consumption no matter what because it is a downer and it cannot walk.

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

Mr. ANDREWS. I yield to the gentleman from New York.

Mr. ACKERMAN. Under this gentleman's thinking, that beloved animal of that little boy who has shown him all around, if he falls and breaks his leg, that animal should be treated humanely and humanely slaughtered which would prevent it from being sold to the public.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey (Mr. ANDREWS) has expired.

Mr. ANDREWS. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

The CHAIRMAN pro tempore. Objection is heard from the gentleman from North Carolina (Mr. HAYES).

Mr. GOODLATTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment. This bill is a good bill and 89 percent of the American people support the concept that somebody should not be able to go to a restaurant, to a food processor or food distributor and be able to sue them because they became obese because of their bad eating habits. Let us get back to the subject at hand.

What is wrong with this amendment is that the gentleman from New York (Mr. ACKERMAN) would completely gut the purpose of the bill. He keeps talking about deliberately and willfully putting into the meat supply diseased animals. We have laws against doing that now. But the gentleman's amendment does not say what he talks about.

The amendment says manufactured or distributed for human consumption. It does not say anything about willfully. It says manufactures or distributes. That means the processing plant, it means the distribution company, it means somebody who imports from another country where we have no control over what their laws are on downed animals. It means the restaurant or cafeteria that distributes the food. It means the grocery store that distributes the food. It does not address the specific concern of one particular instance.

This bill completely covers somebody who may be specifically suing because they ate tainted meat. But all the gentleman from New York is saying is if we have one instance from here on out where meat was sold that came from any downed animal, then that company loses the protection for all time under

this bill. That is outrageous. It obviously completely guts the purpose of this legislation.

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

Mr. GOODLATTE. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, it seems to me the gentleman would have it both ways. First the claim is that my amendment is redundant, the bill already does what it does. Now the gentleman is saying that it guts the bill. How can it be redundant and gut the bill?

Mr. GOODLATTE. Mr. Chairman, reclaiming my time, I never once said that this is redundant. What I said was there is language in the bill that protects an individual from being sued, a business from being sued by an individual, if they ate tainted meat. But the gentleman's amendment would prohibit a company from having the protection of this bill if at any time they ever sold one single downed animal or bought from a company that had processed one downed animal. That covers every single circumstance of every single company that is engaged in food processing in the country.

So obviously the gentleman's amendment, no matter what his underlying intent is, and his underlying intent has nothing to do with obesity, whatever the gentleman's underlying intent is, the effect of his amendment is to kill this bill because it would remove protection that is desired by 89 percent of the American people that we are coming forward with to do today from every single company in the food process because it does not require a willful and malicious intent; it just says all you had to do was distribute it once in the entire history of your company from this day forward, and you lose that protection under the law.

This is a foolish, ridiculous amendment, and I urge my colleagues to reject it. The purpose of the legislation before us is to protect the food industry from having to defend themselves from frivolous obesity-related lawsuits. No one has ever argued that downed animals caused obesity differently than non-downed animals.

This bill does not in any way relate to the issues of food safety, animal health or animal welfare. Products that do not meet the standards of our laws relating to food safety, animal health or animal welfare will not be protected by this legislation.

Mr. Chairman, the bill before us today is a very carefully thought out effort to address the growing problem of frivolous and costly lawsuits that do nothing but harm American consumers. These lawsuits have the consequence of adding unnecessary cost to the food industry and consumers to the sole benefit of trial lawyers.

The Ackerman amendment has nothing to do with this issue. It simply creates confusion about who should be afforded protection from obesity-related lawsuits. Because it is so loosely drafted, so carelessly drafted, not addressing anything to do with malicious or willful action, but anybody who manufactures or distributes, any restaurant, any grocery store, any wholesale business, any processor who has had any downed animal at any time, that business would, for all time, be denied the protection of this legislation. I urge my colleagues to oppose this outrageous amendment.

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

Mr. GOODLATTE. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, I am trying not to be insulted by being accused of having a foolish and ridiculous amendment. I am sure the gentleman is insulting the amendment.

Mr. GOODLATTE. I am referring to a very foolish amendment, the gentleman is correct.

Mr. ACKERMAN. Let me suggest to your very sanctimonious self that it was the chairman of this very committee that said my amendment was redundant. The author of the bill, rather, who said that the amendment was redundant, that what I am trying to do is already in the bill.

Mr. GOODLATTE. Mr. Chairman, I reclaim my time.

The CHAIRMAN pro tempore. The time of the gentleman from Virginia (Mr. GOODLATTE) has expired.

The question is on the amendment offered by the gentleman from New York (Mr. ACKERMAN).

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

Mr. ACKERMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

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

The point of no quorum is considered withdrawn.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 6 offered by the gentleman from Virginia (Mr. SCOTT); amendment No. 7 offered by the gentleman from North Carolina (Mr. WATT); amendment No. 2 offered by the gentleman from New Jersey (Mr. ANDREWS); and amendment No. 1 offered by the gentleman from New York (Mr. ACKERMAN).

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

AMENDMENT NO. 6 OFFERED BY MR. SCOTT OF VIRGINIA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. SCOTT) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 241, not voting 15, as follows:

[Roll No. 48]

AYES—177

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frost
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
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
Paul
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—241

Aderholt
Akin
Alexander
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
Cardoza
Carter
Castle
Chabot

Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
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
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
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
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
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
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—15

Ballance
Bell
Berkley
Conyers
Davis (IL)
Fattah
Frank (MA)
Gephardt
Hinojosa
Kucinich
Miller (FL)
Rodriguez
Tauzin
Udall (CO)
Wicker

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

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

□ 1550

Messrs. FORBES, PEARCE, JENKINS, MICA, CANNON, PLATTS and RUPPERSBERGER, and Mrs. MILLER of Michigan and Mrs. BIGGERT changed their vote from ''aye'' to ''no.''

Messrs. NEAL of Massachusetts, STUPAK, EVANS, MEEK of Florida, DAVIS of Florida, and Ms. KAPTUR changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 7 OFFERED BY MR. WATT

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

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

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

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 158, noes 261, not voting 14, as follows:

[Roll No. 49]

AYES—158

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Becerra
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Case
Chandler
Clay
Clyburn
Costello
Crowley
Cummings
Davis (CA)
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frost
Gonzalez
Green (TX)
Grijalva
Gutierrez
Hastings (FL)
Hill
Hinchey
Hoeffel
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Price (NC)
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Stark
Strickland
Stupak
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—261

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

NOT VOTING—14

Ballance
Bell
Berkley
Conyers
Davis (IL)
Frank (MA)
Gephardt
Hinojosa
Kucinich
Miller (FL)
Rodriguez
Tauzin
Udall (CO)
Wicker

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

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

□ 1557

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MR. ANDREWS

The CHAIRMAN pro tempore. The pending business is the demand for a

recorded vote on the amendment offered by the gentleman from New Jersey (Mr. ANDREWS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

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

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 129, noes 285, not voting 19, as follows:

[Roll No. 50]

AYES—129

Abercrombie
Ackerman
Allen
Andrews
Baldwin
Ballance
Becerra
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Carson (IN)
Case
Clyburn
Costello
Crowley
Cummings
Davis (CA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Ford
Frost
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Hoeffel
Holt
Honda
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Lampson
Langevin
Lantos
Larson (CT)
Lee
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Millender-McDonald
Miller, George
Mollohan
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Rahall
Rangel
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Stark
Stupak
Thompson (CA)
Thompson (MS)
Tierney
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Wu

NOES—285

Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Castle
Chabot
Chandler
Chocola
Clay
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoekstra
Holden
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Issa
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Meeks (NY)
Menendez
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Spratt
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Waxman
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—19

Bell
Berkley
Conyers
Davis (IL)
Frank (MA)
Gephardt
Hinojosa
Istook
Jones (NC)
Kucinich
Miller (FL)
Radanovich
Rodriguez
Souder
Strickland
Tauzin
Udall (CO)
Wicker
Woolsey

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

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

□ 1604

Mrs. KELLY changed her vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 1 OFFERED BY MR. ACKERMAN

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

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

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

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 141, noes 276, not voting 16, as follows:

[Roll No. 51]

AYES—141

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Becerra
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Case
Clay
Clyburn
Costello
Crowley
Cummings
Davis (CA)
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Engel
Eshoo
Evans
Farr
Fattah
Filner
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Michaud
Millender-McDonald
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal (MA)
Olver
Owens
Pallone
Pascrell
Payne
Pelosi
Price (NC)
Rahall
Rangel
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Snyder
Solis
Stark
Stupak
Tancredo
Tauscher
Taylor (MS)
Thompson (CA)
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—276

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Castle
Chabot
Chandler
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
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
Emanuel
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Majette
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Menendez
Mica
Miller (MI)
Miller (NC)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Souder
Spratt
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tanner
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—16

Bell
Berkley
Conyers
Davis (IL)
Frank (MA)
Gephardt
Hinojosa
Kucinich
Miller (FL)
Oxley
Rodriguez
Simpson
Smith (NJ)
Tauzin
Udall (CO)
Wicker

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

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

□ 1612

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

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 4 OFFERED BY MR. LAMPSON

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

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

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. LAMPSON:

At the end of the bill (preceding the amendment to the long title), insert the following new section:

**SEC. 5. ACTIONS BY YOUNG CHILDREN AGAINST SELLERS THAT MARKET TO YOUNG CHILDREN.**

Notwithstanding any other provision of this Act, this Act shall not apply to an action brought by, or on behalf of, a person injured at or before the age of 8, against a seller that, as part of a chain of outlets at least 20 of which do business under the same trade name (regardless of form of ownership of any outlet), markets qualified products to minors at or under the age of 8.

Mr. LAMPSON. Mr. Chairman, today the House is continuing to consider H.R. 339, the Personal Responsibility in Food Consumption Act. I oppose the core of this bill because I believe that the constitutional right to seek redress in our courts as guaranteed by the seventh amendment is inviolate and the right to civil justice is a fundamental element of any stable and just society.

Time and time again, we see measures on the House floor designed to immunize special interests from the only means that citizens have to hold certain companies and corporations accountable. And today's bill is no exception.

So that is why I offer an amendment to the bill to protect children 8 years of age and younger. This very narrow amendment targets only those fast-food chain restaurants who aggressively market their products to the youngest segments of our society.

As the chair of the Missing and Exploited Children's Caucus and, more importantly, as a concerned grandparent, I have always fought to protect our children's interests. And as such, I want to make sure that children learn how to make informed nutritional choices. Part of that process requires us to hold those who treat children as an advertising demographic accountable, especially when children's health is at stake.

Mr. Chairman, today the younger age group faces a litany of health issues that generations before them did not face. Heart disease, high blood pressure, hypertension, joint problems, asthma, diabetes and cancer are on the increase with these children. And a steady diet of fast food is the absolute last thing that they need. Unfortunately, fast-food restaurants are bombarding our children with advertisements that encourage overconsumption of unhealthy eating choices.

The average child views 20,000 television commercials each year. That is about 55 commercials a day. And more disturbingly, the commercials for candies, snacks, sugared cereals and other foods with poor nutritional content far, far outnumber commercials for more healthy food choices.

Every working parent knows how aggressive these marketing campaigns can be, especially when they tie in incentives such as playgrounds and contests and clubs and games and free toys and movies and television and sports league-related merchandise. Well, how can we expect our children freely to say no to fast food when it is, no pun intended, pushed down their throats in this manner day in and day out?

Well, one child in my district who is 8 and who suffers from juvenile diabetes faces a far greater battle to maintain his fragile health than do most children. He already faces a lifetime of increased health and nutritional expenses. And I do not want him and other children like him to fall prey to the marketing practices of the fast-food industry.

□ 1615

Working families have enough to contend with through fighting to keep their jobs and providing a good education for their children, so they should not have to take any even more steps to protect their children from industry and advertizing practices that are running rampant pants. Should this unfortunate set of circumstances become reality our children, must be able to seek redress in our courts and in our justice system.

Mr. Chairman, studies indicate that at age 8 and under, children are more susceptible to such advertising, and even less likely to understand the purpose of this advertising. So that is why so much of this advertising is done during the cartoon hour, and it is no coincidence that major fast food chains routinely run their advertisements during this time. The tragic results of this marketing of fast food is a nation of overweight children who remain vulnerable to a host of medical conditions that they should not have to worry about during their formative years.

It is for these reasons that this amendment to H.R. 339 is necessary. If we totally foreclose any opportunity, any opportunity to hold this industry accountable, especially for our youngest children, we will only see an increase in childhood obesity and other related problems. It is time we demand responsibility on the part of the fast food industry, it is our responsibility as lawmakers to protect those who cannot protect themselves. My amendment offers that safety net for our children. And for these and many other reasons, we should support it today. I ask my colleagues to join me in supporting this amendment.

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

Mr. Chairman, this amendment will do exactly the opposite of what the gentleman from Texas (Mr. LAMPSON) says it will do, because what the amendment says is that it tells parents that if they are not responsible, they can become millionaires. The amendments exploit children and it discourages parents from exercising parental

responsibility at all times. It is the parents that buy the Happy Meals. It is the parents that take their kids to the fast food chain. And few kids under 8 either have their own money to buy the Happy Meals or can make it to the fast food outlet without their parents taking them down there.

So if this amendment is adopted and little Johnnie or little Mary become big Johnnie and real big Mary before the age of 8, then their parents can sue and hopefully break the bank, according to what their lawyers tell them.

The Los Angeles Times says this is wrong. And one of their editorials they said, in part, ''If kids are chowing down to excess on junk food, though, aren't their parents responsible for cracking down?''

The gentleman from Texas' (Mr. LAMPSON) amendment says, no, they are not. And as a matter of fact, we will give those parents the opportunity of monetary enrichment if they buy their kids far too many happy meals and do not just say no when Johnnie and Mary pull on their parents' shirt tails and say, let us go down to McDonalds or the Burger King or one of these other fast food outlets.

Now, even the best obesity doctors realize this amendment is another sad assault on the concept of parental responsibility. Dr. Jana Clauer, a fellow at the New York City Obesity Research Center of St. Luke's Roosevelt Hospital has said, ''I just wonder where were the parents when the kids were having those McDonalds breakfasts every morning. Were they incapable of pouring a bowl of cereal and some milk?''

Well, this amendment tells those parents that if they do not pour that bowl of cereal and put some milk on the top of it and ruin their kids health as a result, if those kids are under 8 they can go off to court because it was not their fault. Vote this amendment down.

Mr. WATT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Chairman, the words that the gentleman of Wisconsin (Mr. SENSENBRENNER) just spoke indicate that we would give the opportunity for someone to become wealthy in the event that the child became fat. Well, we are only asking that if a person becomes injured from eating the foods that are not healthy for them, and I also know that studies reviewed in a task force report indicate that the product preferences can indeed affect children's product purchase requests and we are bombarded with television ads. I know that those children are not so much with their parents when they are making the decision to go to McDonalds or whatever else, these fast food chains, but they are sitting in front of their television sets and the parents are there with them.

Much like what happened, and I believe the gentleman would probably agree that he does not like what we saw during the Superbowl when part of Janet Jackson's costume came off. Just like the child who was sitting in front of that TV did not have a choice of what he or she saw then, what choice do they have when they are watching cartoons and repeatedly time after time after time after time the same commercial that puts sugar in front of them over and over again continues to happen. Does it have an effect on their requests when they go to a grocery store or to a fast food restaurant? You better believe it does, and that is what this amendment is attempting to do. It gives them the opportunity to protect themselves from those injuries only.

Mr. KELLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I ask my colleagues to vote no on the Lampson amendment for at least three reasons. First, one of the cases involving McDonalds was brought by a 400-pound child. And every single meal, breakfast, lunch and dinner, that parent would take the kid to McDonalds and then shockingly one day wakes up and says, oh, the kid is 400 pounds. I never encouraged him to get any exercise. I never encouraged him to step away from the video games. I never encouraged him to not watch TV all day. I never encouraged him to eat healthy food. I never encouraged him to exercise. Now I want a million dollars.

That is insane.

This amendment tells parents that they are not responsible. And if they are not responsible, they can even profit by becoming millionaires and sue for it.

Now, it was brought up that these companies market to kids as well as adults. I have two kids, 8 years old and younger. I can tell you who else markets to kids. Barney, Bear in the Big Blue House, Dora the Explorer, Blue's Clues, Nickelodeon, the Disney Channel. In fact, one could argue if you take this argument, that, in fact, those programs are so enticing and so addicting and so enjoyable to kids but they have no choice but to sit there and watch them every day, and as a result, they lead a stagnant life-style, so why not sue them for obesity since they are marketing to them?

It puts the incentives in the wrong place totally.

Third, I want to briefly point out that childhood obesity is certainly a serious problem. The childhood obesity rates have doubled in the last 30 years. I do not stand before you today and hold myself out as the world's leading expert on physical fitness, but I can tell you the world leading expert on physical fitness, Dr. Kenneth Cooper, the founder of the aerobics movement, testified before my Committee on Education and the Workforce on February 14 of this year and said to us that these lawsuits against the food industry are putting, or putting a tax on Twinkies is not going to make a single person any skinnier.

He said, 30 years ago did kids come home from school and eat potato chips and cupcakes and cookies? Absolutely, they did. The difference is then they went out and rode their bike and played.

Now, they spend 1,023 hours a year in front of a TV screen watching TV or playing video games versus only 900 at school. Where are the parents? If you are talking about a kid eating fast food 21 times a week, where are the parents?

This amendment says the parents have no responsibility whatsoever. It defies common sense however well meaning the author may be. I urge my colleagues to vote no.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I am just confounded by the debate on the floor of the House as it relates to the Lampson amendment, and I rise to enthusiastically support it because all that I have been hearing from my colleagues in opposition is this is bash the parents day. The parents should have known. The parent needs to know. The parent ought to know.

The Lampson amendment is simple and it is without complexity. It simply tracks the tragedy that occurred some years ago when a young child was poisoned at one of our fast food locations in the northwestern part of America. I believe it was Whataburger and I believe it was in the State of Washington. All his amendment says is that if a child is injured, then you have a right to pursue the case on behalf of that child.

Now, as reason would have it, we already know that the Congress that we are under, over the last 10 years, has eliminated everyone's right to go into the courthouse for justice. So do not expect that there is going to be a rush to the courthouse with parents who are going to claim that all of their children have been injured because they are not going to be addressed. They will not have an opportunity to have their grievances addressed. All of the doors of the courthouses have been closed to individuals who have been aggrieved, if you will, and who have been injured.

This is a simple statement to provide the protection that the fast food chains want to have. How can we not, under the umbrella of equity, not accept the fairness of what the gentleman from Texas (Mr. LAMPSON) is offering today?

As the Chair of the Congressional Children's Caucus and the gentleman from Texas' (Mr. LAMPSON) leadership daily with exploited children, I cannot imagine that a simple amendment simply asking for fairness would not be accepted by this body. I ask my colleagues to look clearly and squarely at the simplicity of this amendment, and I ask them to vote for the Lampson amendment.

The CHAIRMAN pro tempore (Mr. BASS). The question is on the amendment offered by the gentleman from Texas (Mr. LAMPSON).

The amendment was rejected.

AMENDMENT NO. 9 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Ms. JACKSON-LEE of Texas:

Section 4(5), insert after ''or a trade association,'' the following: ''or a civil action brought by a manufacturer or seller of a qualified product, or a trade assocation, against any person,''.

Ms. JACKSON-LEE of Texas. Mr. Chairman, it is interesting in listening to the debate on this legislation and seeing, of course, extensive coverage that this legislation is obtaining, it would appear that we are doing serious legislation, providing improvement to the Medicare bill, Medicaid bill, finding ways to quell the violence in Haiti, bring some resolution to the Iraq war, but to my colleagues, we are doing none of that.

We are now spending hours on the floor, and I certainly thank my colleagues for allowing this amendment to be made in order, trying to dash the hopes of those who have been severely injured and are seeking a redress of their grievances in a court of law.

Now, all of us come from constituency that are filled with fast food chains and restaurants. Many of us would disagree with recent statements of the administration that that equals to manufacturing; but we do know that people are employed by this industry.

In my own community, I have been a strong advocate of small businesses and the franchise owners who have received their economic income from this industry. But, Mr. Chairman, we have gone too far.

Now, we want to take up the cause of fast food chains with the likes of McDonalds and Jack in the Box as characters, give them the Constitution and the Bill of Rights and tell Americans where to go. My amendment is simple. You protect the fast food chains from lawsuits, and I simply want to be able to protect those like Oprah Winfrey and others who wish to make statements about the industry or the product and allow them to be immune from lawsuits.

My amendment ensures that what is good for the geese is good for the gander. Those advancing healthy diet by discouraging the consumption of certain food because of their adverse effects on a person's health and weight gain should not be subject to litigation from the food industry while it stands immune from any accountability under this bill.

□ 1630

Simple. There is no sinister, if you will, hide the ball behind this amendment. It simply says that you are protecting the industry; they cannot be sued; they are above reproach; they have the Constitution and are shredding it, so why cannot we?

I do not understand. When Oprah Winfrey was sued, I do not recall any hue and cry in this body during, or in the aftermath of the lawsuit against Ms. Winfrey, millions of dollars, moving her television program to Texas, in order to be able to press her case. The system worked. There was a trial and she was vindicated ultimately, but a long trial, and the industry had its day in court. But if we are to end the public's right to a jury trial on issues of food safety, we cannot end the public's right to freedom of speech by leaving food critics who play an important role in educating the public, stimulating positive change and promoting sound eating habits open to lawsuits from an immunized industry.

This amendment addresses this concern and ensures that every American can engage in or has access to an open and honest debate.

Mr. Chairman, I would simply say that the time we have spent on this bill, I know that our time could have been more well spent. I do not know whether we have documented how many lawsuits have gone against the industry. I do not know how much money we have documented, but I would certainly say to my colleagues that it seems ridiculous that we have legislation that closes the courthouse door. The judicial system has worked well for us in America, and I simply think we should allow it to continue its work.

This amendment simply tries to make this bill minimally slightly better for the poor consumers and the voices of reason that are now opposing some of the extreme in this industry. My support is for the food franchisees and all of those who work in the industry, but even they realize that fairness is something that cannot be eaten up.

I ask my colleagues to support the Jackson-Lee amendment.

Mr. Chairman, I offered an amendment, "WATT_019," in addition to "MJ_004." This amendment would prohibit the food industry—which enjoys broad immunity under this bill—from initiating lawsuits against any person for damages or other relief due to injury or potential injury based on a person's consumption of a qualified product and weight gain, obesity, or any health condition that is associated with a person's weight gain or obesity.

This amendment is necessary to insure that the public debate on the health and nutritious effects of mass marketed food products is not completely squelched by this bill.

In 1996, Oprah Winfrey was sued under my home state's "food disparagement" laws by the beef industry for comments she made following the first "Mad cow" scare this country witnessed. After years of litigation, transfer of her television show to Texas, and an expenditure of over one million dollars, Ms. Winfrey prevailed at trial and on appeal.

Proponents of this bill assert that the food industry will incur significant cost defending "frivolous" lawsuits by the trial lawyers, but neglect the staggering costs that may be borne by private citizens should they dare question the health effects of any "qualified food product" under this bill.

My amendment insures that what's good for the geese is good for the gander. Those advancing healthy diets by discouraging the consumption of certain foods because of their adverse effects on a person's health and weight gain should not be subject to litigation from the food industry while it stands immunized from any accountability under this bill.

I don't recall any hue and cry in this body during or in the aftermath of the lawsuit against Ms. Winfrey to ban food libel laws. The system worked. But if we are to end the public's right to a jury trial on issues of food safety, we cannot end the public's right to freedom of speech by leaving food critics who play an important role in educating the public, stimulating positive change, and promoting sound eating habits open to lawsuits from an immunized industry.

This amendment addresses this concern and insures that every American can engage in or has access to an open and honest debate on matters of public health.

Once again, Mr. Chairman, I urge my colleagues to support my amendment.

Mr. KELLER. Mr. Chairman, I move to strike the last word.

I ask my colleagues to vote ''no'' on the Jackson-Lee amendment. The Personal Responsibility in Food Consumption Act, the base bill, pertains to lawsuits people bring because they gained weight and are suing the company that served them the food, claiming it is their fault. This amendment would prevent manufacturers or sellers of food from suing individuals because, and I am not making this up, the company literally got fat. I would like to ask, how is it possible to determine what the body mass index of General Motors is? Did it gain weight over the holidays? This amendment should be defeated solely because it erroneously assumes companies can literally get fat.

The author of the amendment mentioned a little insight into where she was going when she talked about she does not want individuals like Oprah Winfrey getting sued. Well, if my colleagues recall, that did not have anything to do with this. Oprah Winfrey got sued by the Beef Cattlemen's Association because they claimed she allegedly defamed them. They did not, the Beef Cattlemen's Association, that because of her comments, this association got fat.

So this is an erroneously drafted bill, has no application here, however it is intended, and I would ask my colleagues to vote ''no.''

Mr. WATT. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. WATT. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman from North Carolina for yielding, and to my good friend from the great State of Florida, let me try to clarify that this is simply an equity amendment. It is a fairness amendment.

The example of Ms. Winfrey was only because she, as an individual, was sued

by a large conglomerate, the association dealing with the beef industry. I respect both of their points of view, in fact. I welcome the opportunity for both of them to press their causes in the courts of law.

What I am simply saying is that if we are going to spend time protecting the fast food industry, using the time of this House, then I would challenge my colleagues to give me a reason, a legitimate explanation for not protecting individual rights, and that means that if an industry is to be protected from suits that are considered frivolous, then individuals for their actions should be as well protected.

I do not understand why we are coming to the floor of the House with a simply one-sided, single-focused bill. No one has described the crisis. Usually this body is conceded to be a problem solver. No one has said that we are overrun with lawsuits. There is no documentation of the amount of money that has been expended, no suggestion that the GNP has been impacted, and so if it is fair to protect the industry, fast foods in particular, if it is fair to bash parents about whether or not their own children, if injured, have a right to go into court because of the food that they are eating, not knowing the particular conditions that the parents operate in, and I would imagine that the court will determine whether those lawsuits are frivolous, if it is all right to come to the floor to do that, then I cannot imagine a simple modifying of this legislation to equalize the rights of both individuals and associations to me seems to be, if you will, hypocritical.

Again, I would ask my colleagues to consider this amendment as an amendment of equity and equality and fairness. It is not necessarily the Oprah Winfrey amendment, but I think if Ms. Winfrey was here, she would acknowledge the pain, as well as the burden, that was put upon her to go as an individual and defend her case in another jurisdiction. At least she was allowed to go into court. In this legislation, the door is slammed shut on the basis of the fact that maybe hamburgers have now taken a greater standard in this country than someone's individual rights. I would like to find the constitution that says all hamburgers are created equal.

Let me ask my colleagues to support this amendment on the basis of fairness.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, unfortunately, the gentlewoman from Texas' argument has nothing to do with her amendment and the examples that she has used has nothing to do with this bill.

First, what the amendment does is exactly what the gentleman from Florida (Mr. KELLER) has indicated, and that is to say, that a company could sue for getting too fat. Well, a company is a piece of paper that is signed by the Secretary of State of the State of corporation, and has the State seal affixed to it. Companies do not get fat, at least in the physical way that this bill is designed to address.

Secondly, the gentlewoman from Texas brings up the case of the lawsuit that was filed against Oprah Winfrey. That was a defamation suit. This bill has nothing to do with allegations of defamation. Anybody who claims to have a cause of action for defamation is perfectly able to go to court and file their case.

So I do not understand what relevance the gentlewoman's amendment has to the issues that are presented to this bill, and that is why it should be defeated.

Mr. UDALL of New Mexico. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. UDALL of New Mexico. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I will not take the full 5 minutes, but I am struck by the comments of my distinguished chairman and colleague from Wisconsin, because his interpretation, I believe, is not correct, because someone could claim that a fast food chain, and let me be fair in the calling of them, there are so many, whether it is Whataburger or McDonald's or Jack-In-The-Box or Burger King, that their hamburgers, as I said, it must be the constitutional protection of all hamburgers are created equal, but their hamburger makes one fat, just a simple statement.

Well, on page 5 of this bill, under the qualified civil liability action, it clearly suggests that that person would be apt to be sued, and so what I am saying is if we can put legislation on the floor of the House to protect the entities, the institutions, the businesses from frivolous lawsuits, then we should be able to protect those who are offering their opinion. By way of documentation, by way of research, they have equal rights.

This is an equity amendment, and it seems to me to be quite unusual that my colleagues would not welcome the opportunity to equalize lawsuits, equalize the ban on lawsuits because it is clear that it is in this bill, and I would ask my colleagues to consider the fairness of this because it is going directly to the point that is made in this bill, and I would ask my colleagues to support the Jackson-Lee amendment.

The CHAIRMAN pro tempore (Mr. BASS). The question is the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was rejected.

AMENDMENT NO. 10 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

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

The text of the amendment is as follows:

Amendment No. 10 offered by Ms. JACKSON-LEE of Texas:

At the end of the bill (preceding the amendment to the long title), insert the following new section:

**SEC. 5. ACTIONS INVOLVING WEIGHT-LOSS PRODUCTS.**

Notwithstanding any other provision of this Act, this Act shall not apply to an action alleging that a product claiming to assist in weight loss caused heart disease, heart damage, primary pulmonary hypertension, neuropsychologocal damage, or any other complication which may also be generally associated with a person's weight gain or obesity.

Ms. JACKSON-LEE of Texas. Mr. Chairman, when we looked at that bill, we tried to find some redeeming value to it because it does say Personal Responsibility in Food Consumption Act, and clearly there are none of us that want to be on the wrong side of personal responsibility, but I want to focus on what the bill actually does.

I think if my colleagues would listen, as the American people will have to fall victim to this particular legislation, they would know that this is going just too far because what H.R. 339 does is it bans suits for harm caused by dietary supplements and mislabeling which have nothing to do with excess food consumption and would prevent State law enforcement officials from bringing legal actions to enforce their own consumer protection law.

Beyond the idea of obesity, and I am going to get fat on whatever food one might be eating, including the very tasty French fries, this goes to the very heart of some tragic incidences that we have had dealing with food and nutritional supplements.

I am aghast, Mr. Chairman, that this bill deals with banning any opportunity to protect ourselves against ephedra and fen-phen and any other thing that has to do with these kinds of supplements.

Already we have seen the pain of various individuals who have lost their loved ones. This is nothing to simplify and/or to make light of. Even in this current year or the last year we have seen terrible tragedies occur because of a utilization of these particular drugs, and now my friends want to have a broad, legislatively written bill, H.R. 339, that slaps the face of those who lost their loved ones, who have been injured by the utilization of these supplements.

So my amendment is very simple. It provides, if you will, the protection against that. Hidden in this convoluted definition of the civil action that relates to a person's consumption of a qualified product and any health condition that is associated with a person's weight gain is the fact that a person is banned from bringing a lawsuit on these kinds of products and that this bill will shield the producer of dietary supplements from all liability.

I offer this amendment to ensure that makers of these highly dangerous and highly unregulated drugs are held

accountable for their action. Let me give my colleagues an example, Mr. Chairman.

Under the Food, Drug and Cosmetic Act, all laws that apply to food apply to dietary supplements unless they explicitly exempt them. That means that this bill limits the liability of dietary supplementing manufacturers because it does not specifically exempt. Unlike hamburgers and French fries, dietary supplements often have hidden side effects that often have immediate and dire consequences, but yet we have a bill that is broad based with a broad sweep and no limitation, and unlike drugs, these supplements neither have to test for side effects nor report them to the Federal Government.

Let me tell my colleagues what is worse. This bill is retroactive. So ongoing lawsuits of people already punished, already injured, all suffering, already damaged, already dead are going to be voided by the passage of this lawsuit. How incredulous.

I cannot imagine that my colleagues would have such intent because I would never attribute sinister intent to the drafters of this legislation, and I would only ask my colleagues, let us fix it today on the floor of the House. Let us show America that there is no intent to go back into the courtroom of ongoing litigation where family members are gathered in great, if you will, disadvantage because of what has happened to them or a loved one and ask them to give up a legitimate claim, and then let us not go forward with a bill that takes a broad brush and denies one's right to get into the court on these dietary supplements and nutritional supplements.

□ 1645

The current system is not sufficient to deal with this threat. Consider ephedra, for example, which the FDA started investigating in 1997. It is now 7 years, 18,000 adverse reactions, and at least 155 deaths later; and it is just now being pulled off the shelves. So it is important to note, Mr. Chairman, that this amendment is simply to clarify this bill.

I would ask my colleagues to support this amendment and to recognize that this can help us together clarify the rights of those who are already in court and the rights of those going forward on the nutritional supplements that have brought great damage to many Americans.

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

Mr. Chairman, I will ask my colleagues to vote ''no'' on the Jackson-Lee amendment dealing with diet pills on a couple of grounds:

First, the Personal Responsibility in Food Consumption Act applies to weight gain, obesity, or any health condition that is associated with a person's weight gain, such as diabetes, high cholesterol, cardiovascular disease. It has nothing to do with weight loss and nothing to do with diet pills, and this amendment confusingly implies weight loss can be weight gain, which does not make sense.

The second part of the amendment, which is somewhat odd, is the amendment would bizarrely require Members to vote for a provision that states that being fat is ''generally associated'' with brain dysfunction and neurological disorders. Specifically, it says, ''neurological damage or any other complication which may be generally associated with a person's weight gain or obesity.''

Not all people who might be overweight are suffering from neurological problems. I can tell you that it is possible to be both fat and happy. So I do not understand the reason for this amendment.

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

Mr. KELLER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I would ask the gentleman if Santa Claus is both fat and happy?

Mr. KELLER. Reclaiming my time, Mr. Chairman, I believe he is.

Mr. WATT. Mr. Chairman, I move to strike the last word.

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

Mr. WATT. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished ranking member very much for yielding to me. I know we can come to a meeting of the minds on this.

Mr. Chairman, I want to take my good friend from Florida somewhat to task because it is inaccurate what he has just represented to this body. It is totally inaccurate. These supplements claim to help prevent weight gain or they claim to help or to prevent obesity. This legislation does apply. Clear and simply, it does apply.

What is going to happen is that we are hiding the ball. This legislation will pass and thousands will be thrown out of the courthouse. I have already cited for my colleagues that there have been 18,000 adverse reactions from ephedra, with 155 deaths.

Let me advise how this bill impacts the problem that I am citing by way of my amendment and why it needs to be fixed. First of all, section 3(a) of the bill bans qualified civil liability action. That already goes to those who have had an adverse reaction or those who are dead and their family members are trying to go into court. Section 4(5) of the bill defines qualified civil liability actions as actions involving a qualified product. Section 4(4) of the bill defines a qualified product as a food under the Food, Drug and Cosmetic Act. Section 32(f)(f) of the Food, Drug and Cosmetic Act says a dietary supplement shall be deemed to be a food within the meaning of this chapter.

This bill is a direct correlation to the Food, Drug and Cosmetic Act; and ephedra, as a dietary supplement, is, therefore, a food, with 18,000 adverse reactions and 155 deaths. You can equate it to those who are allergic to dairy products, for example.

Again, these attempts are not to condemn the food industry globally. We all enjoy and need the nutrients produced by the agricultural industry as well as the food industry, the processing food industry, the fast-food industry that produces meals that sometimes may be the only meals that people have. But what we are saying, Mr. Chairman, and what we are saying to this body, you cannot hide the ball.

We hope that this is not a sinister intent, a back-door intent to have tort reform and to close the courthouse door. If it is not, you cannot argue with the fact that this is a food supplement covered by this bill. And I would say to my colleagues, when they do not want to accept any amendment, we may have a disagreement on this bill; but, frankly, we do not have a disagreement on the fact that people's rights may be denied. They think it is the food industry; I think it is individuals.

If my colleague thinks that the bill does not apply to dietary supplements, then why does he not accept the amendment? It does no harm anyhow. The language of the bill is ambiguous at best, dangerous at worst. But more importantly, I have just run through an explanation why food supplements are included. So I do not think we should take a chance. I think we should protect the American public and provide support for this amendment so in fact we have the opportunity to clarify it.

I do not see where this bill clarifies a distinction between food and the food supplement and the fact as to whether or not someone would make a claim that would subject them to a lawsuit. I am concerned, and I would think my colleagues should be concerned. This does not have to be time spent in frivolity. It can be a serious attempt at legislation. All we have to do is balance it.

If there is some substance to this idea that fast-food chains are being subjected unmercifully to lawsuits, then just imagine those without the kinds of resources that you might think a business would have and individually are sued by this industry. That is unfair. And those who are now in the process of suing because they have actually been harmed.

The very language of this bill that I think is overreaching anyhow, which is clearly retroactive, to me, suggests that we have a real problem. In fact, I would ask the question whether this bill will withstand any sort of court review; and if I can stretch it, whether it will withstand any kind of constitutional muster. Because I know hidden somewhere somebody's rights have been denied.

I would ask my colleagues to again support this equitable amendment that allows for the bill to be modified to protect individual rights and the ideas of food supplements being included.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all, this bill has nothing to do with weight loss products, whether they are food supplements or drugs that require a prescription or drugs that are sold over the counter. It only deals with food that makes people increase their weight so that they become obese and have all of the medical problems related to obesity.

Now, on page 5 of the bill, ''Qualified Product'' is defined in section 201(f) of the Federal Food, Drug and Cosmetic Act; and this section of the Food, Drug and Cosmetic Act reads as follows: ''The term food means when an article is used for food or drink for man or other animals, chewing gum and articles used for components of any such article.''

So all of what the gentlewoman from Texas complains about is not covered in this bill because it is not a qualified product as defined by the bill.

And I will not yield to the gentlewoman. She has been up twice to try to explain what she is trying to do. She is just plain wrong.

And, secondly, there is one other thing that I think is very relevant, and this comes from the black and white provisions of her own amendment as in the CONGRESSIONAL RECORD. It talks about neuropsychological damage or other complications which may generally be associated with a person's weight gain or obesity.

Now, to say that someone who is obese has got psychological damage, I think, gets to the point of the gentleman from Florida saying that there are a lot of people who can be both fat and happy.

If the gentlewoman from Texas wants to draft an amendment to aim at the target, this was not it because the gun is shooting in the wrong direction.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I ask unanimous consent to make an inquiry.

The CHAIRMAN pro tempore (Mr. BASS). Is there objection to the request of the gentlewoman from Texas?

Mr. KELLER. Objection.

The CHAIRMAN pro tempore. Objection is heard.

The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) will be postponed.

AMENDMENT NO. 8 OFFERED BY MR. WATT

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

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

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. WATT:

Strike section 3(b).

Mr. WATT. Mr. Chairman, I will try to be brief, because we have been here for a long time. I do want to compliment all of my colleagues who have really explored the issues related to this bill vigorously, and I think it has been a good discussion.

This final amendment, and I do think it is the final amendment, would strike section 3(b) of the bill. Section 3(b) provides that a qualified civil liability action that is pending on the date of the enactment of this act shall be dismissed immediately by the court in which the action was brought or is currently pending.

The effect of that language is to make this bill retroactive in its application applied to pending lawsuits as of the date the law becomes effective. Now, there are not currently any pending lawsuits, because all of them have been dismissed, as I have indicated previously. But between now and the time that this legislation may be enacted, other lawsuits may be pending or may be filed; and so this amendment is aimed at protecting against retroactive application of this bill because I think it is just unfair and almost un-American to change the rules of a legal process in the middle of the action.

Under this bill, any banned lawsuit would be dismissed by a court whether it has just been filed, a judgment is imminent, or a judgment has been entered and post-judgment proceedings and appeal may even be in process. This requirement is inherently unfair to litigants who may have devoted countless time and resources based upon their legitimate reliance on the laws of the States at the time they initiated their lawsuits.

Whether or not there are pending cases that would be dismissed under the bill, the retroactivity of the bill is bad policy and bad precedent. Our Nation prides itself on a fair, impartial, and open judiciary. This provision, however, undermines the judiciary and erodes public confidence in the system. The American people cannot have faith that any of their rights are secure if we change the rules of the game midway through a legal process. The judicial system, State and Federal, is a vital part of our constitutional framework, and we should not be changing the rules in midstream.

As a litigator, I know how deeply our citizens feel about rights they advance in court. I know the personal stress and financial strain that lawsuits may impose on an entire family, and I know how contrary this provision is to fundamental notions of fairness and fair play. I urge my colleagues to support the amendment to eliminate the retroactivity of this bill.

□ 1700

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

This amendment would prevent the application of H.R. 339 to pending lawsuits and must be defeated. The amendment would essentially gut the entire bill by preventing the dismissal of pending lawsuits. If such an amendment passed, all that would happen is that hundreds of additional cases would be filed right before the date of enactment. That is exactly what happened in Texas and Mississippi when those States recently enacted legal reforms that did not preclude pending cases.

Such an amendment, as offered by the gentleman from North Carolina, would therefore make the current situation much worse. The Supreme Court has held that Congress can impose rules that apply retroactively, if it does so, pursuant to an economic policy. Review of retroactive legislation under the due process clause is no more than a variety of judicial regulation of economic activity under the concept of substantive due process.

The general principles the Supreme Court has handed down regarding the constitutionality of retroactive legislation under due process principles were summarized by the court as follows: ''The strong deference accorded legislation in the field of national economic policy is no less applicable when that legislation is applied retroactively. Provided that the retroactive application of a statute is supported by a legitimate legislative purpose, furthered by rational means, judgment about the wisdom of such legislation remain within the legislative and exclusive branches. The retroactive legislation does not have to meet a burden not faced by legislation that has only future effects, but that burden is met simply by showing that the retroactive application of the legislation is itself justified by a rational legislative purpose,'' and that is Pension Benefit Guaranty Corporation v. R.A. Gray & Company decided by the Supreme Court in 1984.

This bill aims to save the national food industry from bankruptcy due to pending lawsuits and is an enactment pursuant to a national economic policy. The Supreme Court also upheld the retroactive application of the liability provisions of the Multiemployer Pension Plan Amendments Act of 1980 against the challenge that the withdrawal liability provisions violated the fifth amendment taking of property clause.

The provision of the Act that required an employer to fund its share of a pension plan was viewed by the court as a law regulating economic activity to promote the common good. Therefore, the law was not an invalid taking of property for which compensation was due. That is Connolly v. Pension Benefit Guaranty Corporation, 1986.

This amendment is a bad one. It is designed to gut the legislation and should be defeated.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the last word.

I rise to support of the Watt amendment, and would offer to say to the

gentleman from Wisconsin (Mr. SENSENBRENNER), this is a vital amendment. This happens to seek to eliminate the retroactivity of the very point that I previously made regarding the ongoing and pending lawsuits, particularly on the Ephedra issue.

Let me cite an example to show how deadening and devastating this legislation would be passed with the anti or retroactive language in it that would then stop at the courthouse steps; more seriously, stop at the bench of the judge those ongoing litigation matters that are now pending.

I gave some comfort by suggesting that I would not attribute anything misdirected or mean-spirited to this legislation; I assume there is some purpose for it, but I cannot imagine why we would want to close the door on those who have suffered.

Let me cite an example. Earline Cook has filed a wrongful death claim in the United States District Court for Western Missouri against several companies after her husband passed away in July 2001 after taking a product containing Ephedra. Mr. Cook was a decorated military veteran who died after ingesting an Ephedra-based product while playing basketball on a military base. The autopsy and military investigation concluded that death was caused by the Ephedra-based product. The military base recently named the gymnasium after Mr. Cook in recognition of his dedication and service to the Army and his efforts to stay in top physical shape during his military career.

Her case is currently pending, and I will submit the actual lawsuit into the RECORD because, for some reason, my colleagues seem to think we are giving up smoke, and I would tend to think this is to the contrary.

This is so important because dietary supplements are covered by this legislation. Section 321(ff) of the Food, Drug and Cosmetic Act says ''a dietary supplement shall be deemed to be a food within the meaning of this chapter,'' and this language is referred to in this legislation.

So the Watt amendment is an excellent amendment because the gentleman is trying to protect the likes of Ms. Cook who is innocent, and while she has filed in a Federal court, unbeknownst to her, we are on the floor of the House undermining, cancelling her lawsuit. Might I just say, what a tragedy.

I imagine we could name a number of serious incidents that are ongoing that have resulted in lawsuits regarding Ephedra, and maybe we can list a number of other dietary supplements as food supplements as section 321(ff) suggests. It is the height of hypocrisy that the case that is pending is that of a decorated military veteran who was attempting to stay at full measure to serve his country and who was playing basketball on a military base. This lawsuit is ongoing, and I cannot understand why we would want to douse this widow's opportunity to petition in a court of law.

We have already said that the judicial system works, and I cannot imagine why we are here today playing with the lives and the ability to achieve justice of those who are here in this country, and particularly as this particular case suggests, those are willing to give the ultimate measure for this Nation.

This is a straightforward amendment which carries with it the weight of rightness, and that is that you cannot have retroactivity in this bill. That would deny people the right to access their rights in court.

My conclusion is that I beg to differ with anyone who would say that this is not covered, food supplements are not covered in this bill because they need to read section 321(ff). The Food, Drug and Cosmetic Act says ''a dietary supplement shall be deemed to be a food within the meaning of this chapter.'' It is covered, and this amendment should pass. I ask my colleagues to support the Watt amendment.

Mr. Chairman, I urge everyone to vote ''yes'' to the first of my two amendments, ''MJ_004'' to ensure that dietary supplement manufacturers don't get away with murder.

This bill bans not only so-called ''obesity-related suits,'' but any civil action that ''relate[s] to . . . a person's consumption of a qualified product . . . and any health condition that is associated with a person's weight gain.'' Note that the person with the health condition does not have to be obese, they only have to have a health condition that obese people also have. Heart disease and kidney problems would be some of those diseases, for example. Hidden in this convoluted definition is the fact that this bill will shield the producers of dietary supplements from all liability. I offer this amendment to ensure that makers of these highly dangerous—and highly unregulated—drugs are held accountable for their actions.

Under the Food, Drug and Cosmetic Act, all laws that apply to ''food'' apply to dietary supplements unless they explicitly exempt them. That means this bill also limits the liability of dietary supplement manufacturers. Unlike hamburgers and french fries, dietary supplements often have hidden side effects that have immediate and dire consequences. And unlike drugs, these supplements neither have to test for side effects nor report them to the Federal Government.

Our current system isn't sufficient to deal with this threat. Consider ephedra. The FDA started investigating ephedra in 1997. It's now 7 years, 18,000 adverse reactions, and at least 155 deaths later—and it's just now being pulled off the shelves. Despite the reports of strokes, seizures, heart attacks, and sudden death, ephedra was allowed to stay on the market.

Now that ephedra is gone, new diet drugs are already taking its place: bitter orange, aristolochic acid, and usnic acid. All three have been associated with kidney and liver problems. And while the FDA claims that it will look into the matter, we all saw what happened the last time the FDA began its cumbersome process. How many people will die this time? While the government works through its bureaucratic process, we have to let people have their day in court to stop these tragic events from happening again.

Vote ''aye'' for this amendment and make sure that this bill is limited to what it claims to stop—frivolous obesity cases, and not meritorious claims against dangerous drug manufacturers.

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI, CENTRAL DIVISION

EARLINE COOK, surviving spouse of HENRY L. COOK, deceased, and administrator of the Estate of Henry L. Cook, deceased,

Plaintiff,

v.

CYTODYNE TECHNOLOGIES, INC., a New Jersey corporation, Serve: Robert Chinery, Jr., Cytodyne Technologies, Inc., 2231 Landmark Place, Manasquan, New Jersey 08736,

and

NUTRAQUEST, INC., a New Jersey corporation, Serve: Robert Chinery, Jr., Nutraquest, Inc., 2231 Landmark Place, Manasquan, New Jersey 08736,

and

ROBERT CHINERY, JR., individually,

and

PHOENIX LABORATORIES, INC., a New York corporation, Serve: Mel L. Rich, President and CEO, Phoenix Laboratories, Inc., 140 Lauman Lane, Hicksville, New York 11801,

and

GENERAL NUTRITION CENTER, INC., d/b/a GNC, a Pennsylvania corporation, Serve: General Nutrition Center, Inc., c/o United States Corporation Company, 221 Bolivar, Jefferson City, MO 65101,

and

GENERAL NUTRITION CORPORATION, d/b/a GNC, a Pennsylvania corporation, Serve: Michael K. Meyers, President & CEO, General Nutrition Corporation, Inc., 921 Penn Avenue, Pittsburgh, PA 15222,

and

FICTITIOUS DEFENDANTS A,B,C, and D,

Defendants.

COMPLAINT

COMES NOW, Plaintiff, individually, on behalf of the class of claimants entitled to recover for the wrongful death of Henry L. Cook and as Administrator of the Estate of Henry L. Cook, and for her Complaint states and alleges as follows:

*Type of Case*

1. This is a wrongful death action brought against Defendants under Missouri law, §537.080 RSMo. for the wrongful death of Henry L. Cook on or about July 17, 2001. This action is brought by Plaintiff, Earline Cook, both individually as the surviving spouse of Henry L. Cook, as representative for the class claimants under §537.080 RSMo. and as the duly appointed administrator of the Estate of Henry L. Cook. Decedent Henry L. Cook used Defendants', Cytodyne Technologies, Inc. (hereinafter ''Cytodyne'')/Nutraquest, Inc. (hereinafter ''Nutraquest'') product—Xenadrine RFA–1—preceding his death on or about July 17, 2001. As a direct and proximate result of taking this product decedent Henry L. Cook was caused to suffer physical injury and death by sudden cardiopulmonary arrest. The Xenadrine RFA–1 product is manufactured by Cytodyne/Nutraquest and Defendant Phoenix Laboratories, Inc. (hereinafter ''Phoenix''), and was sold and marketed through General Nutrition Center, Inc. and/or Defendant General Nutrition Corporation (hereinafter jointly referred to as ''GNC'') retail outlets. The events giving rise to Henry L. Cook's death occurred in St. Joseph, Missouri. This action seeks monetary damages for the personal injuries and wrongful death caused by

the Xenadrine RFA–1 product, and for Earline Cook's loss of the consortium of her husband and for all the damages allowed by law.

*Parties*

2. Plaintiff, Earline Cook, is an adult resident of St. Joseph, Buchanan County, Missouri.

3. Defendant, Cytodyne Technologies, Inc. (''Cytodyne'') is a corporation organized and existing under the laws of New Jersey. Cytodyne's principal place of business is located at 2231 Landmark Place, Manasquan, New Jersey, 08736. At all times relevant hereto, Cytodyne was in the business of manufacturing, marketing, selling and distributing Xenadrine RFA–1.

4. Defendant Cytodyne is a foreign corporation that is not registered or qualified to do business in the State of Missouri. Cytodyne does not have a registered agent for service of process in Missouri. Cytodyne Technologies may be served through any of its officers at its principal place of business at 2231 Landmark Place, Manasquan, New Jersey, 08736.

5. Defendant, Nutraquest, Inc. (''Nutraquest'') is a corporation organized and existing under the laws of New Jersey. Nutraquest's principal place of business is located at 2231 Landmark Place, Manasquan, New Jerseys, 08736. Nutraquest, Inc. was formerly known as Cytodyne Technologies, Inc. At all times relevant hereto, Nutraquest was in the business of manufacturing, marketing, selling and distributing Xenadrine RFA–1.

6. Defendant Nutraquest is a foreign corporation that is not registered or qualified to do business in the State of Missouri. Nutraquest does not have a registered agent for service of process in Missouri. Nutraquest may be served through any of its officers at its principal place of business at 2231 Landmark Place, Manasquan, New Jersey, 08736.

7. Defendant Robert Chinery, Jr. (''Chinery'') is an individual residing in New Jersey. At all times relevant hereto, Chinery was the founder, sole shareholder and a corporate officer of Cytodyne/Nutraquest. On information and belief, prior to the formation of Cytodyne/Nutraquest, Chinery created, developed, tested, manufactured, distributed and/or sold Xenadrine RFA–1 (under that name or a different name) individually. Chinery personally had knowledge of and knowingly participated in the actions of Cytodyne/Nutraquest giving rise to liability as set forth within this Complaint. Additionally, upon information and belief, Chinery owns 100% of Cytodyne/Nutraquest's stock and Cytodyne/Nutraquest is so dominated by Chinery that to avoid injustice the corporate form of Cytodyne/Nutraquest should be disregarded and Chinery should be held personally and individually responsible for the actions of Cytodyne/Nutraquest.

8. Defendant, Phoenix Laboratories, Inc. (''Phoenix'') is a corporation organized and existing under the laws of the State of New York. Phoenix's principal place of business is located at 140 Lauman Lane, Hicksville, New York, 11801. At all times relevant hereto, Phoenix was in the business of manufacturing, formulating, producing, marketing, selling and distributing Xenadrine RFA–1.

9. Defendant Phoenix is a foreign corporation that is not registered or qualified to do business in the State of Missouri. Phoenix does not have a registered agent for service of process within the State of Missouri. Defendant Phoenix may be served through Mel L. Rich, its President and Chief Executive Officer, at its principal place of business, 140 Lauman Lane, Hicksville, New York 11801.

10. Defendant General Nutrition Center, Inc. d/b/a GNC is a corporation organized and existing under the laws of the State of Pennsylvania. Defendant General Nutrition Center, Inc. is not registered or qualified to do business in the State of Missouri with its principal place of business at 921 Penn Avenue, Pittsburgh, Pennsylvania. Defendant General Nutrition Center, Inc. may be served through its registered agent in Missouri, the United States Corporation Company, 221 Bolivar, Jefferson City, Missouri 65101.

11. Defendant General Nutrition Corporation d/b/a/ GNC is a corporation organized and existing under the laws of the State of Pennsylvania. Defendant General Nutrition Corporation is not registered or qualified to do business in the State of Missouri. Defendant General Nutrition Corporation does not have a registered agent for service of process within the State of Missouri. Defendant General Nutrition Center, Inc. may be served through Mr. Michael K. Meyers, its President and Chief Executive Officer at its principal place of business, 921 Penn Avenue, Pittsburgh, Pennsylvania 15222.

12. Defendant General Nutrition Center, Inc. and Defendant General Nutrition Corporation are both names under which the same business and/or corporation has operated and may be jointly referred to within this Complaint as GNC.

13. Fictitious Defendants, A, B, C, and D, are those persons, franchisees, sales representatives, district managers, firms or corporations whose actions, inactions, fraud, scheme to defraud, and/or other wrongful conduct caused or contributed to the injuries sustained by Plaintiff and Decedent, whose true and correct names are unknown to Plaintiff at this time, but will be substituted by Amendment when ascertained. At all times relevant hereto, the fictitious defendants were in the business of marketing, formulating, producing, selling and distributing Xenadrine RFA–1.

14. At all times relevant hereto, Defendants were in the business of manufacturing, marketing, producing, formulating, selling and distributing Xenadrine RFA–1.

*Jurisdiction and Venue*

15. The matter in controversy significantly exceeds, exclusive of interest and costs, the sum of $75,000 and is properly before this Court.

16. This Court has personal jurisdiction over Cytodyne/Nutraquest pursuant to §506.500 RSMo. because this cause of action accrued in Missouri and arises our of (1) the transaction of business within the State of Missouri by Cytodyne/Nutraquest and its employees; and (2) the commission of tortious acts by Cytodyne/Nutraquest and its employees within the State of Missouri.

17. This Court has personal jurisdiction over Chinery pursuant to §506.500 RSMo. because this cause of action accrued in Missouri and arises out of (1) the transaction of business within the State of Missouri by Chinery through his alter ego—Cytodyne/Nutraquest; and (2) the commission of tortuous acts by Chinery through his alter ego—Cytodyne/Nutraquest within the State of Missouri. Additionally, Chinery, as a corporate officer of Cytodyne/Nutraquest, knowingly participated in the actions and conduct of Cytodyne/Nutraquest giving rise to the liability set forth herein and therefore (1) transacted business within the State of Missouri; and (2) committed tortuous acts within the State of Missouri.

18. This Court has personal jurisdiction over Phoenix pursuant to §506.500 RSMo. because this cause of action accrued in Missouri and arises out of (1) the transaction of business within the State of Missouri by Phoenix and its employees; and (2) the commission of tortious acts by Phoenix and its employees within the State of Missouri.

19. This Court has personal jurisdiction over GNC pursuant to §506.500 RSMo. because this cause of action accrued in Missouri and arises out of (1) the transaction of business within the State of Missouri by GNC and its employees; and (2) the commission of tortious acts by GNC and its employees within the State of Missouri.

20. This Court has personal jurisdiction over Fictitious Defendants A, B, C and D pursuant to §506.500 RSMo. because this cause of action accrued in Missouri and arises out of (1) the transaction of business within the State of Missouri by Fictitious Defendants A, B, C and D and their employees; and (2) the commission of tortious acts by Fictitious Defendants A, B, C and D and their employees within the State of Missouri.

21. Plaintiff's claim for wrongful death accrued in Missouri. On information and belief, the Xenadrine RFA–1 was purchased and ingested by decedent in Missouri—specifically in St. Joseph, Missouri within the Western District of Missouri. Decedent resided in St. Joseph, Missouri within the Western District of Missouri at the time of his death. Plaintiff currently resides in St. Joseph, Missouri within the Western District of Missouri. Defendants include an individual non-resident and foreign corporations, one or more of which has been and are currently engaged in business, directly or by authorized agent, in Missouri. Defendants GNC's registered agent is specifically located within this division of the Western District of Missouri in Jefferson City, Missouri.

22. Venue is appropriate before this Court pursuant to §508.010 RSMo as defendants include both individuals and corporations and all defendants are non-residents of Missouri. Furthermore, Defendant GNC's registered agent is located in Jefferson City, Missouri.

*General Allegations*

23. Decedent Henry Lee Cook was born on June 16, 1953 in Yazoo City, Mississippi. Decedent Henry L. Cook and Plaintiff Earline Cook were married on January 21, 1985.

24. At the time of his death, decedent Henry L. Cook was employed with the United States Army as a military police officer, having attained the rank of Sergeant Major.

25. Prior to his death, decedent Henry L. Cook was in good health and physical condition and regularly engaged in physical activities such as running, playing basketball and other exercise. Mr. Cook regularly worked out at the gym at work approximately four times a week and regularly engaged in physical activities.

26. Upon information and belief, at a point in time relatively shortly before his death, decedent Henry L. Cook purchased Xenadrine RFA–1 from Defendant GNC's store located in St. Joseph, Missouri. Thereafter, up to and including on the date of his death, decedent Henry L. Cook regularly took the Xenadrine RFA–1 product in accordance with the recommended dosages contained on the Xenadrine RFA–1 bottle.

27. On July 17, 2001, decedent Henry L. Cook ingested the recommended dosage of Xenadrine RFA–1 product in St. Joseph, Missouri.

28. At approximately 11:30–11:45 a.m. on July 17, 2001, decedent Henry L. Cook—while playing basketball at Ft. Leavenworth, Kansas—collapsed and was non-responsive. Military personnel on the scene immediately attempted to administer cardio pulmonary resuscitation until emergency personnel arrived. Emergency personnel attempted electronic shock treatment but were unable to revive decedent Henry L. Cook. Henry L. Cook was immediately transported via ambulance to the local hospital where he was pronounced dead at 12:50 p.m.

29. Because of the sudden and unexpected nature of decedent Henry L. Cook's death,

the United States Army conducted an investigation into decedent Henry L. Cook's cause of death.

30. During the investigation, military investigators seized a bottle of Xenadrine RFA–1. At the time of decedent Henry L. Cook's death, the bottle of Xenadrine RFA–1 had 52 of the original 120 pills remaining in the bottle.

31. An autopsy was performed on decedent Henry L. Cook on July 18, 2001.

32. Toxicology reports from the autopsy revealed ephedrine and pseudoephedrine in the heart blood (respectively 140 ng/ml and 47.1 ng/ml).

33. Toxicology reports from the autopsy also revealed ephedrine and pseudoephedrine in the femoral blood (respectively 46.6 ng/ml and 18.5 ng/ml).

34. The autopsy results support the conclusion that the ephedrine contained in the Xenadrine RFA–1 ingested by decedent Henry L. Cook prior to his death caused or contributed to cause decedent Henry L. Cook's death.

35. As a direct and proximate result of defendants' acts and omissions, plaintiff's decedent Henry L. Cook was caused to suffer injuries and death. Plaintiff has been caused to suffer damages in the past from the loss of her husband, and will continue to experience this loss in the future. Upon the trial of this case, Plaintiff will request the Jury to determine fair compensation for the amount of loss which Plaintiff and others have incurred in the past and will likely incur in the future as a result of the wrongful death of Henry L. Cook.

*Xenadrine RFA–1 and Defendants' Knowledge Concerning its Dangerous Propensities*

36. Xenadrine RFA–1 is an ephedra-containing dietary supplement/herbal product.

37. In addition to ephedra, Xenadrine RFA–1 contains other constituent ''herbal'' products that increase and potentiate the effects of ephedrine. Likewise, Xenadrine RFA–1 contains ephedrine alkaloids other than ephedine.

38. Defendants did manufacture, design, formulate, produce, package, market, sell and/or distribute Xenadrine RFA–1.

Mr. KELLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am asking my colleagues to vote no on the Watt amendment dealing with the pending lawsuits.

This amendment was raised at the Committee on the Judiciary. The gentleman made similar, consistent arguments, and it was shot down at the time.

I would like to give three reasons why my colleagues should vote no. First of all, there is a good policy reason to vote no. Second, the Supreme Court will uphold this; and third, we have done similar language before in other bipartisan bills.

First, with respect to the reason of policy, if such an amendment were passed, all that would happen is we would have hundreds if not more cases filed before the date of enactment, and we know that after this bill passes today, it has to pass the other body where we have Senator MCCONNELL as the chief sponsor, so there would be a time frame where there would be an incentive to find the right jury and the right judge.

We have an idea that is sort of their game plan because the one witness the Democrats called at the Committee on the Judiciary hearing was a man named John Banzhaf who said, ''Somewhere there is going to be a judge and a jury that will buy this, and once we get the first verdict, as we did with tobacco, it will open the floodgates.'' So it does away with that incentive that clearly they want.

Second, the Supreme Court has held that Congress can impose rules retroactively if it does so pursuant to an economic policy. The Pension Benefit Guaranty Corporation v. R.A. Gray is one example. Clearly a bill that aims to save the food industry from potentially bankrupting litigation like that of the tobacco industry is pursuant to a national economic policy, especially since it is the largest private sector employer in the country.

Third, this exact same language appeared in H.R. 1036, the Protection of Lawful Commerce and Arms Act, which enjoyed wide bipartisan support in this House and received 285 votes. I know the gentleman from North Carolina (Mr. WATT) is going to say yes, but that bill was defeated in the Senate. Fair enough, it was defeated in the Senate, but it was because gun control measures were added to it. There were no changes to this particular provision. It has enjoyed broad bipartisan support in the past. I urge my colleagues to vote no on the Watt amendment.

Mr. SCOTT of Virginia. Mr. Speaker, I move to strike the requisite number of words.

Mr. Chairman, just because we made something retroactive in the past does not make it a good idea. It is a bad idea to pass legislation that retroactively affects pending lawsuits.

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

Mr. SCOTT of Virginia. I yield to the gentleman from North Carolina.

Mr. WATT. Mr. Chairman, I just want to briefly make it clear that my colleagues are trying to make it appear that this is a customary practice of ours. It really is a rare thing to make a piece of legislation retroactive, and even rarer to make it retroactive to pending lawsuits that have already been filed.

I have got a whole list of things that we have filed that one could argue might be better candidates for retroactive application than this particular piece of legislation that our own committee has passed out. And to hang our hats on something that the Senate did not even think was worthy of passing on to the President is a real stretch.

I am going to resist the temptation to start reading the bills that the Committee on the Judiciary has passed without retroactivity but things like the Bill Emerson Good Samaritan Food Donation Act, which limited the liability of those who donate food to a charity, we did not even make that retroactive in its application.

There are a bunch of things that we passed, and I am the first to concede, as the chairman acknowledged in his statement, I am not arguing this is unconstitutional or even unprecedented, I think it is unfair and unnecessary in this case.

The CHAIRMAN pro tempore (Mr. BASS). The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

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

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

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

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 10 offered by the gentlewoman from Texas (Ms. JACKSON-LEE); and amendment No. 8 offered by the gentleman from North Carolina (Mr. WATT).

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic vote will be conducted as a 5-minute vote.

AMENDMENT NO. 10 OFFERED BY MS. JACKSON-LEE of texas

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 250, not voting 17, as follows:

[Roll No. 52]

AYES—166

| | | |
|---|---|---|
| Abercrombie | Conyers | Grijalva |
| Ackerman | Crowley | Gutierrez |
| Allen | Cummings | Hastings (FL) |
| Andrews | Davis (AL) | Hill |
| Baca | Davis (CA) | Hinchey |
| Baldwin | DeFazio | Hoeffel |
| Ballance | DeGette | Holt |
| Becerra | Delahunt | Honda |
| Berman | DeLauro | Hooley (OR) |
| Berry | Deutsch | Hoyer |
| Bishop (GA) | Dicks | Inslee |
| Bishop (NY) | Dingell | Israel |
| Blumenauer | Doggett | Jackson (IL) |
| Boswell | Dooley (CA) | Jackson-Lee (TX) |
| Brady (PA) | Doyle | Jefferson |
| Brown (OH) | Emanuel | Johnson, E. B. |
| Brown, Corrine | Engel | Jones (OH) |
| Capps | Eshoo | Kanjorski |
| Capuano | Etheridge | Kaptur |
| Cardin | Evans | Kennedy (RI) |
| Carson (IN) | Farr | Kildee |
| Carson (OK) | Fattah | Kilpatrick |
| Case | Filner | Kind |
| Chandler | Frost | Kleczka |
| Clay | Gonzalez | Lampson |
| Clyburn | Green (TX) | |

Langevin
Lantos
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
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
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—250

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
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
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Menendez
Mica
Miller (MI)
Miller, Gary
Moran (KS)
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
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—17

Bell
Berkley
Cardoza
Davis (IL)
Frank (MA)
Gephardt
Gibbons
Goss
Harman
Hinojosa
Kucinich
Miller (FL)
Pelosi
Rodriguez
Tauzin
Udall (CO)
Wicker

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

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

□ 1738

Mr. YOUNG of Alaska and Mr. BLUNT changed their vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. WATT

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

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

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

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 164, noes 249, not voting 20, as follows:

[Roll No. 53]

AYES—164

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Ballance
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Coble
Conyers
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frost
Gonzalez
Green (TX)
Grijalva
Gutierrez
Hastings (FL)
Hill
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Lampson
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey

NOES—249

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hyde
Isakson
Issa
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Michaud
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 (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)

Rohrabacher
Ros-Lehtinen
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—20

Bell
Berkley
Bono
Cardoza
Davis (IL)
Frank (MA)
Gephardt
Gibbons
Goss
Harman
Hinojosa
Hunter
Istook
Kucinich
Miller (FL)
Pelosi
Rodriguez
Tauzin
Udall (CO)
Wicker

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

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

□ 1745

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. BASS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 339) to prevent frivolous lawsuits against the manufacturers, distributors, or sellers of food or non-alcoholic beverage products that comply with applicable statutory and regulatory requirements, pursuant to House Resolution 552, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

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

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

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

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 15-minute vote.

The vote was taken by electronic device, and there were—yeas 276, nays 139, not voting 18, as follows:

[Roll No. 54]

YEAS—276

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
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.
Dicks
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoekstra
Holden
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Menendez
Mica
Michaud
Miller (MI)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spratt
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—139

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Ballance
Becerra
Berman
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Case
Chandler
Clay
Clyburn
Conyers
Costello
Crowley
Cummings
Davis (CA)
Davis (FL)
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frost
Gonzalez
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Hoeffel
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Price (NC)
Rahall
Rangel
Reyes
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Snyder
Solis
Stark
Strickland
Stupak
Thompson (MS)
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey

NOT VOTING—18

Bell
Berkley
Cardoza
Carson (IN)
Davis (IL)
Frank (MA)
Gephardt
Gibbons
Goss
Harman
Hinojosa
Kucinich
Miller (FL)
Pelosi
Rodriguez
Tauzin
Udall (CO)
Wicker

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1803

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: ''A bill to prevent legislative and regulatory functions from being usurped by civil liability actions brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for claims of injury relating to a person's weight gain, obesity, or any health condition associated with weight gain or obesity.''.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CONYERS. Mr. Speaker, I was unavoidably absent during some of the votes on amendments to H.R. 339, the "Personal Responsibility in Food Consumption Act." I would like the Record to reflect that, had I been present, I would have voted in the following manner:

Watt No. 6/ Scott (exempt state agency actions to enforce state consumer protection laws concerning mislabeling or other unfair and deceptive trade practices): "Yes."

Watt No. 7 (preserve the right of state courts to hear cases brought under state law): "Yes."

Andrews No. 2 (exempt manufacturers of genetically modified foods that do not disclose that the food is genetically modified from the legal immunity provided in the bill): "Yes."

Ackerman No. 1 (exempt manufacturers and sellers of foods that have not taken steps to prevent meat from being tainted with mad cow disease from the legal immunity provided in the bill): "Yes."

## ELECTION OF MEMBERS TO COMMITTEE ON GOVERNMENT REFORM

Mr. LEACH. Mr. Speaker, I offer a resolution (H. Res. 553) and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 553

*Resolved,* That the following Members be and are hereby elected to the following standing committee of the House of Representatives:

Committee on Government Reform: Mr. Tiberi and Ms. Harris.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on additional motions to suspend the rules on which a record vote or the yeas and nays are ordered or on which a vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

## COMMENDING INDIA ON ITS CELEBRATION OF REPUBLIC DAY

Mr. LEACH. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 15) commending India on its celebration of Republic Day.

The Clerk read as follows:

H. CON. RES. 15

Whereas the Republic of India is the world's largest democracy;

Whereas on January 26, 1950, India adopted its Constitution, which formalized India as a parliamentary democracy;

Whereas the celebration of India's Republic Day on January 26th is the second most important national holiday after Independence Day;

Whereas the framers of India's Constitution were greatly influenced by the American Founding Fathers James Madison, Alexander Hamilton, and John Adams;

Whereas among the rights and freedoms provided to the people of India under its Constitution is universal suffrage for all men and women over the age of eighteen;

Whereas India's Constitution adopted the American ideals of equality for all citizens, regardless of faith, gender, or ethnicity;

Whereas the basic freedoms we cherish in America such as the freedom of speech, freedom of association, and freedom of religion are also recognized in India;

Whereas Mohandas Mahatma Gandhi is recognized around the world as the father of India's nonviolent struggle for independence;

Whereas people of many faiths, including Hindus, Muslims, Sikhs, and Christians, were united in securing India's freedom from colonial rule and have all served in various capacities in high-ranking government positions;

Whereas the Republic of India has faithfully adhered to the principles of democracy by continuing to hold elections on a regular basis on the local, regional, and national levels;

Whereas the people of the United States and the Republic of India have a common bond of shared values and a strong commitment to democratic principles; and

Whereas President George W. Bush and Prime Minister Atal Bihari Vajpayee are elected leaders of the world's two largest democracies and are actively cultivating strong ties between the United States and India: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That Congress—

(1) commends India on its celebration of Republic Day; and

(2) reiterates its support for continued strong relations between the United States and India.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

GENERAL LEAVE

Mr. LEACH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 15.

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

There was no objection.

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

Madam Speaker, I rise in support of House Concurrent Resolution 15, a measure commending India on its Republic Day and reiterating congressional support for continued strong relations between India and the United States.

This thoughtful concurrent resolution was introduced by the gentleman from South Carolina (Mr. WILSON), the distinguished head of the Indian Caucus, and our colleague on the Committee on International Relations, the gentleman from New York (Mr. CROWLEY). It was considered and adopted without amendment by the committee on February 25.

As Members are aware, in recent years the relationship between the United States and India has been fundamentally transformed in exceptionally positive ways. Thankfully, the time has long since passed when it could be said that India and America are democracies estranged. Instead, in recognition both of the end of the Cold War and India's embrace of market economics, our two great countries have not only rediscovered each other but developed a remarkable degree of amity and rapport.

The United States/India political relationship is rapidly maturing. We are having regular meetings at the highest levels of government. At the summit in Washington in November 2001, President Bush and Prime Minister Vajpayee articulated their vision of the relationship our countries should enjoy. The prime minister insightfully described it as a natural partnership.

Our deepening government-to-government relationship is complemented by a rich mosaic of expanding people-to-people ties. In many ways, the more than 2 million Indian Americans in the United States have become a living bridge between our two great democracies, bringing together our two peoples, as well as greatly enlarging the United States' understanding of India and Indian understanding of the United States.

In short, this timely resolution appropriately honors the world's largest democracy, a country with which the United States is enjoying increasingly warm ties and a people for whom Americans have a great and enduring affection.

I urge the adoption of this resolution.

Madam Speaker, I reserve the balance of my time.

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

I rise in strong support of this resolution.

Madam Speaker, I first would like to commend the chairman of our committee, the gentleman from Illinois (Mr. HYDE), for moving forward with this legislation so expeditiously.

This important resolution commends India on its celebration of Republic Day which occurs on January 26. While we may be a few weeks late in commemorating this important event, our enthusiasm for reaffirming the strong and unbreakable ties between the United States and India remain strong.

Madam Speaker, a new chapter in the bilateral relationship between the United States and India was opened with President Clinton's historic visit to India 4 years ago. President Clinton and Prime Minister Vajpayee broke

decades of ice which covered our relationship and ushered in a new and unprecedented form of cooperation between our two great democratic nations.

The most dramatic demonstration of our new friendship with India was India's immediate offer of full cooperation in the war on terrorism after the September 11 tragedy and its willingness to allow the use of Indian bases for counterterrorism operations. But in so many other ways, the tenor and tempo of our bilateral cooperation has continued to improve remarkably over the past 4 years. Security cooperation between the United States and India has increased significantly, with the United States providing funds for military assistance, counternarcotics aid, and other forms of military training. We are working with the Indian government to rationalize India's economy to promote American investment in India and to accelerate India's economic growth.

We are also working closely with the Indian government to tackle the spread of HIV/AIDS. As the executive branch moves forward with the implementations of the Global HIV/AIDS bill approved by us last year, it is critically important that funding for India be increased. In short, Madam Speaker, the United States and India are developing close partnerships on key security, political and humanitarian matters, partnerships that will further strengthen the already close ties between our two great nations. But there is no stronger relationship between the United States and India than our shared commitment to democracy and civil society. We are truly natural allies.

We must also be mindful at all times of the enormous strides taken by Prime Minister Vajpayee towards peace with Pakistan. Time and again it has been India that has reached out to its neighbor in the cause of peace. I fervently hope that this time the discussions between the two nations will finally bear fruit. India is the world's largest democracy with almost a billion people. Its democratic form of government rests solidly on the Indian constitution. So as we commemorate the day that India formally adopted its constitution, we celebrate the strength of India's democracy, the vitality of the Indian people and U.S.-Indian friendship. I urge all of my colleagues to support H. Con. Res. 15.

Madam Speaker, I reserve the balance of my time.

Mr. LEACH. Madam Speaker, I yield 5 minutes to the gentleman from South Carolina (Mr. WILSON), the chairman of the India Caucus.

Mr. WILSON of South Carolina. Madam Speaker, I am honored to speak today as the co-chair of the Caucus on India and Indian Americans, the largest country caucus on Capitol Hill with 183 members. I am grateful for the leadership of the prior co-chairman, the gentleman from California (Mr. ROYCE). I support this truly historic resolution which praises India's firm commitment to democratic principles.

On January 26, 1950, after a long struggle for freedom led by Mahatma Gandhi, India began its formal existence as a parliamentary democracy. Republic Day is the second most important national holiday in India after Independence Day, which is celebrated on August 15.

India modelled its constitution after America's and both our nations believe that the freedoms enshrined in the constitution are universal for all human beings.

India's national elections occur next month, a historic occasion with more than the 600 million that voted in the last election expected to vote next month. The last national elections in 1999 had the largest voter participation of any election in world history.

India's creation and adherence to a national constitution can serve as an example to newly liberated countries like Iraq of how much can be gained by creating a constitution supported by the people and respected by democratic institutions.

India's struggles and success can be a source of inspiration to the people of Iraq. Since independence, India has struggled with high poverty and illiteracy rates, maintained a socialist economy, endured numerous conflicts with Pakistan, and sometimes even experienced internal conflicts between various religious and ethnic groups in India. Yet India has risen to the challenge every time, showing the rest of the world that a nation of more than a billion people can consistently adhere to elections at the local, state, and national levels and overcome challenges in its path.

India has dramatically reduced its poverty and illiteracy rates and recently opened its economy to the world, experiencing nearly an 8 percent economic growth during the last fiscal year. India and Pakistan have begun a composite dialogue with the prospect of a negotiated agreement to the Kashmir dispute on the horizon. And India continues to make improvements to its economic infrastructure, judicial system, and electoral process to ensure that the freedoms outlined in the constitution are truly protected for all of India's people. India is most deserving of today's congressional recognition of this faithful adherence to democracy for more than 50 years.

America and India have entered into a new era of friendship with victory in the Cold War. India as the world's largest democracy and America as the world's oldest democracy are realizing more every day that we have shared values.

I want to commend President George W. Bush for his leadership in bringing America and India closer together as allies with his vision of a new strategic partnership.

In conclusion, I would like to thank both the gentleman from Iowa (Mr. LEACH), chairman of the Subcommittee on East Asia and the Pacific, and the gentleman from Illinois (Mr. HYDE), chairman of the Committee on International Relations, for allowing the committee to consider and pass this historic and important resolution. I urge my colleagues to support House Concurrent Resolution 15.

Mr. LANTOS. Madam Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. ENGEL), an important member of the House Committee on International Relations.

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

I rise in strong support of H. Con. Res. 15, which commends India on its celebration of Republic Day and reiterates its support for continued strong relations between the United States and India.

My colleagues have all talked about the importance of this relationship. I for many years in the Congress have always tried to stress this relationship. I am pleased to say that I was one of the founding original members of the Indian Caucus and have remained a member of the Indian Caucus. And as it was pointed out, it is the largest caucus here on Capitol Hill, and with good reason. As my colleagues have mentioned, India and the United States share common values: the oldest democracy, the United States; and the biggest democracy, India.

□ 1815

It is not easy to be a democracy for as many years as we have been a democracy and for the people of India who have struggled to be a democracy. So we have shared values and shared concerns. We have many, many Indian Americans in this country, and we celebrate our Indian American friends and what they have added to the United States of America, and that also solidifies the ties between India and the United States.

I had the pleasure of visiting India a few years ago, and I was amazed by the warmth I felt by the people who wanted to be close to Americans. During the days of the Cold War sometimes the ties between India and the United States were strained. It never made any sense to me, but since the end of the Cold War, we have moved very closely together to ensure that the ties between India and the United States are strong, remain strong and continue to get strong year by year.

It certainly makes a lot of sense. India's a strategic partner of the United States. India has the same concerns as the United States, fighting terrorism on its borders and inside its country. India stands with the United States as a strong fighter in the war against terrorism, and India also is very concerned by other countries that surround India or near India, and the United States also needs to share those concerns.

So H. Con. Res. 15, in congratulating India, points out the strong bonds between our two Nations, and those of us

in Congress on both sides of the aisle will continue to work to strengthen ties between two great democracies, India and the United States.

Mr. LEACH. Madam Speaker, I yield 5 minutes to the distinguished gentleman from California (Mr. ROYCE) who is a member of the Subcommittee on Asia and the Pacific, chairman emeritus of the India Caucus, as well as a leader in Congress on many Asian issues.

Mr. ROYCE. Madam Speaker, I thank the gentleman from Iowa (Mr. LEACH) for yielding me the time, and I am only going to take maybe a minute here to say that I am a cosponsor of this resolution, but I think most of the resolutions that we deal with here in this Chamber that come to this floor rightly focus on what is wrong throughout the world, whether it is the authoritarian regime of Robert Mugabe in Zimbabwe or Kim Jong Il in North Korea. In this context, I think it is proper for the House to recognize positive developments, and in this case, that positive development is the vibrant democracy that is India.

India adopted that Constitution on January 26 of 1950 that formalized her identity as a parliamentary democracy, and the framers of India's constitution were greatly influenced by our Founding Fathers. I had an opportunity to talk to one of those framers, and he made the point that many of the same freedoms that are enshrined in our Constitution are enshrined in theirs for a reason.

So today, yes, India's the world's largest democracy and that is an impressive distinction. It is an incredible commitment when we think of 600 million people going and filing their ballots in a democratic election, but the other point I think that we are focused on tonight is the fact that it is India's growth as a world power that is creating a chance for peace and for stability in south Asia.

Last month, members of the Committee on International Relations had a chance to meet with India's foreign minister to discuss the growing bilateral relationship in the areas of space and of science, and I think this resolution signals Congress' interest in furthering this important relationship.

I would also be remiss if, in closing, I did not mention the growing contribution of the Indian American community here in the United States. I have always been impressed with, when working with that community, their energy, their enthusiasm and indeed their dedication to education. Their upward social mobility through education is unmatched, and I think that that particular community possesses some of our most effective future leaders in this country.

So, with that said, I urge passage of this resolution, and I thank the gentleman for yielding me the time.

Mr. LANTOS. Madam Speaker, we reserve the balance of our time.

Mr. LEACH. Madam Speaker, we have no further requests for time, and I yield myself such time as I may consume.

In conclusion, I would simply like to express my personal appreciation for the gentleman from South Carolina (Mr. WILSON) and the gentleman from California (Mr. ROYCE) for their leadership on so many Indian affairs, and particularly for this bipartisan expression of admiration for India and its achievements, and for the gentleman from California (Mr. LANTOS) and the gentleman from New York (Mr. ENGEL), two leaders of this House on Indian affairs.

Yes, it has been noted that India is the world's largest democracy, but it also should be made clear it is one of the oldest and greatest civilizations on this planet with evidence of civil society dating back many millennium before Christ.

In the years since its modern day independence in 1947, it has produced some of the greatest leaders in modern times: Mr. Gandhi and his doctrine of nonviolence, civil disobedience. The doctrine of Sarjat Hagahoth is a great symbol and inspiration for many citizens of the globe. Mr. Nehru stood for a great international leadership of independence and neutrality, and then in the new era of Mr. Vajpayee we have an India dedicated to economic development and market forces, all of which betokens in terms of history, in terms of longevity of civilization, a modern day society that is one of the greatest on this planet, and we in this body are deeply impressed.

Madam Speaker, I reserve the balance of my time.

Mr. ACKERMAN. Madam Speaker, I rise today in support of H. Con. Res. 15 and congratulate my colleague Mr. WILSON of South Carolina for his sponsorship of the resolution.

Madam Speaker, the resolution before us today commends India on its celebration of Republic Day and urges continued strong bilateral relations between the United States and India. But there is much more to celebrate than simply India's Republic Day. There are the commonalities between the U.S. and India, in particular both are thriving multi-cultural democracies. India is the largest and the U.S. is the oldest. This year both nations are in the midst of the great democratic tradition of elections. India's elections begin later this month and run through the beginning of April.

Beyond our common experiences with democracy, the United States and India have been growing ever closer over the last several years. Beginning with President Clinton's trip to India in 2000, the U.S.-India relationship has truly blossomed over the last several years.

In the immediate aftermath of the horrendous attacks on the World Trade Center and the Pentagon, India was the first nation to step forward and offer unqualified support and assistance to us. Just a few months later, India suffered a devastating attack in the heart of its democracy, the parliament building in New Delhi. These events underscore the fact that both nations have faced, and continue to face, serious threats from global terrorist organizations.

These unfortunate events have led to a significant expansion of the U.S.-India relationship into areas where our two nations had not previously cooperated: defense and counterterrorism. Evidence of the new and intense level of cooperation in these areas can be found in the most recent joint exercises between air force units of the United States and India in central India just last month.

On the other aspects of our relationship, like the newly announced U.S.-India Strategic Partnership and a steady stream of senior level visits in both capitals speak volumes regarding the robust nature of our relationship. So it is only fitting Mr. Speaker, that the Congress, join the chorus of voices in recognizing that the oldest and largest democracies are on a new and welcome path bilaterally.

Madam Speaker, I urge my colleagues to support the resolution.

Mrs. MALONEY. Madam Speaker, I rise in strong support of H. Con. Res. 15, which commends India on its celebration of Republic Day and expresses congressional support for continued strong relations between the United States and India.

As the largest democracy in the world, India has shown a genuine commitment to improving its economic ties to the United States, and the U.S. and India have formally committed to work together to build peace and security in South Asia, increase bilateral trade and investment, meet global environmental challenges, fight disease, and eradicate poverty.

There is no doubt that the close relationship between the U.S. and India is crucial to world stability and to the economic futures of both countries. India's long-term economic potential is tremendous, and the U.S. is already its largest trading and investment partner.

I am hopeful that we will foster an even closer relationship in the coming years by working together to tackle new and existing challenges.

Mr. FALEOMAVAEGA. Madam Speaker, I rise today in support of H. Con. Res. 15, commending India on its celebration of Republic Day. India is the world's largest democracy and Republic Day is India's second most important national holiday.

India became a Republic on January 26, 1950, adopting a written Constitution and electing its first democratic parliament. Prior to independence, India was under British rule.

Today, India stands with the people of the United States. The Republic of India and the United States have a common bond of shared values and a strong commitment to democratic principles.

We are also united in the war against terrorism. As the Ranking Members of the International Relations Subcommittee. I will not rest until Pakistan makes good on its promises to end cross border terrorism, shut down its terrorist training camps, and cease the transfer of nuclear technology to rogue nations and third parties.

I commend India for its continued commitment to peace and for promoting the ideals of equality for all citizens, regardless of faith, gender or ethnicity. I also pay tribute to Mahandas Mahatma Gandhi who is recognized as the father of India's nonviolent struggle for independence.

Finally, I express my appreciation to Prime Minister Atal Bihari Vajpayee for his leadership in cultivating strong ties with the United States and for initiating historic talks with Pakistan in hopes of decreasing tensions in South Asia. I

also knowledge the contributions of His Excellency Lalit Mansingh, Ambassador of the Republic of India, who has represented the interests of India before the U.S. Congress in a manner that has strengthened U.S.-India relations.

I also applaud the efforts of Sanjay Puri, founder and Executive Director of an organization working to influence policy on issues of concern to the Indian American community. With a membership of 27,000, this organization is giving more than 2 million Indian Americans a voice in the political process and I believe both India and the United States are fortunate to have more than 27,000 Indian Americans working with us to address important issues like terrorism, trade, HIV/AIDS, and immigration.

Again, I applaud the efforts of so many and I commend India on its celebration of Republic Day.

Mr. HOYER. Madam Speaker, I urge all of my colleagues to support this important Resolution commending the incredibly diverse, democratic nation of India on the celebration of its Republic Day.

This Resolution reiterates the overwhelming Congressional support for continued strong relations between the United States and India. And it notes India's commitment, under the Indian constitution, for universal suffrage; equality for all citizens, regardless of faith, gender, or ethnicity; and protections for freedom of speech, association and religion.

Our two nations are ''natural allies,'' as Prime Minister Vajpayee has stated. For while our alliance is relatively young, it has already begun to flourish based on our shared values and commitment to democratic principles.

In recognition of our growing relationship, the gentleman from New York (Mr. CROWLEY) and I led a delegation of nine members of Congress to India in January.

During our trip, we were privileged to be received by a number of Mr. Vajpayee's Ministers and we engaged key policymakers in thoughtful discussions on issues ranging from Kashmir and Pakistan to this year's national elections in both India and the United States.

While we certainly discussed, and even debated, a number of issues on which our countries have legitimate differences, the lasting impressions were the broad areas of agreement and cooperation, and the strength and dynamism of the growing U.S.-India relationship.

Madam Speaker, the mutual respect demonstrated in these discussions was a clear sign of our maturing relationship and the trust between us.

For example, our armed forces now regularly participate in joint exercises involving all branches of the military, and the sale of U.S. military equipment to India approached $200 million last year.

In the immediate aftermath of the September 11 terrorist attacks, India pledged its full cooperation and offered the use of all its military bases for counterterrorism efforts. And India continues to play a key role in stabilization and reconstruction efforts in Afghanistan.

Our economic cooperation also is noteworthy. In fact, the nearly 60% increase in total trade between the United States and India since 1996 illustrates that.

With more than 1 billion citizens, India still faces many problems. And the increasing engagement with the United States will help India to address them.

Mr. LANTOS. Madam Speaker, I want to commend all of my colleagues who spoke on behalf of this important resolution.

Madam Speaker, we have no further requests for time and we yield back the balance of our time.

Mr. LEACH. Madam Speaker, we yield back the balance of our time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 15.

The question was taken.

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## EXPRESSING CONDOLENCES OF HOUSE OF REPRESENTATIVES FOR UNTIMELY DEATH OF MACEDONIAN PRESIDENT BORIS TRAJKOVSKI

Mr. BEREUTER. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 540) expressing the condolences and deepest sympathies of the House of Representatives for the untimely death of Macedonian President Boris Trajkovski, as amended.

The Clerk read as follows:

H. RES. 540

Whereas on February 26, 2004, President Boris Trajkovski of the Republic of Macedonia was tragically killed in a plane crash in Bosnia-Herzegovina while he was on his way to an international investment conference;

Whereas Mr. Trajkovski served Macedonia as Deputy Minister of Foreign Affairs from December 21, 1998 until he was inaugurated as President on December 15, 1999;

Whereas Mr. Trajkovski stood up for what he believed was right and moral, even when he faced opposition within Macedonia;

Whereas under Mr. Trajkovski's leadership, Macedonia was one of the first countries to publicly support Operation Iraqi Freedom and to commit troops to the effort;

Whereas during Macedonia's armed ethnic clashes Mr. Trajkovski demonstrated his willingness to work with all of Macedonia's ethnic groups, which helped to prevent a civil war;

Whereas Mr. Trajkovski was a strong believer in free markets and worked tirelessly to bring development and investment to Macedonia;

Whereas under President Trajkovski's leadership, Macedonia negotiated an agreement with the United States under Article 98 of the Rome Statute of the International Criminal Court, signed the agreement on June 30, 2003, and ratified the agreement on October 16, 2003, thereby helping to ensure United States citizens will not be subject to politically motivated prosecutions;

Whereas Mr. Trajkovski worked to foster peace for the entire Balkan region and to integrate Macedonia into the international community; and

Whereas the death of Mr. Trajkovski is a tragedy for the people of Macedonia: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) expresses its deepest sympathies to the people of the Republic of Macedonia, the family of President Boris Trajkovski, and the families of the other crash victims;

(2) expresses its desire for a smooth and orderly transition of power; and

(3) expresses the solidarity of the people of the United States with the people of Macedonia and the Macedonian Government during this tragedy.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska (Mr. BEREUTER) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. BEREUTER).

GENERAL LEAVE

Mr. BEREUTER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 540, the resolution under consideration.

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

There was no objection.

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

Madam Speaker, this Member rises in support of H. Res. 540, as amended, expressing the condolences and deepest sympathy of the U.S. House of Representatives upon the death of Macedonian President Boris Trajkovski. This resolution was introduced by the distinguished gentleman from Indiana (Mr. SOUDER).

On February 26, 2004, President Boris Trajkovski of the former Yugoslav republic of Macedonia was tragically killed in a plane crash over Bosnia-Herzegovina, while traveling to Moscow to attend a regional economic conference. He and eight other individuals on the aircraft died in this tragic accident. This Member understands the official State funeral was held Friday of last week in Skopje.

President Trajkovski is one of the most important reasons why Macedonia is making the progress it has made in recent years. President Trajkovski was an important leader and voice of reason in resolving the ethnic conflict that was threatening his country 3 years ago and in implementing the Ohrid peace agreement of August 2001. His leadership and moderation between opposing sides have been absolutely essential in creating the conditions for the progress that his government and his country have made since then.

He worked tirelessly to ensure that democratic values and institutions would prevail in his country and to bring his country closer towards full

integration in the Euro-Atlantic institutions. In May of last year, his country joined Croatia and Albania in signing the Adriatic Charter, an agreement to commit to reforms and cooperation in order to prepare these countries for accession into NATO. His country has been a strong supporter of the international war against terrorism and has contributed forces to operations in both Afghanistan and Iraq. Tragically, his country was scheduled to formally submit its application to become a candidate for membership in the European Union last week on February 26, tragic only because that was the very day of the tragic accident.

Historically, President Trajkovski will be most known for saving his country from civil war. This resolution recognizes that fact and his leadership and his importance to his country. This resolution is an affirmation that the U.S. House of Representatives supports the reforms that President Trajkovski implemented and the progress that all Macedonians have made. May the government of Macedonia and the people of Macedonia continue to follow his example and continue along his path of reform, progress, peace and democracy.

This Member would like to express his deepest sympathies and condolences to his family, to his country and to all the Macedonian people and urge his colleagues in this House to support passage of the resolution.

Madam Speaker, I reserve the balance of my time.

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

I rise in sad and strong support of this resolution. I want to associate myself with the remarks of my good friend from Nebraska, and I want to join him and all other Members in offering our deepest condolences on the tragic death of President Boris Trajkovski, to the people of Macedonia and to his family. President Trajkovski is survived by his wife and two children, and I want to extend our expressions of sympathy to his entire family and to all the citizens of Macedonia.

The Balkans have seen more than their share of turbulence in the past couple of decades. Macedonia alone has attained independence, wrestled with economic challenges, overcame ethnic tensions between Macedonian Slavs and the Albanian minority. Outside of Macedonia, there are still people in the Balkans who strive to return to their homes to attain international recognition and to secure their statehood. Our involvement in the region must continue to be vigorous and effective.

The leadership of President Trajkovski stands out in the Balkan context. He was a voice for moderation and reason who united his country and led it on the path of integration with the European Union and membership in NATO. I was privileged to meet him a little while ago, with our distinguished chairman, the gentleman from Illinois (Mr. HYDE) to discuss his vision for Macedonia and for the region, and both the gentleman from Illinois (Mr. HYDE) and I were deeply impressed by his passionate commitment to his people and to building a democratic society.

Just on the day of this tragic event, a Macedonian delegation was due to present a Macedonian-EU partnership application to the government of Ireland which currently holds the presidency of the European Union. I was pleased to learn that, although the visit of the Macedonian delegation was cut short by the tragic events, the government of Macedonia followed through and did submit its application to the European Union.

□ 1830

Last year, Madam Speaker, Macedonia signed the U.S. Adriatic Charter, affirming its commitment to the values and principles of NATO and to joining the alliance at the earliest possible time. Macedonia has been a true friend of the United States. It stands with us in the war on terrorism and has provided troops both in Afghanistan and Iraq.

So today, Madam Speaker, as we honor the memory of President Trajkovski and mourn his tragic death, we reaffirm the close friendship and partnership we have with Macedonia and we express our desire that this relationship grow stronger under the new leadership that the Macedonian people will soon choose. I am confident that Macedonia will stay firmly on the path to democracy and integration with the Euro-Atlantic community, and I urge all of my colleagues to support H. Res. 540.

Madam Speaker, I reserve the balance of my time.

Mr. BEREUTER. Madam Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Indiana (Mr. SOUDER), the sponsor of the resolution.

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

Mr. SOUDER. Madam Speaker, I wish to thank the chairman of the Subcommittee on Europe, the gentleman from Nebraska (Mr. BEREUTER); the chairman of the Committee on International Relations, the gentleman from Illinois (Mr. HYDE); and the ranking member, the gentleman from California (Mr. LANTOS), for moving this piece of legislation.

Just a few moments ago, we discussed a resolution in support of Republic Day in India, the world's largest democracy, and a country with a rich, long tradition and of great importance to the United States. This resolution addresses a relatively new and small democracy, the Republic of Macedonia, but also of importance to the United States.

Our friend, the Republic of Macedonia, has just lost its leader. Two weeks ago, the man many believed would lead Macedonia was tragically killed in a plane crash. Now, the future of Macedonia is uncertain. The next president of Macedonia may or may not stay on the course charted by Mr. Trajkovski. The next president of Macedonia may or may not work to bring all Macedonians together. The next president may or may not have the esteem Mr. Trajkovski commanded. I certainly hope the next president of Macedonia is able to do all of these things.

As is typical in many new democracies behind the old Iron Curtain, President Trajkovski did not have a long record of public service. In 1997, Mr. Trajkovski became Chief of Office in a local government administration. In 1988, he was appointed to the post of Deputy Minister of Foreign Affairs. In 1999, he was inaugurated president of the Republic of Macedonia. What Mr. Trajkovski's public service lacked in longevity, however, it more than made up for in terms of quality and the impact that his policies and principles will have far into Macedonia's future.

During Macedonia's ethnic troubles, he realized that peace was better than war. He reached out to the Albanians and Macedonians alike. As a Methodist minister in an Orthodox Christian country, establishing trust, even among his own people, was no small feat. Yet Mr. Trajkovski brokered a peaceful solution that avoided the further balkanization of the region. It is a little sea of hope in the midst of much conflict.

In looking forward to the future of his country, President Trajkovski realized that economic development was the key to the success of Macedonia. He encouraged investment, free markets, and great international participation. Indeed, he died on his way to an international investors conference. President Trajkovski's contribution to his country's stability and prosperity will not soon be forgotten.

Macedonia worked with the United States in the conflict in Serbia, letting us base multiple operations there, including camps for those who had fled Kosovo, with no small risk to the stability in their country. They are a great friend of the United States, as we have heard, in Iraq and Afghanistan.

It was my privilege to meet President Trajkovski a number of times, and he was a dynamic man. But while he was a great leader as president, he was much more. He was also a good man and a Godly man. He lived his faith, and it undoubtedly influenced every single decision he made in his life and in his leadership. As a devoted family man with a wife and two children, he worked hard to make sure his children had a better future. I have gotten word that the government of Macedonia is working to support the Trajkovski family's future needs. Given the contribution Mr. Trajkovski made to his country, I am glad his family is not forgotten.

In 1996, Mr. Trajkovski visited the United States in order to study the

democratic political process. Judging from his presidency, I would say he learned a great deal. During his time in the United States, he visited my district. The several thousand strong Macedonian community of northeast Indiana maintains close ties with friends and relatives of Macedonia. They are very informed about the political and economic situation there. With the death of Mr. Trajkovski, I am sure they are very concerned what the future holds for the homeland.

In recent days, many people have remembered Boris Trajkovski. One remembrance in particular stands out. In a moving article I am submitting for the RECORD, Jason Miko, an American living in Macedonia, recalls not only President Trajkovski, a powerful leader, but also Boris Trajkovski, a simple man of the people. I would like to read one paragraph in closing.

He writes: ''Since thoughts are even now turning to the next president, it is vital to remember the legacy that Boris leaves. More than almost any other figure in the Balkans in modern history, he did the most to bring people together. He was respected by all ethnic groups and had a vision for this country which was 20 years ahead. He often talked about rights, together with individual responsibility, the importance of a civil society together with the need for social communication. But his most important message was one of reconciliation, love, and forgiveness.''

Madam Speaker, I submit for the RECORD the complete article from which I just read:

[From the Macedonian Vreme, Mar. 2, 2004]

MY FRIEND BORIS

(By Jason Miko)

My friend Boris Trajkovski passed away last week. I rarely called him ''Boris.'' I usually called him ''Mr. President.'' Sometimes, when we prayed, I referred to him as ''my brother, Boris.'' He wasn't hung up on titles and ceremony and frankly didn't care what people called him though I know he was a little bit hurt when some people in Macedonia referred to him as ''citizen Trajkovski'' during his first year in office. I think they probably regret that now. They should.

I first met Boris Trajkovski in early 1997. I had moved to Macedonia in the summer of 1996 and got to know him through an American friend of mine who had introduced me to a Macedonian friend of his who knew Boris very well. I honestly cannot remember the very first time we met, but I will never forget the last.

He wasn't my president, but over the past seven years, I came to know Boris as a very dear friend. And while I had the high honor and privilege of seeing him go from international secretary in his party to deputy foreign minister to president, the friendship never changed. We shared a friendship that transcended disagreements, difficult periods, and misunderstandings. Boris was always there for me and he told me about two weeks ago how he loved me. And I know his love was not limited to his family or friends. He loved his fellow citizens and his country as much as his family and friends. He was a big man with a big heart.

When September 11th occurred, his was the third call I received. The first was from a friend telling me of the disaster and the second was from my parents in Arizona. Another time I remember when he asked me to give strong consideration to hiring a friend of his (long before he was president), in my organization. I didn't hire his friend, but that didn't change our friendship.

It is ironic in a way. Since the tragedy last week, Macedonians of all political stripes and colors, all ethnic groups, all social classes and all religious groupings have been in a funk, a state of shock, at the loss. Boris is much more popular now in death, than he ever was in life. The international community, too, is still reeling from the loss, now coming to the full realization of what a treasure we all had and took for granted. That seems to be the way life works though.

We've heard many people over the past week talk about Boris and say he was their friend. I believe most of them are sincere though I also know that there is, even now, some political posturing going on. I know that Boris held no grudges against anyone and even though he could get angry at people for what they said and did to him, he didn't remain angry for very long. He was that sort of a man—forgiving, understanding and loving. It's a shame we are only now realizing that.

Boris was a rare individual. He stood for what he believed in and he fought for the values he held dear. He was real, not phony like some politicians can be. In fact, in many ways, he wasn't even a politician. I clearly remember, in the summer of 1999, as the Kosovo crisis was ending and thoughts were turning to the presidential elections of the fall, the enthusiasm that people had for him as a candidate. And truthfully, he hadn't even thought of running for president himself until ordinary Macedonians started encouraging him to run. Coming from humble roots in rural Macedonia, he was truly a man of the people and for the people.

Over the past four plus years of his mandate, Boris was able to mingle with the highest and mightiest on this earth and with the most humble. And while he was comfortable in both situations—with kings and queens, presidents and prime ministers on the one hand—he enjoyed himself most with villagers and working men and women of his native Macedonia. How many other elected officials do you know who have gone into villages throughout this country speaking with the common man and woman listening to their hopes, fears and dreams? I hope that you, as Macedonian citizens, will demand that of your next president. It is the legacy that Boris would want.

And since thoughts are even now turning to the next President, it is vital to remember the legacy that Boris leaves. More than almost any other figure in the Balkans in modern history, he did the most to bring people together. He was respected by all ethnic groups and had a vision for this country which was 20 years ahead. He often talked about rights, together with individual responsibility, the importance of a civil society together with the need for social communication. But is most important message was one of reconciliation, love and forgiveness.

These values he held came from his deep faith and convictions. And while he was indeed a Methodist, it is not important to focus on his chosen religious denomination, but on the tenants of that faith. His deep love for the Son of God—Jesus Christ—and his recognition that man is sinful and needs salvation—prompted him to talk about and live a life of love for all mankind. I remember him—on many occasions—talking about how he was willing to ''sacrifice myself'' for Macedonia. And ultimately, Boris did pay the ultimate price for his fellow man and his country—he gave us his life. He gave Macedonia his life that Macedonia might come together and yet live again.

I hope that by giving up his life for his fellow man that something good will come of this. Something good must come of this. It can start here in Macedonia but it can spread throughout the Balkans and the world. And it is this: a life lived for his fellow man, and a deep love for his family, his country and for God. The international community, in the meantime, can help continue Boris' legacy by finally recognizing the name—the Republic of Macedonia. Boris would want this.

I was with Boris last Wednesday, until about 5:30 p.m., about 14 hours before he left us for a better place. We were discussing the future, his plans, upcoming trips and the like. How short life is and how foolish the plans of man indeed! In a blinding instant it all changed, for Macedonia, for the Balkans, for the world, forever. It changed for his family, his friends, his fellow countrymen and for the international community. For people such as myself, and my friend Boris, however, we have a hope of things yet to come. Our faith tells us that one day we will be reunited together along with many others. In the meantime, what life we have left here on earth should be dedicated to spreading his legacy, a legacy of love, forgiveness, reconciliation and friendship. That is what my friend Boris would want.

Mr. LANTOS. Madam Speaker, I am pleased to yield 5 minutes to the gentleman from New York (Mr. ENGEL), a distinguished member of the Committee on International Relations who has a long-standing special interest in this region.

Mr. ENGEL. Madam Speaker, I thank the gentleman from California for yielding me this time, and I rise in strong support of H. Res. 540.

Madam Speaker, being a Member of Congress, we are privileged to meet many international leaders. Particularly serving on the Committee on International Relations, it is our honor to meet visiting dignitaries, and we often go to different countries to meet with them as well. Last week, I had the distinct honor, on Friday, of attending President Boris Trajkovski's funeral in Skopje, Macedonia, as part of the official American delegation, along with my colleague and good friend, the gentleman from Virginia (Mr. WOLF), and also Secretary Principi, who is the Secretary of Veterans Affairs. I know the three of us felt that it was an honor to represent the United States of America at this funeral.

I knew Boris Trajkovski, having met with him on many occasions. It is a tragedy, as my colleagues have pointed out, that a man so young, only 47, with tremendous promise, a very good leader for his country, forward looking, a strong ally of the United States, would be cut down in such a tragic manner.

It is not easy to be a leader in the Balkans. The Balkans has been a very, very volatile area. It takes people with courage to be able to look ahead and to be able to do what is right. Boris Trajkovski was such a person.

I remember a meeting with him in 1999 in Skopje, Macedonia, where he was running for election as president and was courting the votes of the Albanian community in Macedonia. The Albanian community is a very important and large ethnic minority community in Macedonia. And President Trajkovski was looking for the votes and said that he is a Methodist minister; and as a Protestant minister in an Orthodox Christian country, he was a religious minority in his own country. So he said that he would be sensitive to other religious minorities and ethnic minorities in Macedonia. And, indeed, he was.

Madam Speaker, part of the resolution says: ''Whereas during Macedonia's armed ethnic clashes, Mr. Trajkovski demonstrated his willingness to work with all of Macedonia's ethnic groups, which helped to prevent a civil war.'' And even though that was unpopular among some of his own people, he knew it was the right thing to do. He knew that the Albanian ethnic minority was entitled to rights as first-class citizens of Macedonia. And I can tell you, as chairman of the Albanian Issues Caucus here in Washington, I witnessed firsthand the workings of President Trajkovski bringing people together and standing out and speaking out in favor of such an agreement, which worked.

Tensions in Macedonia are at an all-time low, largely because of the work of Boris Trajkovski. Our ambassador, the U.S. ambassador to Macedonia, Ambassador Butler, who does such a wonderful job, told me last week that he met with President Trajkovski regularly. In fact, they prayed together and they often discussed all kinds of issues.

President Trajkovski was unabashedly pro-American. As our colleagues have said, they joined with us in fighting terrorism and joined with us in Afghanistan and Iraq. The Adriatic Charter, Croatia, Macedonia, and Albania, we promoted that in this Congress. My resolution passed both the Senate and the House commending these countries for signing the Adriatic Charter. President Trajkovski was an important part of making that happen.

Yes, he alienated a number of people because he wanted to move forward. Even in his own party there were some times he wondered if he could win reelection because he was so bold in taking these enlightened positions. But, ultimately, I believe that had he lived and stood for reelection, he almost certainly would have been reelected, because people understood that here was a man of vision and a man of greatness and someone who was good for the Macedonian nation.

So I just want to join with my colleagues in paying tribute to President Boris Trajkovski. I met with his wife before the funeral, saw his children; and at the cemetery, I must say it was very, very moving to have thousands of foreign dignitaries there, each representing a different country. I had not seen anything so moving since the funeral of Yitzhak Rabin in Israel several years ago.

Boris Trajkovski was a man who will be missed; and it is very, very important that all people of good will follow in his footsteps and make sure that Macedonia continues to have a thriving democracy and continues to work closely with the United States of America. I strongly support this resolution and urge our colleagues to all vote in the affirmative.

Mr. LANTOS. Madam Speaker, I am pleased to yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the distinguished ranking member for yielding me this time.

In my community, I always discuss with my constituents the value of internationalism, recognizing the world family; and so I want to applaud the sponsors of this legislation because, again, it says to the world that America cares. I believe that this very sad occasion, the loss of life and the untimely death of President Trajkovski, should be noted on the floor of this House.

I had the privilege some years ago, during the Bosnian war, to be in that area and to understand the closeness yet the distance and the importance of someone who could be in fact a uniter, and that he was. To recognize the wrongness of ethnic cleansing and ethnic divisiveness was his trait. As I understand it, even as he traveled to his untimely death, he was engaged in efforts of internationalism and peacemaking.

So I rise today to express my condolences and as well my deepest sympathies to the people of Macedonia, and of course to the region, and to thank the Committee on International Relations for always drawing to our attention that we are much stronger when we extend the hand of friendship and we accept each other's pain as well as each other's joy. My deepest sympathy also to those who mourn his death here in the United States and certainly in Macedonia and around the world.

I conclude by saying that in addition to those from that region, I have a great deal of collaboration with those who call and respect India as their place of birth. So I also want to be able to acknowledge the resolution dealing with the commendation and the celebration of the Republic Day of India, and again to thank Indian Americans for their efforts toward peace and reconciliation. Not only do we speak these words, but I hope that we will act upon the international spirit and making sure that all of our friends know that we continue to stand united for world peace, world dignity, and the humanity of all.

Madam Speaker, I rise today in support of this resolution. The issues of India and Indian-Americans are becoming increasingly prominent here in Washington. The role of India, as a large and vibrant democracy in a strategically important part of the world, is quickly coming into focus—as a partner in trade, and as an ally in fighting international terrorism. Indian Americans have contributed immensely to the American culture and to our economy. It is no wonder that in only ten years, the Congressional Indian Caucus has already amassed over 160 Members.

But India is a huge and complex nation, well-known as the world's largest Democracy. Of course, as strong as our relationship is with this large partner, there are also differences—on trade issues, outsourcing, environmental, and labor issues. We need to work on those differences and come to fair resolutions. It is the true bond of friendship between our two nations, so obvious in our cultural exchanges, that makes me confident that we will resolve the differences between us and build on our common values.

It is a true testament to the power of democracy and the spirit of the Indian people, that only 54 years after it adopted its Constitution, that India is such a powerful and respected player on the world stage.

After my two trips to India, and my years of friendship and partnership with the outstanding members of the Indian community in Houston, I know that I have still only scratched the surface of the deep culture and history that Indians have to offer the world. I am glad that the U.S.-Indian relationship is continuing to flourish.

I commend the co-chairs of the Indian Caucus, Representatives WILSON and CROWLEY, for taking the time to put forth this symbolic resolution.

I support this legislation and urge my colleagues to do the same.

□ 1845

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

Macedonia is a deeply divided country ethnically, and President Trajkovski was a powerful force in bringing peace and reconciliation to the Slav and Albanian communities. We shall remember him as a man of peace. I urge all of my colleagues to join us in voting for this resolution.

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

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

Madam Speaker, I thank all of my colleagues for their appropriate words and sentiments. I urge unanimous support for the resolution.

Mr. WOLF. Madam Speaker, I rise today in support of H. Res. 540, expressing the condolences and deepest sympathies of the House of Representatives for the untimely death of Macedonian President Boris Trajkovski and to pay honor to his life.

I was honored to be a part of the United States delegation to President Trajkovski's funeral led by Veterans Affairs Secretary Anthony Principi. The delegation also included Congressman ELIOT ENGEL, Barry Jackson from the White House and President Trajkovski's good friend, Kent Patton.

President Trajkovski was a great friend of the United States and will be dearly missed.

He was a man of great faith and led his country with dignity and respect. He united the citizens of Macedonia and will remembered by all.

Below are statements read at his funeral by H.E. Mr. Branko Crvenkovski, president of the Government of the Republic of Macedonia, and Mr. Romano Prodi, president of the European Commission. Their words illustrate the great impact that Boris Trajkovski had on so many of the lives he touched.

ADDRESS BY H.E. MR. BRANKO CRVENKOVSKI

Dear President, today, Republic of Macedonia is on its feet, united and unified in its pain, dignified in its sorrow, joined in paying the respect.

We are offering our last farewell to you, our President. Our loss is immense; the tragedy, which has befallen us, is immense.

Only 10 days ago, full of life, full of enthusiasm and deeply convinced of the European future of Macedonia, you sent me to Ireland.

Fate has decided that I bid you farewell today to the unforgettable part of the history of our nation and state.

In the last four years, circumstances and the curse of our profession called politics, bestowed us moments when we were both friends and opponents, moments when we cooperated, moments when we criticized each other.

However, I will never doubt the fact that in all key moments whilst making the most difficult decisions for the future of our state, we were always together, we were on the same side, understanding each other even better than with our fellow party members.

You often sailed against the wind, misunderstood, blamed, without sufficient support.

You were the most deserving for the fact that we avoided a disaster in 2001.

It is tragic for us that your death united us more than your commitments as President.

It is tragic for us and a satisfaction for you that today we are aware that you were more respected worldwide than in your own country.

Today, we know that you looked further, thought deeper and believed more.

Our pain is immense; the pain of your family is immeasurable.

Somebody said: ''Shared joy, is greater joy. Shared pain is lesser pain.'' Today, all of us, entire Macedonia and all our friends worldwide share the pain and sorrow of your Vilma, Sara and Stefan.

Your children had a father. From now on, fatherly care becomes the responsibility of all of us.

Standing your ground, you withstood all criticism. You were blamed that you were a traitor, while you made the most patriotic step. You were blamed of cowardice, but you were the most courageous one. You, more than anybody else, stopped the war and returned the peace to us.

In times of insanity you gave us reason. You fought hatred with your words of love, forgiveness, mutual understanding. And you accomplished all of this in your recognizable style: sincerely, simply, from the bottom of the heart, excluding any calculations.

Once you told me: ''In 10 years everybody will recognize that I was right''.

Boris, it was not necessary to wait 10 years. Already today the entire Macedonia pays its tribute and recognition.

Distinguished President, having learned of the tragic event, many asked themselves what would befall Macedonia after your death. Such people neither know Macedonia, nor knew you.

Your greatness did not lie in leading your people in a direction different from what they considered their options.

Your greatness is embodied in you being a man of the people and for the people.

Macedonia knows its way. Macedonia knows where its future lies.

Dear President, I am honored for having known you and for having the opportunity to work with you.

There are great people next to whom all others feel small. There are greater people next to whom all others feel great, as well.

You, Boris were the latter kind of man.

Rest in peace, great man.

A TRIBUTE TO BORIS TRAJKOVSKI

(By Romano Prodi)

When I learned the news of the tragic crash that cut short Boris Trajkovski's life, an image flashed to my mind—the memory of our meeting in Thessaloniki at the European Council in June last year.

It was an important day for the Balkans. It was an important day for Europe. It was the day we decided together that the European Union's enlargement would not be complete until all the countries of this region were full members of the Union. It was the day we set a joint agenda together to achieve that objective.

When we met, we embraced and rejoiced at the fact we were seated at the same table. It was a foretaste of what the full European family would look like.

I remember thanking Boris for all the enthusiasm and commitment he had shown in bringing the whole region—not just his own country—along the road to European integration. His reply was a smile and an even warmer embrace.

That is the image of Boris Trajkovski that will always stay with me. His passion, his commitment, his love for Europe and for his region. Europe was the guiding star on Boris's journey. The values of tolerance and respect on which our Union is founded were an inspiration to him in the very difficult times this country and all its people have seen.

Pulling together, not apart. Being open, not closed. Including, not excluding. Like our Europe, a Union of minorities, united by the ideals of cooperation and peace.

Those were my thoughts on my recent visit to Skopje, as together we crossed the old bridge over the Vardar—that symbol of union so full of meaning for this city's—and this country's—past and present. This country, this region, all Europe has lost an enlightened, far-sighted leader, a statesman who saw beyond the narrow horizon of everyday politics, a man who put the individual at the center.

As we pay tribute to the memory of Boris Trajkovski today, we all share the pain and grief felt by his beloved wife Vilma, his children Stefan and Sara, his family and friends, and all his fellow Macedonians.

But as we morn his loss—and it is a great loss—we must not lose sight of the deeper meaning of his work, the work he sacrificed his life to accomplish.

Honoring Boris Trajkovski's memory means taking up the challenge—meeting the objectives he believed in and completing the work he started.

Honoring Boris's memory today means thinking of the future of the people of Macedonia—these people he cherished so dearly, who were his foremost concern, with whom he felt utterly at one.

For the country's leaders, it means continuing—resolutely, united in purpose—along the path of European integration. Aware that this is an irreversible process, a process that has the whole country behind it. With all its ethnic and political components fully supporting the choices, shouldering the responsibilities and protecting the rights of each.

For the international community, it means continued backing for the efforts this country has already made. We must support Macedonia's bold reform program to become a full member of the European Union.

So we look forward to receiving your application to join the Union. And if that application were dedicated to anyone, it would be to Boris Trajkovski.

We believe in this country, we believe in its will and determination to become a full member of the European institutions. And we are certain it will succeed.

This will demand patience and, above all, perseverance. And it can only be achieved if it is truly desired, as Boris Trajkovski desired it so passionately.

Today we morn Boris Trajkovski, but we have faith in this country's political future. Any other attitude would fall short of the ideals Boris fought for all his life.

His tragic death is a loss to us all. But his memory gives us heart to work even harder, to keep alive his political heritage and the principles that guided him, and to meet the objectives he set himself.

February 26 will be remembered as a sad day, but also as a day to commemorate Boris Trajkovski's commitment and enthusiasm. So his dream of Macedonia as a full member of a prosperous and peaceful Europe comes true.

Mr. SMITH of Michigan. I join my colleagues in supporting H. Res. 540, which expresses the condolences and deepest sympathies of the House of Representatives for the untimely death of Macedonian President Boris Trajkovaski.

As we know, President Trajkovski died in a February 26 plane crash in Bosnia-Herzegovina, where he was planning to participate in a conference before traveling to Ireland to present his country's formal application to join the European Union.

Boris Trajkovski had been serving as President since 1999. He reached across ethnic divides to hold his country together during the ethnic turmoil and conflict which erupted in Macedonia in 2001. He also represented Macedonia well in working with the international community, both on regional issues and on making Macedonia's case for integration into European and Euro-Atlantic institutions.

Macedonia is a country of concern to the Helsinki Commission, which I chair. As they have had to develop democratic institutions over the last 15 years, Macedonia also had to assert independent statehood as Yugoslavia disintegrated and deal with the economic disruption caused by that disintegration. Macedonia had to bear a refugee burden caused by associated conflicts in Bosnia and Kosovo, and be a part of the enforcement of international sanctions against Milosevic's Servia. Macedonia has had to work out differences with neighboring states on sensitive, national issues which run deep in Balkan history, at the same time to overcome divisions within its own, ethnically diverse population. And, like so many of the countries in southeastern Europe, Macedonia must contend with organized crime and corruption, including trafficking in persons, which threaten its further democratic and economic development.

It is my hope, Madam Speaker, that the same strength and determination upon which the people of Macedonia have relied in the face of these challenges, will serve them again in the face of this latest tragedy. With the passage of this resolution, the United States Congress can show its support for

Macedonia and its people, not only as they mourn the loss of their President, but as they continue on the path of peace and prosperity he was leading them at the very moment he died.

In closing, I wish also to express my prayers and personal condolences to family and many friends of Boris Trajkovski.

Madam Speaker, I join my colleague Mr. SOUDER and others in supporting this Resolution and expressing deep sadness over the sudden and tragic death of Boris Trajkovski, the President of Macedonia.

In the 1990s, I served as a Co-Chairman of the Commission on Security and Cooperation in Europe, the Helsinki Commission. During that time, the Commission, the Congress, the American government and indeed the international community viewed the conflicts associated with Yugoslavia's demise as a foreign policy priority. In Croatia, Bosnia and then Kosovo, thousands upon thousands were killed, raped or tortured while millions were displaced in ethnic cleansing campaigns. The violence, of course, would reverberate through the region, replacing trust and cooperation with fear and hatred in ethnically diverse communities.

Macedonia, as a republic of the former Yugoslavia, was caught in the midst of this turmoil, but it held itself together. Even when fighting erupted within its own borders, many of that country's leaders worked to find solutions to underlying grievances and brought peace back to Macedonia. Of course, international involvement was essential, but so was the presence of people like Boris Trajkovski, who would reach across ethnic lines and work to help all the citizens of Macedonia, not just those of their own ethnicity.

Boris Trajkovski, in my view, understood what it meant to be a head of state, to represent the country, all of its people, and all of their aspirations. Since 1999, he moved his country forward.

I hope, Madam Speaker, that the people of Macedonia will find not just sorrow in President Trajkovski's death but also the strength to make his vision of a democratic, tolerant and prosperous Macedonia a reality.

They can count on support of the United States to that end. As Secretary of State Colin Powell said on February 26, the day Trajkovski's plane crashed in Bosnia, the Macedonian President ''leaves behind a legacy of U.S.-Macedonian friendship that has never been closer or stronger.''

In closing, let me also express my deepest condolences to President Trajkovski's wife, Vilma, his children Sara and Stefan, and other family members and friends.

Poverty is a fact of life for as many as 400 million Indians who survive on less than $1 a day. Illiteracy rates, while decreasing, are still high. And the health, economic and security challenges posed by the HIV/AIDS virus may be the most important issue facing India today.

Madam Speaker, as our delegation conveyed during our recent visit, and I was want to convey today, the United States is India's partner as she works to address these and other challenges on the way to realizing her potential of becoming a true world power.

I returned home with a renewed commitment to ensure that the United States continues to provide economic development assistance for health care and food for the needy, improved energy efficiency and environmental restoration efforts. And we will of course honor our pledge to take the lead in the global effort to combat the scourge of HIV/AIDS, through the provision of medicine, volunteers, and much-needed financial resources.

Above all, we must foster a deeper appreciation for the shared values and beliefs that lie at the heart of our two great democracies, and an understanding of the common principles and interests that bind us together.

This Resolution is a celebration of India's Republic Day, but also a recognition of our strengthening relationship.

I urge all of my colleagues to support it.

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

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The question is on the motion offered by the gentleman from Nebraska (Mr. BEREUTER) that the House suspend the rules and agree to the resolution, H. Res. 540, as amended.

The question was taken.

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3717, BROADCAST DECENCY ENFORCEMENT ACT OF 2004

Mrs. MYRICK (during consideration of H. Res. 540), from the Committee on Rules, submitted a privileged report (Rept. No. 108–436) on the resolution (H. Res. 554) providing for consideration of the bill (H.R. 3717) to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language, which was referred to the House Calendar and ordered to be printed.

## RECESS

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

Accordingly (at 6 o'clock and 46 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1943

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GERLACH) at 7 o'clock and 43 minutes p.m.

## PROVIDING FOR ADDITIONAL TEMPORARY EXTENSION OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT

Mr. MANZULLO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3915) to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through May 21, 2004, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3915

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

**SECTION 1. ADDITIONAL TEMPORARY EXTENSION OF AUTHORIZATION OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958.**

The authorization for any program, authority, or provision, including any pilot program, that was extended through March 15, 2004, by section 1(a) of Public Law 108–172 is further extended through April 2, 2004, under the same terms and conditions.

**SEC. 2. EXTENSION OF CERTAIN FEE AUTHORIZATIONS.**

Section 503(f) of the Small Business Investment Act of 1958 (15 U.S.C. 697(f)) is amended by striking ''October 1, 2003'' and inserting ''May 21, 2004''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. MANZULLO) and the gentlewoman from New York (Ms. VELÁZQUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. MANZULLO).

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

Mr. Speaker, this is a short and simple bill. H.R. 3915 authorizes a general extension of all programs under the Small Business Act and the Small Business Investment Act from its current ending date of March 15, 2004, until April 2 of 2004. This will allow SBA programs that expire on Monday to continue to operate.

In particular, these include the surety bond program which enables small businesses to obtain surety bonds in order to bid on government contracts, cosponsorship authority so that the SBA can host events or print publications with the private sector, and procurement of assistance that is provided to certain small businesses.

H.R. 3915 as amended also authorizes the SBA to charge fees for the 504 loan program with a certified development company until May 21 of 2004.

□ 1945

This program operates solely based on the fees charged by the SBA to certified development companies. If such fees are not extended, there will be no way for certified development companies to make the type of long-term loans that small businesses rely on to create new jobs. The 504 program operates totally upon user fees and has not received an appropriation since 1996.

Unless H.R. 3915 is signed by the President soon, the 504 program will shut down on Monday.

The ranking minority member and I have been working together on finding a solution to the 7(a) problem. Due to a variety of reasons, unfortunately, that solution is not part of this legislation. I pledge to the gentlewoman from New York (Ms. VELÁZQUEZ) that I will do everything in my power to see to a resolution in the 7(a) problem as soon as possible.

I urge my colleagues to support H.R. 3915.

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

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

Mr. Speaker, it is with great reluctance that I agree to the second short extension of the Small Business Administration. We are here today because this body has not been able to get our job done. All we ever hear from this administration and the majority party is how important small businesses are, but when we have a chance to do something as simple as ensuring small business of the capital they need to survive, no one from the other sides of the aisle is willing to step up to the plate.

The administration's lack of commitment in supporting reauthorizing the Small Business Administration clearly demonstrates a disconnect between what they say and what they are willing to do. The administration has no problem depriving thousands of small businesses of the only affordable lending opportunities open to them. They are unconcerned that their decision to cut the 7(a) program jeopardizes over one-third of all 7(a) loans.

This administration could not care less that thousands of small businesses that were guaranteed loans by Small Business Administration had their loans stripped out from under them and may now face bankruptcy. It does not seem to bother them one bit that they are driving lenders out of the 7(a) program, leaving even more small companies with no resources to build their businesses. You would think that job creation might get President Bush's attention, but his administration is denying small businesses access to $3 billion in loans this year alone, which will result in 90,000 lost jobs.

The administration and the Republican leadership may be perfectly comfortable slamming the door shut on small businesses struggling to compete in the weak economy, but I am not. The 7(a) program has been on life support since January. The Small Business Administration flagship lending program was first shut down in early 2004 due to lack of funds. Small business owners, some who have put down their life savings, some who had plans to expand and hire new employees, some who were going to purchase new equipment found themselves left in the lurch. Even though they had played by the rules, submitted their applications on time and were approved for a loan, the Federal Government failed to honor its commitment to them.

Both fairness and accountability flew out the window when the program was shut down and applications were returned to small business borrowers.

Still today these small businesses are waiting for some relief. When it was reopened, the program saw new restrictions that are still in place. In its current state, the 7(a) program fails to serve the very small businesses Congress had in mind when it created this program in the first place. They are causality of this administration's lack of commitment to small businesses. And that is just plain wrong. We must address this crisis immediately.

Our small businesses do not ask for much. Yet, they give so much in return. They create jobs in our local community. They pave the way for individuals to reach the American dream. They train our workers and generate new ideas. We should be given back giving back to them what they have given to us. And what does this bill give them? It gives them nothing. Now more than ever, our Nation needs small companies to succeed. They are the driving force of job creation in our economy. America's hard-working small businesses should be able to count on Congress to improve the Small Business Administration and its critical programs. Unfortunately, we are failing.

Mr. Speaker, I would like to yield to the chairman of the committee for the purpose of entering into a colloquy.

Would the chairman be willing to assure me that he will work to make changes to the 7(a) lending program by April 2, 2004?

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

Ms. VELÁZQUEZ. I yield to the gentleman from Illinois.

Mr. MANZULLO. I thank the ranking member. I will be willing to enter into a colloquy.

I will assure the ranking member that I will work with her to make changes to the 7(a) lending program by April 2, 2004 that will resolve the problems currently affecting the 7(a) program through the end of fiscal year 2004. I make the sincerest assurance that these negotiations will involve all relevant parties, including House leadership and the White House and that the gentlewoman and her staff will be involved in such negotiations. I truly believe that we can solve this problem together.

Ms. VELÁZQUEZ. I thank the chairman. I appreciate his willing to willingness to work this issue out in a timely manner. However, given past experiences with the gentleman and our so-called agreements, I am sure you can understand my need to make this agreement abundantly clear with the gentleman.

Mr. Speaker, small businesses continue to suffer under the current 7(a) program restrictions, and we cannot continue to ignore this issue. It is the most pressing issue that the gentleman have jurisdiction over. I thank the Chairman.

Mr. MANZULLO. I would like to thank the ranking member from New York for entering into this colloquy and resolving this issue amicably.

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

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

The SPEAKER pro tempore (Mr. GERLACH). The question is on the motion offered by the gentleman from Illinois (Mr. MANZULLO) that the House suspend the rules and pass the bill, H.R. 3915, as amended.

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

The title of the bill was amended so as to read: ''To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through April 2, 2004, and for other purposes.''.

A motion to reconsider was laid on the table.

## APPOINTMENT AS MEMBER TO NATIONAL PRISON RAPE REDUCTION COMMISSION

The SPEAKER pro tempore. Pursuant to section 7(b)(1) of the Prison Rape Elimination Act of 2003 (42 U.S.C. 15606), and the order of the House of December 8, 2003, the Chair announces the Speaker's appointment of the following member on the part of the House to the National Prison Rape Reduction Commission:

Mr. Pat Nolan, Leesburg, Virginia

## 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.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. UDALL) is recognized for 5 minutes.

(Mr. UDALL of New Mexico addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CAMP) is recognized for 5 minutes.

(Mr. CAMP addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BOYD) is recognized for 5 minutes.

(Mr. BOYD addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

## HEALTH SAVINGS ACCOUNTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. PEARCE) is recognized for 5 minutes.

Mr. PEARCE. Mr. Speaker, I rise this evening to discuss the inclusion of health savings account in the Medicare legislation. It is one of the most exciting provisions to business owners in my district.

Health savings accounts are going to change the way that our country looks at health care. It is going to change the way that our companies buy health care. Basically a health savings account is simply an IRA. It is a medical IRA. It is a medical IRA where we are allowed to put money in tax free at any age up to $5,500 a year. An employer or the plea can make the contribution.

The nice thing about the health savings account is that it can be taken out at any age if it is used for medical purposes. So unlike other IRAs which have to be deducted or taken out of the savings accounts after you are 62½, health savings accounts can be taken out now at any age. It can be used to pay for premiums, deductibles, co-pays, prescription drugs, medical supplies or any medical treatments.

The value of this is, Mr. Speaker, that we are going to get to about 30 percent more buying power with our dollar because we make tax free contributions into the plan and we can take tax free contributions out if we pay for legitimate medical expenses.

The nice thing also is that it becomes a part of your estate. It travels with you. It is a thing that will go to the next generation if you do not use it. And so it is a way for you to prepare for your medical expenses, but if you do not use the account, then it becomes a way for your children to pay for their medical expenses.

I think that the example of my company is a very good one, Mr. Speaker. We used to have a company with 50 employees. Almost every year we gave bonuses to employees. I would tell you that if we still owned the business, that we would begin to pay those bonuses sometimes 2, 3, 4, and $5,000 a year into the health savings account. That way we could begin to have the employees use tax free money to pay for their premiums in the program, and if they used the medical services to pay for their deductible, so with tax free money.

Now, if I am paying $5,000 a year into an account for every employee, 2 or 3 years down the road, each employee would probably have 10 to $15,000 in their medical savings account, their health savings accounts. At that point, I would begin to shop for $5,000 deductible rather than $500 deductible. The resulting collapse in premiums is something that I will guarantee will be attractive to every single small business owner in America and most large businesses. Each employee is going to want to look at this as a way to begin to prepare for their medical future.

The important aspect of the health savings account is that after we establish these large accounts to be used for medical purposes for our employees, and they know it is a part of their estate, they will begin to look at their medical decisions with regard to the amount of money that is coming out of their health savings account. It is one of the things that we think will depress the demands, the arbitrary demand that sometimes goes along with medical decisions today.

We think that the health savings accounts is one of the most important pieces of legislation passed during the past year. When employers in my district hear about it, they call our office and begin to ask can they buy that now.

□ 2000

Most insurance companies will begin to have plans this year. Most are saying to me that they will have the plans up and running by the mid-year June of 2004. I think that in the future years, as employers and employees alike begin to combine their efforts into the health savings account, we are going to find real changes in the way that medical care is paid for in this country, and that is the beginning point of most of the reforms that are going to make medical insurance available and affordable to all Americans.

Mr. Speaker, I salute this House in passing the prescription drug bill with the Medicare reforms that included the Health Savings Account.

## RURAL HEALTH CARE FOR VETERANS

The SPEAKER pro tempore (Mr. GERLACH). Under a previous order of the House, the gentleman from Texas (Mr. STENHOLM) is recognized for 5 minutes.

Mr. STENHOLM. Mr. Speaker, I am proud tonight to stand and take these 5 minutes in support of the Rural Veterans Access to Care Act of 2003 introduced by my good friend the gentleman from Nebraska (Mr. OSBORNE). I am just happy to say I am glad to be in his line-up tonight.

Mr. Speaker, I rise today to speak about an issue that is very important to me, the health care of rural veterans and the challenges that these patriotic Americans who have so proudly served our Nation in times of war today face. I am proud to address their concerns about access to health care and the unique obstacles they face for medical treatment.

Why is this so important? The answer is very simple. We owe these brave men and women who fought for our freedom and defended our liberty, including those who are doing so tonight as I speak. Today's soldiers are tomorrow's veterans, and we have those in Iraq and Afghanistan doing once again their duty in order that we might remain this free and proud Nation.

Mr. Speaker, I come from a very rural district. To say that my district is rural is an understatement. The 17th District of Texas is 33,836 square miles, in fact larger, than six States.

This talk about the size of my district can also give my colleagues an idea of how far it is to drive for a veteran to receive health care, in fact how far it is to get anywhere. In the 17th District, there is no subway to take a person from one end to another. A taxi ride would take a few hours and be outrageously expensive, and bus lines do not run from the bedroom community of Ft. Worth to the outskirts of Lubbock.

So what does all of this size and magnitude have to do with rural veterans? Well, it has a lot to do with them. If anyone here has been to my district, they know how long it takes to get from point A to point B, but to veterans in need of health care in West Texas, a 2-hour drive is not just a jaunt down the road or a time to think and reflect. For these folks, a long drive is a very big challenge.

I am proud to stand by the veterans of my district, and again I say, stand as a cosponsor of the Rural Veterans Access to Care Act of 2003.

The gentleman from Nebraska's (Mr. OSBORNE) bill goes a long way to helping to alleviate some of the difficulties faced by rural veterans. I am glad he is stepping onto the field to fight for rural veterans, and I am proud to be standing with him.

I endorse his idea that no less than 5 percent of appropriations to VA health care should be used to improve access to medical services for highly rural or geographically remote veterans.

Last year, I was deeply disappointed by the leadership's implicit acceptance of using veterans' resources for political expediency. The VA appropriations bill for fiscal year 2004 broke a promise made to our veterans. The measure contained $1.8 billion less in veterans' health care than was promised last year by the Republican leadership in the budget resolution. We all know that the leadership's first priority during the budget negotiations last year was achieving large tax cuts.

Along with several of my colleagues, we warned that the commitments made for increasing funding for veterans' health care, along with large tax cuts, could not be kept. For this reason, I supported a smaller tax cut that would allow the promise to be honored. We were later informed that the commitment would be honored, but when it came time to act, the leadership found they could not keep this promise, along with the large tax cut after all, but that was last year.

I am hopeful that 2004 will bring greater sense to those in power. I pray that 2004 will bring greater loyalty to those who were told that they will be remembered.

I think it is important to remember that today's fighting men and women are tomorrow's veterans.

A recent issue that highlights the challenges facing rural veterans is the CARES Commission's recommendation recently that the West Texas VA health system, the VA hospital in Big Spring, Texas, should be closed.

I represented Big Spring up until the redistricting in 2001 removed it from my district, but now my interest in this issue is just as strong today as it was when I represented Big Spring. Most of the population that uses the Big Spring VA center is to the east, specifically in the population areas around Abilene and San Angelo where two Air Force bases fuel the veteran and retiree residents.

Given this fact, it only takes plain common sense to see that the Big Spring VA is well-positioned to keep the promise made to our veterans and military retirees for health care.

I have had some folks ask me why we are in such the forefront of this challenge. My answer to them was threefold: So many of the veterans in my district are treated in the Big Spring VA hospital; all the veterans and military retirees of this country deserve the best health care and benefits we can give them; and that we are in very much dedicated to seeing that just that happens.

I was pleased to participate in a meeting with VA Secretary Anthony Principi that was called by Senator KAY BAILEY HUTCHISON. The meeting was very productive and allowed me to assert my belief that the Big Spring VA needs to be both kept opened and strengthened for rural veterans of West Texas.

I understand the need for our government agencies to periodically review missions, goals and facilities, but such reviews need to be deeper than number crunching.

Mr. Speaker, I am proud to stand in support of the bill. I believe it goes a long way to getting more people to recognize the importance of health care for rural veterans, as well as all veterans.

## INTRODUCTION OF RURAL VETERANS ACCESS TO CARE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, I would like to thank the gentleman from Texas for his kind words and his support. The gentleman from Texas (Mr. STENHOLM) and I share very similar Districts, very large districts.

My district has 68 counties, 160,000 square miles. It is the third or fourth largest district in the United States. As a result, veterans who need health care must often travel several hours, sometimes hundreds of miles, to access VA health care. Sometimes this is as much as a 3-day trip, a day down, a day at the facility and a day back, and the problem is that usually transportation is very difficult to access. A person has to have a son or a daughter or a friend or somebody who can take off work for 2 days or 3 days to provide that transportation. So it is a tremendous hardship on a number of people.

Often, all a veteran needs is to adjust medication, have a blood pressure test, receive an EKG or take a blood analysis. So these are very simple, routine matters that still take tremendous resources to have attended to. Routine medical care could be handled at the local hospital or clinic where that person resides or near where that individual resides, and this would require minimal travel time, minimal waiting time for an appointment because sometimes these appointments, you have a waiting time of 3, 4, 5, 6 months and also minimal expense.

So I looked at various options to address this problem and developed H.R. 2379, the Rural Veterans Access to Care Act. H.R. 2379 would encourage the VA to use its authority to contract for routine medical care with local providers for geographically remote veterans who are enrolled in the VA. They must be enrolled in the VA previously in order to access the provisions of this bill.

So how will it be funded? The VISN director will use the funding for acute or chronic symptom management, nontherapeutic medical services and other medical services as determined appropriate by the director of the VISN after consultation with the VA physician responsible for primary care for the veteran.

H.R. 2379 sets aside 5 percent of the appropriated VA medical care allocation in each VISN to be used for routine medical care for geographically remote veterans. We are talking about taking just 5 percent of the funding and setting it aside for veterans who live at some significant distance from a VA facility.

H.R. 2379 uses 60 minutes travel time or more as an initial determinant, but there is also an exception to the legislation if the VA finds it is a hardship for a veteran to travel to a VA facility, regardless of how long it will take. It is conceivable that somebody might live only 30 or 40 minutes away but because of age or severity of illness or whatever it may be much more convenient to attend a closer facility that would enhance that person's health.

I want to assure veterans, this legislation is not a voucher program. My legislation allows only enrolled veterans who have been approved by the VA to seek routine care from a local provider.

Reducing demands for routine care could also help with appointment backlogs in VA facilities, which are significant at this time.

According to the CARES Commission report, the benefits of contracting are, it can add capacity and improve access faster than can be accomplished through capital investment. In other words, building new facilities is not nearly as efficient as letting them use preexisting local clinics or hospitals. It provides flexibility to add and discontinue services as needed and allows VA to provide services in areas where the small workload may not support a VA infrastructure, which is very much the case in my district and in the gentleman from Texas' (Mr. STENHOLM), and this was for highly rural veterans.

During the hearings, the CARES Commission received testimony stating that contracted care improves access and that there was little dissatisfaction with contracted care. Therefore, I urge my colleagues to support H.R. 2379 and help our rural veterans as they access VA health care.

The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from Colorado (Mr. MCINNIS) is recognized for 5 minutes.

(Mr. MCINNIS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

## IN SUPPORT OF RURAL VETERANS ACCESS TO HEALTH CARE ACT OF 2003

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. CASE) is recognized for 5 minutes.

Mr. CASE. Mr. Speaker, good evening and aloha.

I am very happy to stand on the floor of the House today and join my colleagues the gentleman from Nebraska (Mr. OSBORNE), the gentleman from Texas (Mr. STENHOLM) and many others in introducing the Rural Veterans Access to Health Care Act of 2003.

We are all very well aware of the commitment that we have made, at least in principle, although the practice has been lacking of recent years, but the principle that we will take care of veterans when they come home. The truth, however, is that as we try to honor that principle and the practice, the equality of access to health care throughout our country is inconsistent, and this is most particularly true in the rural areas of our country. In these areas, our veterans simply do not have the same level of access to the veterans' health care as they do in the urban areas.

This is true in Hawaii's 2nd District, which is a rural area of our country, just as others are, but we have a little wrinkle in the 2nd Congressional District that creates a unique complication. The wrinkle is that my district is not contiguous. It is made up of islands. It is not possible for the veterans of my district to hop on the nearest road and get to the nearest clinic. It is not possible for the most part for my veterans to hop on the nearest ferry to get to the nearest clinic. Their access is by air.

There are some VA medical clinics on many of the islands that I represent. Of the seven inhabited islands, four have VA clinics; three do not. The islands of Molokai, Lanai and Niihau do not, and these are the particular problems that this bill seeks to address.

But it is not limited only to those islands. For the islands that do have VA clinics do not have the large specialized hospitals. There is only one of them on the island of Oahu. So for six out of the seven islands, the veterans that live on those islands have a particular difficulty in getting to treatment when they need it, and with airfares rising rapidly, with a round trip now well over $200 in some cases, we can see that the problem is quite evident.

Let me give my colleagues just a real life example, one proud veteran who I have gotten to know over the last couple of years, a gentleman by the name of Patrick Esclito, of the island of Lanai. Pat asked for my office's help last year. He had rheumatoid arthritis and had also suffered a massive heart attack in 2002. His condition required him to drive from Lanai, one of the smallest, most isolated areas, to Oahu where he was able to be cared for. Every time he went there he had to pay almost $300 in airfare and his wife as well because they did not want him to travel alone.

As my colleagues can understand, he needed assistance in getting the basic health care that was promised to him by our country, and we were successful, in part, by accommodating the possibility that he would be treated instead on the island of Maui, which still requires a boat ride at least, not quite as expensive, but he still has to get there, and I doubt that Pat's case is unique. It is certainly not unique in the remainder of the 2nd District of Hawaii.

I surveyed all of the veterans in my district currently retaining or receiving benefits in the last couple of months and asked them what is on your mind the most. Every single one of them said health care, access to health care. That is what it is all about, and I am sure that this is the case in most of the rural and more isolated areas of our country.

We are going to have a great debate this Congress, as we did last Congress, over the overall adequacy of our treatment of our veterans, over the overall adequacy, both this year and in the next 5 years at least, in terms of the budget, in terms of the projections on many aspects of veterans' care, primarily health care.

□ 2015

And that debate is a debate that we should have. Because, again, it is one thing to express a principle and it is another thing to practice that principle. But as we go through this debate, I am happy to say that on the floor of the House tonight at least we have bipartisan agreement that one area that we have to focus on, and that we are focusing on in this bill, is our rural veterans, recognizing the unique problems that they have in access to basic health care.

Mr. Speaker, I rise today to join 52 of my colleagues in support of this vital bill, a bill that will help keep our Nation's promise to its veterans who live in our more isolated, rural areas.

We are all well aware of the commitment we all, as a great country, have made to our veterans. However, the truth is that our ability to deliver on this commitment varies throughout the United States. Most particularly, in rural areas of the country, our veterans simply do not have reasonable access to veterans' clinics.

The veterans of Hawaii's Second District have this very challenge, but with a unique complication. This is because my district is not contiguous, but composed of seven inhabited islands in the middle of the Pacific Ocean.

There are VA medical facilities on only four of those islands, and it is not possible for those veterans who live on the remaining islands of Molokai, Lanai, or Niihau to drive to a clinic. The same is true of those living on the remaining islands with clinics; they must travel to Honolulu for more advanced treatment.

Currently, the VA will reimburse all veterans for travel to service-related injuries, but it will not reimburse travel for those veterans with less than 30 percent disability rating for non-service-related injuries. This would be the case, for example, of a veteran who has a bad back, a service-related injury, who then has to have dental work.

Let me give you a real-life example of one proud veteran, Patrick Esclito, who lives on the Island of Lanai. Pat requested my help last year; he was afflicted with rheumatoid arthritis and had also suffered a massive heart attack in 2002. His condition required him to travel to the Island of Oahu for treatment at a cost close to $300 per roundtrip. His wife traveled with him—another almost $300—because they were both concerned with his traveling alone. My office assisted him in receiving approval for treatment instead on the Island of Maui. However, he still must pay for travel by boat from Lanai to Maui because his ailments are not service-related.

Pat's case is not unique. There are 120,000 veterans living in the State of Hawaii, and many live in areas with no easy or even adequate access to the VA health clinics to which they are entitled. Throughout my Second District, with the cost of air travel skyrocketing, it costs $200 or more for a round trip plane ticket between Hawaii's islands.

This is why, when, last year, I surveyed all veterans in my district who are currently receiving VA benefits, and asked them what was and was not working, their number one issue by far was access to health care. I am sure that this is the case in most rural areas of our country.

This bill will allow all veterans to receive adequate access to health care, regardless of where they live in this great country. Nonetheless, the President's 2005 Veterans' Affairs budget provides $29.8 billion for appropriated veterans programs, $257 million below the amount that the Congressional Budget Office estimates is needed to maintain purchasing power at the 2004 level. The picture is even worse after 2005. Taking into account inflation, but not caseload increases, the administration's figures reveal that over the next 5 years, the budget for appropriated programs for veterans is $13.5 billion below the amount needed to maintain programs and services at the 2004 level. Even the Secretary of Veterans' Affairs has admitted that the funding levels for 2006 through 2009 in the President's budget may not be realistic. I have no doubt that it will be the rural veterans who will be affected the most.

Contrary to what some critics claim, H.R. 2379 will not harm the Veterans' Affairs (VA) healthcare system. Instead, this bill will enhance access to healthcare for veterans who have earned it, but are having to pay to travel to that care. Furthermore, by contracting locally for health care for enrolled veterans, the rural communities that provide these services will benefit economically. H.R. 2379 is a necessary bill to truly fulfill this country's obligation to all veterans.

Mr. Speaker, as the President has repeatedly declared: ''We are currently a country at war.'' Hundreds upon thousands of this Nation's finest men and women are abroad in support of the Global War on Terrorism. Some 4,500 soldiers from the 25th Light Infantry Division from Schofield Barracks in Hawaii have deployed to Iraq; another 5,400 soldiers from the 25th will soon be deployed to Afghanistan. Reservists and Guard members from my State, many from my Second District, are also serving on Active Duty.

What kind of message does our country's failure to provide access to healthcare for rural veterans send to the thousands of American men and women in uniform currently risking their lives overseas? Our veterans and our future veterans serving overseas deserve better. If we value all our veterans, we need to give them the respect they deserve by properly funding full and adequate access to healthcare for each and every one.

## RURAL VETERANS HEALTH CARE

The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from Nebraska (Mr. BEREUTER) is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, this Member rises today to join the distinguished gentleman from Nebraska (Mr. OSBORNE) in his Special Order to highlight the health care challenges that rural veterans face when attempting to access care through the Department of Veterans Affairs.

For many years, this Member has been far from satisfied with various actions of the U.S. Department of Veterans Affairs, such as, one, the use of the health care allocation formula instituted by the Clinton administration and continuing to this day, which in effect penalizes veterans in sparsely settled States like Nebraska; number two, the reorganization of the Nebraska-Iowa region into a larger region headquartered in the Twin Cities of Minnesota; three, the end of inpatient hospitalization in the Lincoln and Grand Island, VA hospitals; and, four, the current procedural difficulties for veterans to have prescriptions filled.

In total, these faulty decisions have amounted to discrimination against

veterans in rural areas. First, due to the closure and consolidation of veterans health care facilities in Nebraska, veterans in rural areas frequently travel several hours simply to receive the basic services for which they are entitled and are eligible. As a result of this travel, they must incur transportation costs such as overnight accommodations which other veterans are not expected to incur for the same services. Furthermore, requiring elderly and frequently sick or incapacitated veterans to travel on Interstate 80 or other very busy roads and highways is not only unfair to them, but also places them and other citizens at risk.

The severity of this problem was brought to this Member's attention by a January 2002 Lincoln Journal Star article featuring one Nebraska veteran who served in the Navy during World War II. Three years after he was diagnosed with several diseases, his wife of 49 years could no longer care for her husband. She said that putting her husband in a nursing home was the hardest thing she had ever had to do in her entire life. Medicare and a private insurance supplement cover doctors' expenses, and the couple uses their retirement savings to pay for the $4,000 monthly nursing home cost.

However, additional expenses include $1,000 a month to cover the cost of seven prescription drugs that this veteran must take to stay alive. Although he qualifies for a prescription drug benefit through the VA, in order to obtain this benefit, the drugs must be prescribed by a VA doctor at VA-approved facilities. As a result, this veteran must travel 50 miles every 6 months in order to have prescriptions reauthorized.

Now, because that veteran is 74 years old, confined to a wheelchair, suffers serious blood clots which prohibit him from traveling, this 50-mile trip often proves to be impossible.

With the struggles of this veteran and many others in mind, this Member expresses his strongest support for H.R. 2379, the Rural Veterans Access to Health Care Act for 2003. Indeed, this Member is a proud cosponsor of this measure, which was introduced by my colleague, the distinguished gentleman from Nebraska (Mr. OSBORNE). He is to be commended for crafting this legislation, which addresses a critical problem about which our constituents in Nebraska are increasingly expressing their concerns.

Through H.R. 2379, no less than 5 percent of the total appropriated funds for health care would be dedicated to address veterans health care access problems in highly rural or geographically remote areas. As amended by this bill, highly rural or geographically remote would apply to areas in which the veterans have to drive at least 60 minutes or more to a VA health care facility. Each Veterans Integrated Service Network, that is called VISN, director would receive an equal level of funding from this account and then have the discretion to address rural access issues as best fit each VISN. If a VISN would be unable to use all of these funds from this account, the VISN would not be allowed to retain unused funds. Instead, the Secretary of Veterans Affairs would then have the opportunity to reallocate those funds to other VISNs closely nearby or anywhere that is rural and geographically remote.

All Members of Congress should agree that the VA must provide adequate services and facilities for veterans all across the country regardless of where they live, in sparsely settled areas with resultant low-usage numbers for VA hospitals. There must be at least a basic level of acceptable national infrastructure of facilities, medical personnel and services for meeting the very real medical needs faced by our veterans wherever they live. There must be a threshold funding level for VA medical services in each State and region before any per capital funding level is applied.

Furthermore, I support H.R. 3777, the Healthy Vets Act of 2004. This Member is also a cosponsor of this legislation, introduced by our colleague, the distinguished gentleman from Colorado (Mr. MCINNIS).

This measure would allow those veterans in rural areas which are geographically inaccessible to the nearest VA medical facility to enter into contracts with community health care providers on a fee basis to receive primary health care in their own communities. This authority would allow rural veterans to receive preventive regular medical attention without being forced to travel what is too often a prohibitive distance to seek such care.

In spite of the fact that each Congress sets a new record on the amount of appropriation for veterans health care, there have been cutbacks in the access veterans in rural areas have to adequate health care, while there have been advances in other geographic areas. The health care needs of our military veterans must be met to the fullest extent possible. Veterans served in our armed services to protect our freedom and our way of life. As they served our Nation at a time of need, the Federal Government must remember them in their time of need. The debt of gratitude the people the U.S. owe to our veterans surely means we should assist the veterans wherever that need exists.

Finally, Mr. Speaker, this Member remains committed, I would say, to ensuring that Nebraska veterans receive the benefits they deserve, benefits they had expected and which the American people said they want to deliver. I urge support of H.R. 2379 and H.R. 3777.

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. PETERSON) is recognized for 5 minutes.

(Mr. PETERSON of Pennsylvania addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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## JOBS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, the President flew Air Force 1 to Cleveland today to campaign in my home State of Ohio, talking with 700 or 800 female small business owners. While the President came and talked about small business and job creation and all that he wants to do in a State which has suffered the worst or second worse job loss in the country, the President, at the same time, and this Congress today, this House today considered this legislation, is slashing $94 million from a loan program essential to small business development. He has shrunk the size of the Small Business Administration.

This President basically treats small business one way, with very little assistance, and large businesses, like the Halliburton Corporation, which still pays Vice President CHENEY $3,000 a month from their payroll, the Halliburton Corporation, very differently.

The President really does not get it when he comes to a State like Ohio, a State where we have lost 166,000 manufacturing jobs since he took office, 300,000 jobs overall since he took office; one out of six manufacturing jobs in the State of Ohio has simply disappeared in the last 3 years. The President's solution to all of this is continued tax cuts for the most privileged people, with the hope that some of that money will trickle down and create jobs.

The other solution the President has is more trade agreements, NAFTA-like trade agreements, that ship jobs overseas; that hemorrhage jobs to Mexico, to China, and all over the world. He continues, as he campaigned in Cleveland today to those small business owners, he continued to say more tax cuts for the most privileged and more trade agreements. And, clearly, for 3 years that has not worked. One-sixth of our manufacturing base is gone in Ohio and about one seventh of the manufacturing base around the country.

That was really brought home to me last week. I was in Akron, Ohio, speaking to a group of owners of machine shops, about 60 people. And a gentleman came forward and he dropped a stack of brochures, leaflets like this. He dropped about four times this many, and he said this is what I get in about a month in the mail from companies around the country. And these stacks of brochures, these stacks of leaflets are auction notices for companies going out of business. Every one of these represents a company that is going out of business or is downsizing as a result of the Bush recession.

Here is one plant. Closed, everything sells. Here is another one from Mansfield, Ohio. Two complete stamping

and machine tool shops. They are closing and selling. From North Carolina, public auction. Plant closing. Everything must sell. From Marion, Ohio, complete shop close-out auction. From Cuyahoga Falls, Ohio, in my district, absolute auction. Everything is going. From Scottsboro, Alabama, precision job shop downsizing. Another one here for a CNC machining tool room and production machinery. Excess equipment due to corporate outsourcing.

Excess equipment due to corporate outsourcing. President Bush's top economic adviser the other day said outsourcing is a good thing when these plants move overseas and they ship jobs overseas, because it makes our businesses more efficient. Tell that to the 50 or 60 workers that worked at this plant when the owners of this plant say excess equipment, we are selling due to corporate outsourcing.

From Massachusetts, a large-capacity fabricating and machine shop closing. Another one from Chicago. Six CNC lathes, 12 chuckers, 22 bar machines sold. Surplus to the continuing operations. They have lost businesses and they are selling most of their equipment. Here is another one. Three days, two tremendous public auctions. Machinery, equipment, and real estate. Plant's closed, everything must go. Real estate for sale. Here is another one that says Dominion Castings Foundry, equipment machine facility. Plant closed, everything sells. Another one from Baltimore, Maryland. Complete facility selling. Another, 5-day public auction. Plant closing due to relocation. Another one, on and on and on. This company is closing for the same reasons.

Now, Mr. Speaker, it is bad enough that these places are closing and the President's response is more tax cuts. That is not working. More trade agreements hemorrhaging jobs overseas. That is not working. That is bad enough, but there are 800,000 Americans whose unemployment compensation has expired in the last 3 months. That is 800,000 workers, 800,000 families living in communities around this country; and the President and this Congress, the Republican leadership in this Congress, will not extend their unemployment compensation. That is morally wrong. It is bad for our country, it is bad for our communities, it is bad for our families, and it is bad for our workers.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. OTTER) is recognized for 5 minutes.

(Mr. OTTER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

## RURAL VETERANS HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

Mr. STUPAK. Mr. Speaker, I rise tonight in support of rural veterans and in support of H.R. 2379, the Rural Veterans Access to Care Act of 2003. I would like to thank the gentleman from Nebraska (Mr. OSBORNE) for his leadership on this issue.

No veteran should ever have reason to doubt America's gratitude for his or her service to the Nation and to the cause of freedom. America's veterans deserve nothing less than our highest gratitude, our deepest respect, and our strongest support. Veterans from rural areas, like my district, deserve nothing less than their comrades living in more populated areas.

Michigan's First Congressional District has the highest population in any congressional district in Michigan. There are 65,000 veterans in my district, one-fifth of all the veterans in the State of Michigan.

□ 2030

They live over a huge area. The Upper Peninsula alone spans 450 miles from east to west. While the VA provides wonderful care in northern Michigan, it is far too hard for veterans to access health care. Recently, a Vietnam veteran from the Upper Peninsula had to go to Milwaukee, Wisconsin, for the treatment that he needed. Milwaukee is a long way from home, so our veterans go as far as the Iron Mountain VA Medical Center, and they spend the night there. The next day they are put on a bus and they are shipped down to Milwaukee, Wisconsin. And that is repeated once their treatment is done, whether it is 1, 2 or 3 days. They are put back on a bus, they go back to Iron Mountain, Michigan, and then they spend the night and go on home.

It is outrageous that they have to travel so many miles, in some case 450 miles, just to get treatment. At best the distance is an inconvenience. At worst, it puts veterans' lives at serious risk. I had another case where a retired Navy veteran from Sault Ste. Marie had surgery at the VA Medical Center in Milwaukee to treat his cancer. After surgery, he was transported via van all of the way back to Sault Ste. Marie, 379 miles away. The next morning, his spouse had to take him to the emergency room in Sault Ste. Marie, Michigan, and the emergency room could not help him. The nearest VA medical center in Iron Mountain could not help him either, so he had once again to be shipped by ambulance 379 miles down to Milwaukee, Wisconsin.

Mr. Speaker, we cannot have veterans being shipped back and forth across state lines. It is dangerous, and it is just not right. These two constituents represent the challenges faced every day by rural veterans across this country. Congress needs to act to address the specific needs of rural veterans. That is why I am a cosponsor of H.R. 2379, the Rural Veterans Access to Care Act of 2003. The legislation would allow veterans to enroll in an option to seek routine health care closer to home.

H.R. 2379 sets aside 5 percent of each VA region's medical care allocation to be used for routine medical care for highly rural or geographically remote veterans. The legislation would allow rural veterans to be closer to their health care providers, rather than traveling hundreds of miles for an appointment at the VA, which could be especially dangerous during inclement weather.

In Michigan, I will also continue to work to open a community-based outpatient clinic in Gladstone. Over 2 years ago, the VA announced to open the CBOC, as we call them, in Gladstone. Yet during every successive round of CBOC openings across the country, somehow our region just cannot seem to get Gladstone funded. It is estimated a Gladstone CBOC would provide much needed basic health care to our veterans, in fact, to approximately 750 veterans alone in its first year of operation. This facility is critical towards keeping our promise to those who serve our country so well.

I think today, Americans have a deeper understanding of the sacrifices of our military personnel than at any time in recent history. Our commitment to veterans must be more than just waving the American flag in times of armed conflict and recognizing them on national holidays. We owe it to our veterans to do more. We must be prepared to take their battle-borne scars of war and military service throughout their lifetime, and make sure they have the quality of service they need.

Today I was visited by a couple from Chassel, Michigan, representing the VFW. They handed me the VFW's priorities for the coming year. We can see here the VFW priority goals for 2004. It says veterans health care now, we earned it. If you look at it, it says the number one priority of veterans is health care. They say underfunding of the VA budget, 6-month waits to see a doctor, denial of care to category 8 veterans, little or no long-term care, little or no mental health care, and millions of fed-up veterans.

Well, those of us who represent rural areas, and no matter where veterans are, we believe they should be taken care of. There are special challenges for rural veterans, and we stand here tonight to urge this Congress to pass H.R. 2379 to take care of all of our veterans, but especially those of us who have veterans who live in our rural districts.

## CARBON DIOXIDE CONTRIBUTES TO CLIMATE CHANGE

The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from Maryland (Mr. GILCHREST) is recognized for 5 minutes.

Mr. GILCHREST. Mr. Speaker, I did not come here to talk about veterans, but I will add my voice to the chorus of

voices tonight to endorse the legislation put forth by the gentleman from Nebraska (Mr. BEREUTER) and state that veterans deserve fundamental, sound health care in this country. Veterans' families also need that kind of health care because veterans fought for their families in foreign wars. As we move forward with health care, remember the veteran, remember the veteran's mother, remember all those in rural areas that we can work collectively to find ways to manage health care in urban, suburban and rural areas.

However, I came here tonight to talk about this lump of coal. This lump of coal and coal throughout the world for the last several hundred years has provided heat, warmth, security and in recent times electric power which has transformed civilization. Coal has fueled the modern era. Coal is made up mostly of something called carbon. Coal has been developed on our planet naturally by geologic forces over millions of years. As the carbon on the surface in the form of animals, plants, vegetation, rocks, you name it, gradually deteriorated, was forced underground, in some cases in mountainous areas, in other cases, flat areas, but basically was forced underground, sometimes 100 feet, sometimes miles.

When this lump of coal, which is made mostly of carbon, was locked up underground over a long period of time, it took an element out of the atmosphere called carbon dioxide, $CO_2$, and locked it away. Over eons of time, these geologic forces, whether there was a lot of $CO_2$ in the atmosphere or much less $CO_2$ in the atmosphere, the geologic forces changed the climate.

Now the most recent climate change came about 10,000 years ago when the Ice Age ended. As the Ice Age ended, we moved into a warming trend. Over the last 10,000 years, the rate of warming has been about 1 degree centigrade every 1,000 years on a steady rate. That is 1 degree centigrade every 1,000 years.

Since we have been burning coal, which is carbon and then it turns into $CO_2$, we have been releasing into the atmosphere the amount of $CO_2$ in decades what it took nature to lock up over millions of years.

So in the last 150 years, the earth has warmed about 1 degree centigrade. Previous to that time, the earth had been warming 1 degree centigrade every 1,000 years. Since we have been burning fossil fuel, we have been warming the surface of the earth's temperature, reducing glaciers, thinning the ice cap in the Arctic Ocean by about 40 percent. The American Geophysical Union, the National Academy of Sciences, a group of scientists which President Bush appointed, has confirmed that the earth from human activity has been warming fairly significantly over the last 100 years, but especially over the last 50 years.

Carbon is locked up in this piece of coal. When this piece of coal burns, it releases carbon dioxide which is one of those elements naturally occurring in the world, naturally occurring in the atmosphere that balances the heat for the climate. When we infuse a significant amount of carbon dioxide into the atmosphere, the climate begins to warm faster. In fact, the EPA and other scientific institutions in the United States say that over 90 percent of the $CO_2$ released in the United States comes from burning fossil fuel.

What I would like to point out, Mr. Speaker, is this chart that actually goes from 1750 up to the year 2000. We can see from 1750, 1800, 1850, burning fossil fuel was minimal, so we do not increase $CO_2$ in the atmosphere very much. But once we get into the 1900s, especially 1950, $CO_2$ increases in the atmosphere from burning fossil fuels has had a dramatic effect. $CO_2$ is a naturally occurring element in the world. When we increase that element by the magnitude that we have, we have the potential for climate change.

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The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

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## FUND VETERANS HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. GOODE) is recognized for 5 minutes.

Mr. GOODE. Mr. Speaker, first, I want to salute coach the gentleman from Nebraska (Mr. OSBORNE) and express my appreciation to him on his leadership on the Rural Veterans Access to Health Care legislation.

A concern that I have with veterans health care is the lack of access rural veterans experience in seeking treatment at a VA facility. I represent a largely rural area of Virginia in which over 60,000 veterans reside. In the Commonwealth of Virginia, over 96,000 veterans were treated last year at a VA facility. There are only three VA medical centers located in Virginia to serve these deserving and eligible veterans. The VA has worked hard to expand their services, and they have opened three community-based outpatient clinics, four vet centers, and six mental health satellite clinics throughout the State. Unfortunately, more is needed.

The Salem, Virginia VA Medical Center, serving southwest Virginia has identified the lack of access to care for rural veterans as a big challenge that it faces. They provide services for at least 11,000 enrollees in my district alone each year. It is essential that more community-based outpatient clinics be established to accommodate our Nation's veterans living in rural and outlying communities.

I am very concerned that the proposed increase for veterans health care in the fiscal year 2005 budget is only $1.2 billion over the amount enacted in 2004. It is proposed that we allow $29.7 billion to meet the medical care needs of the over 4.2 million people treated in VA health care facilities each year across the country.

I believe that we need to take care of our veterans' needs first before we send our money overseas to help foreign countries. Veterans deserve the benefit of full funding of their health care system. I believe, along with a number of my colleagues, that we need to reduce the amount for international affairs in the concurrent budget resolution and increase the funding for veterans benefits and services by at least $3 billion so that we can improve veterans' health care. I repeat, decrease foreign aid by at least $3 billion and increase veterans health care by at least $3 billion.

In fact, I would gladly support increasing VA health care by $4 billion or $5 billion. I have had a great deal of contact with many of our veterans over the last few months, and the sentiment among them is that their health care is being shortchanged. Over the years, we have supplied billions in foreign aid to countries like Peru and Iraq. We gave them millions upon millions of dollars. Also Ethiopia, South Africa, Mexico, Indonesia, to name only a few.

In fiscal year 2005, the proposed budget for international affairs will increase discretionary spending to $31.5 billion, a 7.5 percent increase from fiscal year 2004, and approximately two-thirds of that goes to foreign aid.

I believe that we must carefully evaluate and prioritize our funds. We have a responsibility to support our veterans and to provide them with the best possible health care and to ensure that veterans have access to that care. We need to start prioritizing our needs as a Nation above those of foreign countries which have not always stood by us. The veterans have stood by us. They have carried the fight for us. They have made America great. We need to fund them.

Mr. Speaker, we do not need to fund the foreign countries that have not stood by us. I will not read the whole list, but there is a long list of recipients of foreign aid, and they have not been at our side recently, and have often not been at our side in the past. Let us fund veterans and not fund foreign countries who have not helped us.

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## VETERANS HOSPITALS STRUGGLING TO MEET DEMANDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. ALLEN) is recognized for 5 minutes.

Mr. ALLEN. Mr. Speaker, the men and women of the Armed Forces serve this country honorably. They put their lives on the line in order to protect our freedom and our values. We owe them our gratitude, and they deserve to be recognized and fairly compensated for their service.

□ 2045

They also deserve to receive the benefits and the health care that they need and have earned.

We are all aware of the crisis facing VA health care. Veterans are waiting unconscionable lengths of time for appointments. The President's now out-of-date Web site claims his fiscal year 2004 budget, the year we are in, which Congress increased by $1.3 billion last year, would enable the VA to eliminate the waiting lists by the summer of 2004, this summer. Well, that is not the truth. That is not going to happen. Instead, VA hospitals are struggling to meet increasing demand; and year after year, my colleagues and I have to fight to increase the underfunded VA budget.

Veterans in rural States, such as Maine, face all of these problems, amplified by the fact that they may have to travel hundreds of miles to the nearest VA health facility.

Maine's single VA hospital, Togus, is located 100 miles from our southern border and 300 miles from our northern border. As anyone familiar with the cold and snowy winters will tell you, those kinds of distances are difficult, not to mention dangerous, to travel in the winter.

The VA has established access guidelines which provide that a veteran should be able to access primary care within 30 miles or 30 minutes from their homes in urban areas, and 60 miles or 60 minutes in rural areas. Only 59 percent of Maine veterans enrolled in the VA health care system meet those guidelines, and that means that more than 16,000 Maine veterans live outside the access standards, not to mention the veterans who have not even enrolled to get VA health care. Perhaps one of the reasons they do not seek VA health care is because they are so far away.

The VA's guidelines for access to inpatient hospital services provide that a veteran should live within 2 hours of inpatient services. Only 52 percent of Maine veterans meet this guideline.

Let me give you an example of what this all means in my State. Veterans in Maine, veterans have to travel to get specialized care, often to a Boston VA hospital; and if a veteran lives in the northern part of the State, say Caribou or Fort Kent, he probably cannot make a bus trip to Boston in one day. He will have to stay overnight in Bangor or Portland and take the rest of the ride the next day. On the third day, the veteran may finally have his appointment, and then either start back that day or the next day.

So you can see to get specialized care in Boston, a veteran from northern Maine may take 3 to 5 days to go down and get that care. Of course, a relative or friend may make the drive, and it might happen in 2 days or 2½ days instead of 3 to 5; but the problem is, how many people can afford to do that, how many people have the help they need?

We need to enable veterans living in the most rural parts of our country to benefit from the same accessibility to services that veterans in more urban areas enjoy. In Maine, the VA staff did town hall meetings throughout the State to develop a market plan for the VA CARES process, and this plan recommended five new community-based outpatient clinics in rural areas to improve access, in addition to collaborating with the State's successful telemedicine program and to the continued use of contract care.

I urge my colleagues to take to heart these difficulties faced by veterans in rural areas. Expanding access to care, particularly in these rural areas, must be a focal point of our efforts to reduce the huge backlog of veterans waiting for health care.

As we consider the fiscal year 2005 budget and when we review the final CARES national plan, we must not let down our Nation's veterans. First, they deserve the highest quality of care, but we also must ensure that the VA health system provides access to that care for all veterans.

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The SPEAKER pro tempore (Mr. BURGESS). 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.)

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## WASHINGTON WASTE WATCHERS REPORT ON TRANSPORTATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Mr. Speaker, I rise today as cofounder of the Washington Waste Watchers, a Republican working group dedicated to bringing the disinfectant of sunshine into the shadowy corners of the wasteful Washington bureaucracy.

As we speak, Congress is engaged in a debate over spending and the Federal budget. With a historically large deficit, Democrats are advocating that our answer is to raise taxes on American families. Democrats demand that we roll back tax relief, the tax relief that is responsible for the strong growth in our economy, the tax relief that is bringing down unemployment, the tax relief that amounts to only 1 percent, 1 percent, of the $28.3 trillion, 10-year spending plan that we passed last year.

In other words, Mr. Speaker, 99 percent of the challenge in dealing with our Federal deficit is on the spending side. Clearly we have a spending problem, not a taxing problem in America; and I, for one, say when it comes to Federal spending, it is time to take out the trash. It is time to go after the costly waste, fraud and abuse that permeates every nook and cranny of the Federal Government.

Mr. Speaker, this body will soon take up the issue of transportation funding. Transportation is important. It is important to our economy; it is important to jobs. But before we sign a huge check drawn on the bank account of American families, should we not do everything that we can to ensure that every dime of transportation funding goes to roads, and not rip-offs?

Let me give you just a few examples. The Department of Transportation has historically squandered the hard-earned money of American families. Roughly two-thirds of Boston's ''Big Dig'' central artery is funded by Federal tax dollars. This has been called the greatest public works scandal of modern times.

This federally funded project has repeatedly exceeded cost estimates and lagged behind schedule. Is that not a surprise? But in the year 2000, the project was already five times more expensive than planned, $11 billion over budget. An investigation revealed that project managers consistently were dishonest in their reporting of the project. $11 billion of bloated budgets and mismanagement, and yet Democrats want to raise our taxes to pay for more of this?

Today the Federal Government is picking up 80 percent of the cost for a $1.4 million project to upgrade just three bus shelters in upstate New York. For more than $1 million of American taxpayers' hard-earned money, these bus shelters are going to be equipped with ''radiant heating systems'' and a layout ''designed to appeal to passengers' sense of security.'' Even some of the beneficiaries of these new mansion-like bus shelters had concerns with its cost. One of the residents said, It just seems like a whole lot of money to me. Maybe they could just put some glass doors up.

American families are lucky if they can afford $150,000 for a home, and the Federal Government is going to use their money to pay over $370,000 apiece for bus shelters? And yet Democrats want to raise our taxes to pay for more of this?

Another investigation revealed that 29 Federal contracts worth roughly $62 million were paid without any knowledge of whether they were even legally authorized. $62 million that was not legally authorized, and yet Democrats want to raise our taxes to pay for more of this?

Mr. Speaker, these are just a few examples of the rampant waste, fraud and abuse and duplication in just one Federal agency. After you begin to look closely, you will discover that in many Federal programs, routinely they will squander 10, 20, even 30 percent of their taxpayer-funded budgets, and have for years.

There are many ways that we can save money in Washington without cutting any needed services and without raising taxes on our hard-working families, as Democrats seek to do. Because when it comes to spending, Mr.

Speaker, and Federal programs, it is not how much money you spend that counts; it is how Washington spends the money.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. MATHESON) is recognized for 5 minutes.

(Mr. MATHESON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

(Mr. DREIER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

(Mr. EMANUEL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

(Mr. GINGREY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Dakota (Mr. POMEROY) is recognized for 5 minutes.

(Mr. POMEROY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. BISHOP) is recognized for 5 minutes.

(Mr. BISHOP of Utah addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

## THE CIRCUMSTANCES SURROUNDING PRESIDENT JEAN-BERTRAND ARISTIDE OF HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I would like to bring to my colleagues' attention the circumstances surrounding President Jean-Bertrand Aristide of Haiti, whose circumstances are somewhat in doubt tonight. I have spent a fair amount of time calling a number of people to find out whether President Aristide and his wife, Mildred Aristide, are in safe circumstances; and I have this report to make to my colleagues tonight.

We have called the offices of the Assistant Secretary of State, Mr. Noriega; the Secretary of State, Mr. Powell; the Security Council Chief, Ms. Rice; the President of the United States, Mr. Bush; the President of the Central Republic of Africa; the ambassador to the United States of the Central Republic of Africa; the Secretary of Defense, Mr. Rumsfeld; and the head of the Central Intelligence Agency, Mr. George Tenet.

I was able to reach General Craddock, who works as an assistant to Secretary Rumsfeld, who asked that we send a communication so that they could begin trying to help us determine the whereabouts, and, more importantly, the safety of the circumstances surrounding President Aristide. We sent the following letter, which I include for the RECORD.

HOUSE OF REPRESENTATIVES,
*Washington, DC, March 10, 2004.*

Hon. DONALD RUMSFELD,
*c/o General Craddock,*
*U.S. Secretary of Defense, Washington, DC.*

DEAR GENERAL CRADDOCK. This letter is written notification in response to a telephone inquiry on today's date of the location of Haitian President Jean-Bertrand Aristide. This evening the inquiry was conducted by a member of my staff, Bernard Graham, and yourself.

As per your conversation, please advise me as soon as possible as to the whereabouts of President Aristide. My staffer has informed me that you will start to retrieve this information tonight through proper channels.

This matter is of utmost importance to me and I look forward to your timely response.

Sincerely,

JOHN CONYERS, Jr.,
*Member of Congress.*

In addition, I was able to reach Mr. Brian Newbert, the watch officer at the State Department, who was very co-operative, who was calling Bangui, the capital of the Central Republic of Africa, in an attempt to locate President and Mrs. Aristide. He was not able to do it. There is an 11-hour time difference. But he told me that he would continue this search in the morning.

Now, this problem has arisen because in last week's testimony before a subcommittee of the Committee on International Relations we were told by Assistant Secretary Noriega that it was true that a U.S. aircraft, or an aircraft controlled by the United States, had taken the President and his wife to the Central Republic of Africa. We asked him how were they doing, and he said that he did not know, because the United States Government's responsibility ended with him delivering President Aristide to this francophone country of 3.5 million people in the center of the continent of Africa, and that he had no further responsibility in connection with this.

This was a slightly shocking statement to the people that were in the hearing room, because it would have seemed that we might want to know what was happening to him from that point on.

We have a very sensitive and very serious matter here, and I hope that I will continue to enjoy the cooperation of the various heads of the agencies as we attempt to reach and make contact with President Aristide.

□ 2100

His country was overrun by rebels. He was forced to leave the country. He left under United States auspices and control, and it seems to me that the most elementary act of courtesy would be for us to make sure that he and his wife, which we pray are alive and in good condition and safe, are that. But it is very disturbing to me to report to my colleagues tonight that not only have I not been able to reach anyone that has been in contact with him, but we do not know anybody that has.

The SPEAKER pro tempore (Mr. PEARCE). Under a previous order of the House, the gentleman from Michigan (Mr. MCCOTTER) is recognized for 5 minutes.

(Mr. MCCOTTER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

## WASHINGTON WASTE WATCHERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. MARIO DIAZ-BALART) is recognized for 5 minutes.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, as a member of the Washington Waste Watchers, and I just listened to one of my esteemed colleagues from Texas speak about instances of waste in Federal Government and why some of us have such a hard time understanding and believing why it is so easy for our good friends, the Democrats, to constantly ask for massive tax increases while we see the waste that goes on in the Federal Government.

I just would like to read portions of a memo from the Inspector General of the Department of Energy dated March 2003. It is an audit report regarding the transfer of excess personal property from the Nevada test site to the community reuse organization. Mr. Speaker, during the 1990s, as a result of changes in program direction of the Department, the Department of Energy downsized or reconfigured a number of different facilities, including this State of Nevada test site. To mitigate any economic damages or impacts, Congress then authorized the Department to transfer excess personal property and provide aid to these local civic development organizations that are commonly known as CROs.

These transfers, and that is what the memo says, these transfers were based on the express understanding that the property was to be excess to department needs, obviously, and also the memo then further states, despite the realization that the transfers might be made at less than fair market value, the Department was to receive, obviously, the Department was to receive reasonable consideration from these CROs for said personal property.

Mr. Speaker, I want to kind of talk about some of the results, though, of the audit. The audit disclosed that Nevada's personal property transfers

practices, I am quoting, ''did not strike an appropriate balance between the efforts to assist community development and the need to assure,'' and this is the part that I just, again, I insist, when you read things like that, you wonder why the Democrats insist with such passion to raise the taxes on hard-working American taxpayer. Because this says, again, that there was no balance, no appropriate balance between the efforts to assist community development and the need to assure that the Federal taxpayers received reasonable consideration for property transferred to the local CROs. In fact, the audit says, we found that the taxpayers were frequently shortchanged in this process.

Yet, the Democrats want to raise the hard-working American people's taxes to do more of this kind of thing.

The audit continues, it says, In February 2002, a rig was, a drill rig was sold to the local CRO for $50,000 that is now being offered for sale by an out-of-state equipment broker for $3.9 million. You better believe the taxpayer was shortchanged and, yet, the Democrats insist on wanting to raise the taxes of the American people. It said that this group transferred hundreds of pieces of equipment, including trucks, office machines and trailers, purchased, by the way, by taxpayers, to the CROs for $1 per transfer. And this is the part which is even harder to believe, Mr. Speaker.

It said, it provided laboratory equipment to the CRO that was needed at another department site, ultimately causing the Department to spend $2.5 million to replace the equipment that they had basically given away. Another $2.5 million to purchase that equipment a second time because it was given away. Nothing happens.

Now, the President is trying to change that, and he is aggressively trying to change that. We are going to have a debate tomorrow in the Committee on the Budget where we are going to try to stop this abuse. We are going to try to cut waste, fraud, and abuse. I hope that our dear friends on the Democratic side this year, for a change, do not propose amendments to raise taxes, to increase spending, but will join us in trying to cut waste, protect the American taxpayer. I do not have great faith, because they have not done so. That is not in their culture and their tradition.

I hope they do so, because the American taxpayer is fed up with waste, fraud, and abuse. They want help in cutting that waste, fraud, and abuse. All of us are going to have a great opportunity tomorrow in the Committee on the Budget in the markup.

I hope our dear friends on the Democratic side will not side with the constant increases of taxes, and will side with us to cut waste, fraud, and abuse, to seriously try to control that part of the budget, not increase taxes, not increase spending, spending more money, more good over bad over good over bad money, but will join us to not raise taxes as they have always wanted to do, but instead will join us to keep the taxes low, to keep the child credits intact, to keep the death penalty tax from going up. As one of our colleagues said, there at least should be no taxation without respiration. And they will have an opportunity tomorrow.

Mr. Speaker, let us see what they will do. I hope that they will join us in fighting for the taxpayer, not fighting for more waste and more tax increases.

## VETERANS HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, I would like to address my colleagues from Texas and Florida who have just spoken and called themselves the Waste Watchers, and they listed all of these wasteful actions of government, and then they said that Democrats want to raise taxes. I would like to remind them that their party controls the presidency. Their party controls this House. Their party controls the Senate. And the last election in Florida demonstrates that their party controls the Supreme Court. If there is all of this waste, why does not their party get rid of it? Why blame the Democrats for something that their party is responsible for doing? I just point out that the Republican party is in charge and, therefore, the Republican party is responsible for the waste that my colleague detailed before us tonight.

I would like to speak tonight about veterans health care. I attended a Committee on Veterans Affairs meeting today where the Veterans of Foreign Wars spoke before our committee. And those veterans are asking why it is that we are spending billions and billions of dollars to Iraq, $87 billion the last time we got a request from the President. He is going to come back and ask for probably $50 billion more following the November election, and yet, we are nickel and diming our veterans.

We have said priority 8 veterans can enroll in the VA health care system. The President actually sent us a budget during this time of war, and in the President's budget, he is asking that for many of our veterans, the cost of a prescription drug be increased from $7 a prescription to $15 a prescription. Now, for a veteran that is on a fixed income and may have 6 or 8 or 10 prescriptions a month, that is a heavy, intolerable burden.

The President's budget also asks that there be a user fee imposed upon veterans, a user fee of $250 per year, just so many of our veterans can participate in the VA health care system. And then we have a request in the President's budget to increase the cost of a clinic visit for our veterans. We are piling burden upon burden upon burden on the backs of our veterans. I simply do not understand why we would do this. In a time of war, when we are creating new veterans, many disabled, veterans with terrible injuries, veterans who have lost their arms and legs, many have been blinded, terribly disfigured, these are veterans who have newly fought for our country, and we are giving them a VA health care system that is woefully underfunded.

I simply do not understand why the President does not step up to the plate and put his actions behind his rhetoric and say, I am willing to pay whatever it takes to provide adequate health care for the men and women who have fought and suffered for this country. I call upon the President tonight to rethink his priorities. Rather than spending money to send a man to Mars, we ought to be spending money to take care of our veterans.

I have shared this with my colleagues in the Committee on Veterans Affairs. A couple of weeks ago I went to Walter Reed Hospital. I visited a young man from my district who joined the military when he was 17 years of age. On his 19th birthday, while standing guard duty in Baghdad, a truck bomb exploded and removed a large part of one side of his face. This young man who is only 19 years of age was at Walter Reed getting reconstructive surgery on his face. He is just one of thousands, and there probably sadly will be thousands more in the future.

This Congress, this President, those of us of both political parties, should put the needs of our disabled, sick, and needy veterans at the top of our priority list. I call upon all of us, myself included, to make our veterans our number 1 priority.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Michigan (Mrs. MILLER) is recognized for 5 minutes.

(Mrs. MILLER of Michigan addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

## REAUTHORIZATION OF THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

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, I rise tonight to discuss the reauthorization of the Transportation Equity Act for the 21st Century.

Mr. Speaker, in regards to transportation, we are indeed at a crossroads in this country. We have the intersection of the demands for creating the type of infrastructure which will facilitate commerce and move our citizenry, and trying to achieve some type of rational spending limits within our Federal budget.

Back home in my area of north Texas, we face a silent crisis. This crisis is unrecognized by residents until

they find themselves in an unbearable commute to work or unable to make the necessary connections between home, work, and the other activities that consume our daily lives. North Texas has experienced an increase in traffic over the past 3 decades, which is a result of unprecedented population and employment growth. Added to that is the underinvestment in Federal transportation dollars for my area.

The time is now to make necessary investments in our transportation infrastructure. In Texas, our transportation needs outstrip available funding 3 to 1, and these are not trivial funding needs. These relate to supporting international trade transportation, streamlining the environmental process, and expanding innovative financing techniques. Handling taxpayer dollars with care is, in fact, one of our highest callings in the House of Representatives. That obligation is enshrined in the Constitution. Our charge as congressional representatives is to protect dollars taken from the taxpayer by, in fact, streamlining and improving activities of our Federal Government, not just to simply spend and dispose of those tax dollars. And sadly, when Federal tax dollars are not handled with care, important Federal programs such as our transportation programs find themselves being hurt and neglected.

Last year, shortly after my election to my first term in Congress, I was very fortunate to be chosen to be a member of the House Committee on Transportation and Infrastructure, and I wanted to be certain that the United States Department of Transportation was ensuring the most efficient business practices within the agency. So I requested a meeting with the Department of Transportation Inspector General, Mr. Kenneth Mead, to discuss the business practices of the agency and how Congress could better facilitate removing inappropriate expenditures related to transportation funding.

□ 2115

The Department of Transportation has not changed the way the agency disburses transportation funding to State and local entities since President Eisenhower was in office. The Inspector General recommended that if one cent had been saved on every dollar spent over the last 10 years in transportation programs, the Department of Transportation would have had an additional $5 billion to spend.

This $5 billion would equate to the amount of funding needed for four of the eleven major transportation projects currently under way in this country. Clearly, greater efficiency within DOT could have an enormous impact on more efficiently spending taxpayer dollars.

Mr. Mead shared with me examples of how transportation projects could be used as examples or models of government efficiency. In the State of Utah in preparation for the Winter Olympics, Interstate 15 needed substantial improvements. By streamlining the design build process on that stretch of roadway, Interstate Highway 15 in Utah was completed ahead of schedule and under budget and available for individuals traveling to the Winter Olympics that year.

Similarly, in north Texas, the Dallas area rapid transit system worked within their budget last year and actually returned over $21 million in transit funding to the Federal Government. Unfortunately, there are examples of transportation projects that are not carefully managed; and as a result, dollars are not wisely spent.

The Ted Williams Tunnel of the Central Artery Project in Boston, Massachusetts, known affectionately as the Big Dig, is perhaps the poster child for inefficient Federal spending in a transportation project.

The General Accounting Office has estimated that from fiscal years 1998 through 2001, the Highway Trust Fund Account lost over $6 billion because of the ethanol tax exemption and the general fund transfer. Using the Department of the Treasury's projection of gasohol tax receipts, the GAO has estimated that the Highway Trust Fund Account will not collect $13 billion because of the tax exemption from fiscal years 2002 through 2012. There is an almost $7 billion shortfall from the general fund transfer between the same years.

Prior to the last reauthorization bill in 1998, the Highway trust fund earned interest on its balance, which was paid by the general fund. If the Highway trust fund had continued to earn interest on its balance, the Department of the Treasury estimates that the Highway trust fund would have had an additional $4 billion from September 1999 through February 2002.

Between modifying DOT's practices within State and local governments and reevaluating the true purposes of the Highway trust fund, I believe we can work together to ensure our Federal Government is more effective and more efficient to the American taxpayer and that we indeed have the funds necessary to pay for our projects.

If we are unwilling to make the monetary investment and the necessary policy changes, I am afraid our vision for our Nation's highways will be that of a congestion-bound commuter sitting in a traffic jam watching the bridges and roadways crumble before our very eyes.

I think, Mr. Speaker, a very worthwhile goal would be to allow Americans to spend as much time in family discussions at the dinner table as they currently spend trying to get home.

## TAX CUTS AND THE DEFICIT

The SPEAKER pro tempore (Mr. PEARCE). 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, I came to the floor of the House to address the concerns raised by my colleague, the gentleman from Michigan (Mr. CONYERS). But, Mr. Speaker, I just have to respond to some of the comments and debate that I just heard by my friends on the other side of the aisle.

It is interesting to call the Democrats the tax and spend party of America. And I recall that when we finished the work of the 1993 budget resolution and the 1997 budget resolution going into 2001 after President Clinton left office, the spring of 2001 saw this Nation with somewhere between a $5 and $7 trillion surplus.

Today as I stand here and on the eve of the Committee on the Budget's meeting tomorrow, addressing the questions of veterans health care and Medicare, Social Security, the threat that this administration has given to cutting Social Security, we are in a $551 billion deficit based mostly upon very misdirected tax cuts by this administration on the backs of hard-working men and women.

To the 1 percent richest we have given all of the tax cuts, and we are digging a hole deeper than we could ever remove ourselves from and eliminating the needs of all Americans as relates to the services that this government has so aptly done before and having a balanced budget.

So I would just ask my colleagues on the other side of the aisle to return to their administration and their committee meetings and try to explain to the American people how we have gone down such a slippery slope.

Let me also say that when it comes to the job creation that occurred in the 1990s, this administration and Republican Congress is a dwarf, if you will, compared to the enormous steps and strides that were made under the leadership of the Democrats. 21,000 jobs that were made just in this last month, in terms of job creation, over 3 million manufacturing jobs that have been lost. And the 21,000 jobs were government jobs. No private sector job was made in the last month.

### THE ADMINISTRATION'S POLICY TOWARD HAITI

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me now move to my comments that are associated with those of Mr. CONYERS. I again ask this administration for full investigation on the removal of a duly elected democratic president from Haiti, President Aristide and his wife.

President Aristide's most recent press conference in the last 24 hours again restates the fact that he was removed from the country without his consent. He was coerced; he was seemingly threatened and frightened into making a decision.

In a hearing that was held last week and questioning Representative U.S. Assistant Secretary Noriega on this question, rather than ask the question directly, he proceeded to be directly rude, if you will, and also to the extent of refusing to answer the question or be

responsive as I would expect a representative of the administration should be.

We now know that thousands of orphans in Haiti are now without food because there is no means of getting food supplies up into the locations where they are. We understand that children have been killed. A young boy who was willing to give his bicycle to one of the thug insurgents was shot dead on the street. Another young boy was injured by a flying canister and lost his life. A Fulbright scholar was fleeing for her life, having to leave the country because of the danger. Thousands of Americans have gone. The U.S. military, specifically the Marines, are in danger because of the refusal to increase the numbers of allied troops on the ground.

It is noted that in 1994 when President Clinton sent 20,000 troops into Haiti to uphold the Santiago Agreement which requires the United States to defend any duly elected democratic government in the western hemisphere, not one military personnel was harmed or was anyone else harmed.

So we know that we have a failure in this policy, we have blood shed in the street, violence in the street, and we have a duly elected president whose supporters are continuing to rebel, if you will, now in exile without any knowledge of his condition or ability to return to a place where he can engage in discussion and be part of a peaceful resolution of installing a peaceful government into Haiti. We have failed in this effort.

It is sad to say that we have not met our goals in Iraq. We have not met our goal in Afghanistan. Now we come full circle to the western hemisphere. Children are starving. People are dying. Violence is raging. No government there for us to negotiate with.

Mr. Speaker, I think for all of us this is on our hands. It is time now for us to stand up and be counted for peace around the world.

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The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

(Mr. PAUL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. NEUGEBAUER) is recognized for 5 minutes.

(Mr. NEUGEBAUER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. HARRIS) is recognized for 5 minutes.

(Ms. HARRIS addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

## INTERNATIONAL TRADE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 60 minutes as the designee of the minority leader.

Mr. DEFAZIO. Mr. Speaker, I come to the floor tonight to talk about the issue of trade. The Bush administration rolled up yet another record for the month of January, and I believe it deserves notice. It is quite an achievement. Our trade deficit widened to $43.1 billion in January. One month, $43.1 billion.

Now, they have been telling us for the last year just be patient, the dollar is overvalued, it is going to drop a little bit. And as soon as the dollar drops a little bit, why then, U.S. manufacturers will become more competitive and people will start to buy our goods again.

Well, I had two questions for them. I said what do we make anymore since we are exporting so much of our manufacturing to China? And will it not perhaps mean instead that Americans will buy more expensive goods that are made overseas and that, in fact, our trade deficit will widen? Despite all the Ph.D.s and experts and luminaries they have down there, apparently my concerns have been proven out and not the administration's.

In terms of goods, our deficit went from 44 last year to this year $48 billion. In terms of services, we had a minor increase of about $300 million.

So, the fact is we are hollowing out the manufacturing of the United States of the America. There is a new trend where we are hollowing out what was supposed to be the next generation of jobs and intellectual technology, and I will get to that a little bit later.

What does the Bush administration say in reaction to this huge and growing deficit in trade and the debt we are mounting up overseas? China alone, $124 billion trade deficit last year. China is now the largest foreign holder of United States debt. And they are beginning to acquire assets in the United States of America with the huge pile of dollars they are amassing with this extraordinary trade deficit.

Now, the Bush administration's answer is, well, more of the same, free trade, free trade, free trade. They are unabashed radical, knee-jerk free traders. At least they are consistent. It is good. They went on the attack yesterday saying there are only two choices: the failing trade policies of today, which are hollowing out manufacturing, our industrial base, losing jobs, outsourcing, exporting jobs to other countries, quality jobs, losing the next generation of intellectual technology jobs, jeopardizing, I believe, in the future the security of the United States as more and more critical sectors and technologies are exported overseas.

Just last week in the Wall Street Journal, General Electric, there was an article about how they have sold a whole $1 billion worth of turbines to China. There was just a small price they had to pay. It is a state-of-the-art, newly developed turbine, took them half a billion dollars to develop it. The Chinese demanded, in violation of the WTO and rules-based trade, which the Bush administration is such a great fan of, demanded that they give them the technology in exchange for this rather insignificant purchase. Because the technology is going to be worth far, far more; and the Chinese admit they are going to use the technology to build competing turbines. But GE in a very short sighted way decided they would be blackmailed. They were going to give them the technology and get $1 billion worth of sales. It will look good on this year's balance sheet, but not too good 3 or 5 years from now when the Chinese are eating their lunch internationally using the technology which GE went to so much trouble to develop.

But this is repeated time and time and time again by the Chinese. I have a small company in my district called Videx. They developed a new kind of scanning technology. They developed an electronic lock. They are selling in 44 countries, including, their mistake, China, where they were selling about a $1 million a year. But it turns out, they say in China if you bring in intellectual property within 24 hours it is counterfeited and for sale.

And the Videx company had followed all the laws and protections, went to the trouble of getting supposed Chinese protection and patents and all that. One day they found their entire company had been cloned in China including their Web site. In fact, the Chinese, the fake Chinese Videx, had gone them one up. They had a little fake American flag waving at the top of their Web site, this Chinese company.

They even copied and translated into Chinese the U.S. copyright and patents on their software. They did not make a very good product, the company found out, because they started getting product support calls from people who thought they were clients of the U.S. Videx, but were actually clients of the phony Chinese Videx. This happens time and time again.

When I went to the Bush administration and asked that perhaps we could get some help, get my two Senators to join me in this for Videx, they are a totally American company, they have 160 employees in my district, they do all of their outsourcing in the United States of America, that is all their subcontracting, not in China, and employ people even in Texas to help build their product, the response, after a lengthy delay from the Bush administration, was that the United States of America will not file intellectual property complaints against China for theft of intellectual property, will not help this relatively small company Videx, because the big corporations, the multinational corporations who are exporting their factories to China would not like that

because it might cause problems with the Chinese government.

□ 2130

A pretty extraordinary statement. And that is what the Bush administration is now going to emphasize. They support these failing trade policies. They are trying to cover up the outsourcing of jobs. They have now banned at the White House the term outsourcing, job exports.

They talk about level playing fields. Well, it is not a level playing field when other countries can, when their government condones the theft of your intellectual property and will do nothing about it and your own home government will do nothing about it in terms of dealing with that foreign government. But now the Bush administration says they may in the future file some minor complaints about some of the tariffs the Chinese have. They would not want to tread on the Chinese's toes here. They do not want to go after the big problem here, which is the outright theft of American technology or the blackmailing in violation of the WTO of American corporations to sell there, and other practices of the Chinese government, the things that are costing us so much productive capacity and jobs.

The Bush administration says they want a level playing field. Well, if it is not going to be level there, where is it going to be level? Are they saying that they will bring up the wages of the Chinese workers, that they will see that the Chinese follow worker health and safety protections? That they are going to see that the Chinese begin to enforce minimal environmental laws?

No, I guess what they mean by level playing field is in the vision of the Bush people we will drag Americans down to that level and then we will be competitive. If only Americans would work for $1 a day, they could compete with the Chinese. Because they are competing not in old crummy, labor-intensive shacks and factories, but in state-of-the-art world-class factories built significantly with American capital, multinational capital and American capital that is being invested in China to access the cheap labor, to access the lack of worker health and safety protections, to access the lack of environmental protections so they can dump the waste right out the back door.

So the level playing field is a pretty phony argument. They are banning the word at the White House, globalization, outsourcing, as I said. And they are going to call people who want to call for a new trade policy, one that does not fail our country so badly. One that does not run a $500 billion-a-year trade deficit; one that is not hollowing out our manufacturing trade capabilities; one that is not seeing some of our best technology either extorted or stolen by the Chinese and other unfair traders.

They have no answer to those things. They just say more of the same is going to help, and anybody who wants to do anything about that is an isolationist. Well, they are either fools or they are deliberately, as some have said, facilitating Benedict Arnolds and others who are exporting American jobs, technology and undermining this country. It is not clear which on certain days because when you see today's news, you have got to wonder what is really going on down there.

Six months ago, the President announced he was going to create a job, a job in America, that related to manufacturing. That was the President's promise 6 months ago. Here we are 6 months later, and he is on the verge of creating that job tomorrow. Congratulations to the President. One job related to manufacturing. That job will be the so-called manufacturing czar, someone who is going to try to find out what is wrong. Why is the U.S. hemorrhaging its productive capability to China and other unfair traders with extraordinarily low wages? For most Americans and for me it is pretty obvious; but to the Bush administration it is not, so they need a manufacturing czar. It took them 6 months to find the right guy.

It would have been good if maybe the manufacturing czar could be by the President's side when his name is released tomorrow. They will be doing this in Ohio, which has suffered horribly with the loss of productive capability. But the gentleman in question is not available. His name is Tony Raymundo, is not available because he is in China. He is in China where his company is building a factory. It is kind of like an awfully bad joke here. The Bush administration in dealing with China and the outsourcing of jobs is going to put a manufacturing czar in their administration who is over in China overseeing the construction of his own plant in China. And, no, I am not making this up. That is actually true.

So the Bush administration says soon they are going to push hard, as I said earlier. They are going to ban the word outsourcing, globalization. They are going to empower the word ''insourcing'' at the White House. They are going to brand people like me who have been raising the alarm both in Democrat administrations and Republican administrations about the failing trade policies of this country. I bitterly opposed Bill Clinton's push for NAFTA, and I think that was a shameful moment in the Clinton administration and began the undoing of our productive capacity. I think it was only really facilitating Bush One and Reagan who had negotiated the agreement. But, unfortunately, Bill Clinton saw fit to jam it through the Congress. But now Bush is taking all that one step further.

His newest free trade agreements, first, he wants to expand NAFTA, which promised the United States hundreds of thousands of job and trade surpluses with Mexico, which has brought us huge and growing trade deficits with Mexico and lost us hundreds of thousands of jobs, actually the reverse effect of what they have promised. But the President wants to replicate NAFTA all the way through Central and South America. The President has a proposal called CAFTA. CAFTA would expand NAFTA to all of Central and South America. Imagine how many jobs and much capacity we could export to Central and South America if the same rules applied all across that entire region.

The President is right now; it is held up because the Republican majority is a little bit nervous on voting on such a gigantic expansion of a failing policy in an election year. But you can be certain if the President is reelected, we will either have a special session or at the beginning of the next session of Congress he will be jamming through this mega-expansion of NAFTA, doing what Bill Clinton did with NAFTA, 10, 20 times over.

But even better, the President has shown us a model in some of his proposed free trade agreements which also certainly does exceed the problems with the Clinton administration on trade. The Chile and Singapore agreements are cases in note, free trade agreements voted for by this Congress and signed blithely by the President last year. In the case of Chile, it is the first-ever trade agreement to mandate the importation of foreign skilled labor.

Yeah, that is right. It is an actual section of the bill that establishes a new category of Chilean workers to be imported into the United States to be trained in the jobs that will be exported when the companies move to Chile. It is efficient for those companies, that is true, but does not do a whole heck of a lot for the American workers left here holding the bag when their job has fled south to Chile. But that is quite an extraordinary new improvement if you think, as the President's chief economic adviser does, that exporting jobs is good. Now, I am not making that up either.

Mr. Mankiw, the President's Chief Economic Adviser in the economic report to the President signed by the President of the United States, endorsed by him, says, ''Outsourcing is just a new way of doing international trade. More things are tradeable than were tradeable in the past and that is a good thing. Shipping jobs to low cost countries is the latest manifestation of the gains from trade that economists have talked about for a century.''

Is that not peachy. That is Mr. Mankiw, the President's Chief Economic Adviser, expressing the opinions of the President and his administration that the export, the outsourcing, a word now banned at the White House, of U.S. jobs overseas is a net benefit to our country under the theory that things will be produced more cheaply there which will be good for American consumers. Of course, a little fallacy with their logic here is if Americans

cannot find jobs, and we have growing unemployment and job loss under this administration, then no matter how cheap the goods get produced in China and some other place that might even produce things more cheaply, Americans are not going to be able to afford those goods for long; and ultimately that will lead to some very severe economic problems. But they persist. They are stubborn at least. And the President is going to push for more free trade.

Now, we have some research here about outsourcing, a word banned at the White House now, but that is the export of American jobs which they are no longer going to reference at the White House; and one company, Deloitte Research, predicts 2 million jobs will be exported in the next 5 years; Forester Research, 3.3 million white collar jobs in the next 15 years. Those were the intellectual technology, high-technology skilled jobs that we had heard for so long, what did they say to me when I raised concerns early on about these trade policies? They say, Congressman, you do not understand. These are the old obsolete manufacturing jobs. We do not want them anymore. I said, I do not understand how we can be a great Nation, a great power, if you do not make things anymore. They say, Do not worry about it. We will not make the things but will design them, and we will have all of the brain power. We will retrain all those workers to run computers and work in the high-tech industry.

Now we find that industry is flooding overseas very quickly and expect 3.3 million of those next-generation jobs will flow overseas the next 15 years. The question becomes, what is next? They said, we do not know, but do not worry, something always comes along. That is a heck of a thing to bet your economy on.

Mark Zandy of economy.com estimates 995,000 jobs have been lost overseas since March, 2001. That is about a third of the jobs that the President has lost on his watch, since he has been President, have been lost overseas. Yet he believes that our trade policy is working, and the head of his economic council says it is working just exactly as it is designed. It is exporting jobs overseas. That was the intention of the trade policy and they are standing behind that. But they will not use the word outsourcing anymore down at the White House.

The Gardner Group estimates that 10 percent of jobs at U.S. information technology vendors will move offshore within the next year. IBM is exporting 5,000 jobs to India, China, and Brazil. They will save $168 million a year by doing so. This is a very, very disturbing trend. Computer programming jobs in the U.S. that pay 60 to 80,000, nice wage, but it also recompenses someone for a heck of a lot of education and training. They go for about 8,000 in China; 5,000 in India; 5,000 in Russia.

So when the President says we will have a level playing field, I guess he is telling people to go to college for 5 or 6 years, get a masters degree, become a skilled computer programmer, run up 40, $50,000 in debt or more in obtaining that education, and they should work for $5,000 a year because that will give the President his level playing fields in these areas because Mr. Mankiw says it is good that those jobs are so much cheaper there.

Think of how much cheaper the products will be. Of course, what most of us see is the products really are not that much cheaper, but the profits which flow to a relatively small number of people; the profits are much better.

According to a recent survey of 1,091 CEOs, 27 percent planned to export jobs within the next 3 years; 20 percent, one-fifth of the CEOs polled in America expect to export jobs in the next 12 months. They say, and there is a new big business coalition that has come together about this, and like the White House, they want to ban the word outsourcing. I think that quite soon John Ashcroft is going to begin having people who use the word outsourcing arrested. But the word they want to use now is worldwide sourcing. And these business lobbyists, as it says in this article here, business lobbyists are talking to the Bush administration about adopting this language. But, of course, as we know from the article I read earlier, the Bush White House did in fact adopt that term just yesterday to emphasize, and they have of course banned any discussion of the exported jobs.

We have got a few other problems. Here is Craig Barrett, the CEO of Intel. This is 1/26/04, New York Times: ''If you look at India, China and Russia, they all have strong education heritages. Even if you discount 90 percent of the people there as uneducated farmers, you still end up with about 300 million people who are educated. That is bigger than the U.S. workforce. The big change today from what has happened over the last 30 years is that it is no longer just low-cost labor you are looking at; it is well-educated labor that can effectively do any job that can be done in the United States.''

He goes on to say, this is Craig Barrett, the CEO of Intel, the company that was going to produce the next generation of jobs for educated and skilled Americans here: ''Unless you are a plumber or perhaps a newspaper reporter or one of those jobs which is geographically situated,'' cutting lawns at the estates of rich people, for instance, ''you can be anywhere in the world and do just about any job.'' Barrett was asked, Are we not talking about an entire generation of lowered expectations in the United States for what an individual entering the job market will be facing?

□ 2145

He responded. It is tough to come to another conclusion than that. If you see this increased competition for jobs, the immediate response to competition is lower prices and that is lower wage rates. Back to what the President is talking about with a level playing field. Americans should go to college, graduate and expect, as skilled computer programmers, to work for 5 or 6,000 a year in the world of Mr. Mankiw, President Bush and the CEO of Intel, Craig Barrett. That does not sound like a tremendous bargain to me, I think, or to most Americans who I represent.

Jeffrey Immelt, CEO of General Electric, now here is a company who does not just engage in intellectual property. They make great products. I fly on planes back and forth across the country, will be on one tomorrow, and a lot of them have GE engines. I have been to the plant they still have in the United States, great stuff, incredible product. But here is an investor meeting in 2002.

When I am talking to GE managers, I talk China, China, China, China. You need to be there. You need to change the way people talk about it, how they get there. I am a nut on China. Outsourcing from China is going to grow to $5 billion. Well, it has already eclipsed $5 billion. He was a little modest in his estimates. Outsourcing, that is, U.S. job exports to China with U.S. or multinational producers, U.S. capital producing jobs there, producing products there and shipping them back to the United States. Every discussion today has to center on China. The cost basis is extremely attractive, i.e., cheap wages. You can take an 18-cubic foot refrigerator, make it in China, land it in the United States, land it for less than we can make an 18-cubic foot refrigerator today ourselves.

This list, I cannot possibly do justice to and read the entire list, but this is a list from Lou Dobbs on CNN, someone who formerly was a great supporter and advocate of free trade policies until he studied it a bit, until he looked at the impact on hollowing out the intellectual might of our country, the industrial might of our country, the loss of jobs. Every night now on CNN he talks about the issue of exporting America, outsourcing jobs.

He has a list here of companies that are exporting America. They are companies either sending American jobs overseas or choosing to employ cheap overseas labor instead of American workers. As you can see, it is quite small print, and it goes on for pages and pages. It is available on his Web site. He has talked about it extensively, but the list is shocking, and I would urge that for reading for all Americans, particularly those who are unemployed because of these policies, have a lot of time on their hands and wonder what happened to their job. They can read this list and see perhaps where it went.

Now, all this is bad enough, but guess what. We are asking American taxpayers to subsidize the export of jobs

to foreign countries. It has been estimated that if we repealed any reference in the U.S. Tax Code to overseas income, that that means no taxes at all. I mean, once a U.S. company went over there, we would not even think about taxing them. We would save $20 billion a year. That is how much they are able to deduct from their U.S. income by producing overseas with cheap foreign labor. We are through some other programs actually giving direct subsidies to companies to set up manufacturing overseas.

So, in terms of solutions to this problem, the first and easiest thing it seems that we need to do is stop any taxpayer subsidy for these conglomerates, multinationals and even some U.S. firms from outsourcing their jobs, a word again not allowed at the White House, to India or China or Mexico or elsewhere. Then after we do that, we need to begin to actually use the rules of trade.

Remember, the President came to Congress a little more than a year ago, and he said the Chinese, really, the only way we are going to get them to clean up their act, it is true, they are violating intellectual property left and right, they are doing all sorts of things to undermine us, but the only way we are going to become truly competitive in China is if we give them what is called Permanent Most Favored Nation status; that is, we would no longer annually review, as is required of all Communist countries and they are a Communist dictatorship, their trade status and determine whether or not we would renew it.

That drove some of the largest corporations in this country absolutely berserk because they wanted huge amounts of capital and produce their goods over there, and the prospect of having China lose Most Favored Nation status on an annual basis would drive them into a lobbying frenzy every year.

So they successfully lobbied the Bush administration, saying we are going to make it permanent, never again will we review China for unfair trade, but instead we will shift our emphasis to the World Trade Organization, and we will have rules-based trade. I have already talked about the company in my district that has been cloned in China, illegally, copying their U.S. copyrighted and patented and even Chinese copyrighted and patented product in violation of Chinese law, U.S. law, international law, and the rules of the World Trade Organization, and the Bush administration has said they will do nothing about.

In fact, every year the President's special trade representative puts out a report which documents page after page after page of intellectual property theft by Chinese firm. Again, as I said earlier, apparently within 24 hours of bringing intellectual property into China it will be copied and available on the market, sometimes good quality, sometimes lesser quality.

So how many complaints has the Bush administration filed since the objective was to get China into the WTO and use rules-based trade to really teach them a lesson against China? Well, none, none, zero. How many have they failed on the issue of intellectual property worldwide? None, none, not one. It seems that it was a false promise. I am not supporter of the WTO, but we are stuck in it, and I do not think we should be in it, then we should at least use its rules that would advantage American people, American consumers, American workers, we should use it, because we certainly see it used by other countries to our disadvantage, but this administration is refusing to do that.

I will give another example and it is very timely, the issue of oil. The OPEC countries have meetings every month it seems lately, and they decide on quotas and what they are doing intentionally with those quotas is restricting the supply of oil, creating artificial shortages to drive up the price, 38 bucks a barrel now, seen the price at the pump, heading up toward $2 in my State, and I hear it is even higher in other parts of the country. I bet you Memorial Day it will be pushing two and a half, three bucks in places around the country.

The oil companies always tag on a little extra margin so they are doing fine. Their profits are up, but the OPEC countries obviously are getting a bundle of money from us, too.

The only problem with that is that five of the eight major countries in OPEC are in the WTO, and guess what. Rules based trade, the WTO, does not allow countries to get together, producers to get together and collude to restrict supply to drive up the price. Again, this is something I asked the Clinton administration to investigate and file a complaint with the WTO on, and they refused. I have asked the Bush administration to file a complaint on this, and I got back after 6 months a nice letter from the White House counsel saying, no, they would not do that and in their opinion that it was just fine if OPEC colluded to drive up the price of oil in violation of the rules of the World Trade Organization, international law, U.S. law to gouge U.S. consumers. They really just did not think that it merited a complaint or their attention.

So this whole thing that the Bush administration is now going to push after banning the word ''outsourcing,'' after calling people who are calling for new trade negotiations, for new trade rules, for rules that do not hollow out this country, the Bush administration calling people like me and others isolationists, they want to just say there is nothing but what they are doing which is failing or isolationism.

I say there is another way to deal with this within the existing frameworks by pursuing complaints, by protecting American consumers, and try to keep some of those jobs home. I would go further than that. I would say ultimately we are going to have to look at managed trade because you simply cannot, as the President is saying here, asking American workers or the head of Intel to compete with $5,000-a-year engineers overseas, we cannot drive our country down that far and our people down that far, maintain our great stature and our standard of living. We should not be asking them to do that. We should not be thinking about doing that. We should not be allowing our companies to be blackmailed, to give their state-of-the-art technology to countries like China for a pittance. We have got to stand up for our own.

We are essentially in a trade war. This guy wants to be the war President. Well, I tell you what. This war is a war that has some extraordinarily serious implications for the future, not only of the military security of this country, but the economic security of this country, the basis of the wealth of this country, and we are fighting right now with both hands tied behind our back and a blindfold and ear plugs down there at the White House. They do not want to hear about it. They do not want to engage in it. Well, if they do not start doing that soon, we are looking at some very, very dire implications for the future of the American economy.

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

Mr. DEFAZIO. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. Speaker, I just wanted to commend the gentleman for coming to the floor this evening and discussing the issue of these trade groups and the impact on the outsourcing, and I really believe that this is the most important issue facing the country right now.

I just wanted to come and maybe I could ask you a couple of questions relating to what you said. I thought it was very interesting, I read an article a couple of months ago, maybe it was less, in the New York Times, about NAFTA, and I voted against NAFTA. I voted against Fast Track. I think the only one of these I may have voted for was the Jordan one because they had negotiated it so that there were sufficient labor and environmental safeguards, but generally speaking, I have opposed all these major trade agreements exactly because I am worried that we give away the store and we do not provide any protections that arrive at what I call fair trade.

Even the President, if you listen to him, will say that even though he is a free trader, he believes in fair trade in the sense that there is supposed to be some reciprocity, but as you point out, that reciprocity never exists. There is never anytime that I can remember when the President invoked any rule or said that we were going to, as you said, file a WTO complaint or complain about other countries' treatment with regard to trade.

Anyway, this article said that with regard to NAFTA, essentially the

United States lost big time. Mexico, interestingly enough, lost big time because their standard of living and their workers wages actually declined I think during the time that NAFTA. It said the only country that may have gained somewhat was Canada, and I am not an expert on this. They said the reason for that was the Canadian government basically involved themselves in what you might call economic nationalism. In other words, they knew they were getting into this NAFTA agreement, they knew that some jobs were going to be lost, but their system provides that at the government level, if some jobs are lost to the U.S. or to Mexico, that they quickly figure out areas where they can train people and basically take over through national policy the manufacturing or whatever it happens to be, and they provide very generous benefits to people who lose their jobs so they do not lose their pension or their health benefits or whatever else.

So it was sort of their aggressiveness and their willingness to be involved in figuring out where to be aggressive in terms of trade that made them a winner, so to speak.

Again, these are gross generalizations, but I was listening to what you said because it seems like we do not in any way involve ourselves in what you might call economic nationalism. Nobody in the Bush administration is in charge, or even I guess would imagine that they would try to look at the flow of trade in the way to try to take an advantage for American workers or protect American workers.

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And even if you look at the European countries, if somebody loses their job, they usually have something, some wages or some income or some benefits that they can live on. It is almost like we just cry uncle. We say, okay, we are going to sign all these free trade agreements; we do not really care. Let the chips fall where they may. We lose jobs, it does not matter. Everything is outsourced; it does not matter.

It is this complete lack of concern about the American worker, which I think was epitomized with the President's economic report, which the gentleman mentioned several times, where his chief economic adviser, whatever his title is, said that outsourcing was a good thing.

I completely agree with the gentleman. If you take this to its extreme and say we are going to sign more of these free trade agreements, which the President is now negotiating with Central America and there have been several that have passed here in the last couple of years, Singapore, I forget there are so many, and there are more he is negotiating, now Morocco, I think, is ready, if we just say it is okay, laisse faire, or whatever the word is, I just do not see any end to it. There is no way we are going to compete.

I guess my question to the gentleman is, Is it really true a lot of these countries, the gentleman mentioned China, practice economic nationalism? They take advantage of these free trade agreements to either subsidize an industry or capture a market and we do not do anything of that sort? I wanted the gentleman to comment on that.

Mr. DEFAZIO. Well, Mr. Speaker, let us go to Europe, which is a higher cost competitor than the United States with all the social welfare and all the other programs over there. Airbus is now exceeding Boeing in terms of production. Now how can that be? Well, all of their costs of development are subsidized by the European consortium. If you buy an Airbus plane, they will throw in goodies. Buy an Airbus. Well, there are no slots to land at Heathrow. Buy an Airbus, we have a spot to land at Heathrow, prime time. Oh, okay.

So they use the laws and the rules of their own countries and the European Economic Union to further their own critical technology and high technology and high-value manufacturers like Airbus. Boeing is now going to China and Japan. It will not be long before we do not make planes in this country any more. Then what happens?

So they have a much more global view and long-term view of where they want to be positioned in the world economy, and we are just engaging in laisse faire, saying, no, our highest priority is the cheapest production of a good by the cheapest unit of labor somewhere out there, and we do not care what it does to our economy or the people at home because it is good for consumers. But, again, consumers are not able to consume much if they do not have jobs.

Mr. PALLONE. If the gentleman will continue to yield, Mr. Speaker, the reality is when we challenge the President, the gentleman from Oregon, myself, and others, and say, look, your economic report that came out essentially says that that is your policy, let the jobs go wherever they want, we do not care, whatever, this will save American consumers, the President and a lot of Republicans here in the House backed off from that and said, oh, no, we really do not mean that.

I think they realize if they say it the way we just did, which is essentially the way the economic report of the President said it, it is just not acceptable. Nobody buys that. Rationally you cannot sell that, so to speak, to the American people. So now they are backing off and saying we really did not mean outsourcing was good, but they have not changed their policy in any way. They are still trying to negotiate all these free trade agreements without any safeguards.

Mr. DEFAZIO. Right. They want to keep doing, in fact, more of the same thing, but they want to pretend they are doing something else. And then they come up with all sorts of words. Like I said, they banned the word outsourcing at the White House. Mr. Mankiw was taken to the woodshed and beaten severely for having been so truthful about what they are doing. He is an academic; and he thought, well, I should put up the theory to show why it is what we are doing what we are doing. So they want to keep exporting America and our jobs and outsourcing, but they are going to call it something else.

I think it is particularly bizarre that their new manufacturing czar, who it took 6 months to find, is over in China and unavailable for comment because he is building a plant over there. That kind of goes to the issue too.

Mr. PALLONE. The amazing thing, too, is we saw a document yesterday, and I do not remember the name of it, but I will kind of summarize it, that basically showed that as far as the economy was concerned the stock market continues to go up, there is still a demand in the United States for manufactured goods, and so far the consumer spending is out there, people willing to spend money and buy things; but the big flaw in this economy and the reason why we are not doing that well economically is because of the loss of jobs.

So if we just managed to somehow practice, I call it economic nationalism, I do not know if that is the word, and say, okay, look, we are just not going to let all these jobs go overseas, we are going to be careful about it, we are going to demand that American companies hire people here, we may pass certain laws that make it more difficult for them to send jobs or production overseas, that probably the economy would be in pretty good shape. The jobs would be there.

It is not like we are a poor country. It is just that we are shipping everything overseas without any regard whatsoever for our own public.

Mr. DEFAZIO. In fact, the Bush administration said that the huge growth in the trade deficit, the $43.1 billion last month, we are borrowing $43.1 billion from overseas to finance our purchase of goods made overseas, putting people out of work here was showing that our economy was reviving. Well, wait a minute.

Mr. PALLONE. That is amazing.

Mr. DEFAZIO. What about jobs here? What about production here? They are happy with the way this is going.

Mr. PALLONE. The gentleman is exactly right. I have actually had discussions with Republican colleagues, and they have said to me, well, you act as if the economy is not doing well; and they point to all these indicators like the stock market and productivity and all these different things. And I just kind of stare at them and say, well, what does that matter if people do not have work, if people do not have jobs, if people do not have income? Ultimately, we will suffer, because if we do not have jobs, we will not be able to buy anything.

What was it Henry Ford said? I am not going to be able to build cars unless people can afford to buy them. It just seems like you cannot convince

the President or the Republican leadership that somehow the job problem is a problem. They do not buy into the idea that it is a problem, yet they will not admit that their policies are what they are. They just continue to say, well, this will solve itself somehow. This will come around and the jobs will be created.

The President keeps saying, well, we are going to create more jobs next month, and then the February report came out and said there were no new private sector jobs net resulting. So I am just sort of baffled. Because I go home and this is what people talk about to me, they talk about how they had an IT job and it went overseas. I talked to some physicians the other day who told me that now their x-rays are shipped overseas, and they have them back the next day.

The public just sees this gradual creeping up of every type of employment being lost overseas, and we just keep passing these free trade agreements. It is just very frustrating to me because I think that this issue has to be addressed. And it does not seem like it is that hard to address it, yet we do not see any effort on the part of the Bush administration to do anything about it.

Mr. DEFAZIO. Mr. Speaker, if I could, we are politicians talking. I was doing a round of town hall meetings in my district, and this is a pretty short letter so I would like to read it. Rayburn M. South, Oakland, Oregon, rural town in Oregon, and he wrote what he considered to be the State of the Union.

He said, I could not afford a new car. He is an older gentleman, does not have a large income, $18,000 to $20,000. I bought a used car and drove it home. Looking it over, it was made in Mexico, a Nissan. I had to buy a jack so I could service my car. Went to Sears, bought a Craftsman jack. Came home, unpacked it. Made in China. Then I needed a pair of shoes. Came home, looked at the bottom of the shoe. Made in China. Ran out of batteries for my light. Came home, took the paper off the batteries, maximum alkaline batteries. Made in China. Christmas came. Someone gave me a shirt. Cutting the tape out, one read ''Made in China.'' Then my TV went on the blink. Looked around at TVs. Bought a good old RCA. I thought it was a good old American brand. Brought it home, unpacked it. Made in Mexico. Then I called my cousin in North Carolina. She was laid off. Her job went to Mexico. I called my other cousin in North Carolina. She is working 2 days a week. She does not know where her job is going. Seems like the people in China and Mexico are doing pretty good. We have a Congress, Senate, and President. Surely there is something you can do to help our people. Something stinks. Sincerely, Rayburn M. South, Oakland, Oregon.

He speaks with more wisdom than most of our colleagues here in Congress who are ignoring the reality of this problem and just saying, oh, just hang in there, something will happen. Well, the something that is happening is really pretty bad.

As I think I said earlier, they told us if only the value of the dollar drops, our goods will become cheaper, and we will sell more abroad. The value of the dollar is down 35 percent, and yet the amount of goods that we imported is up over a year ago by $5 billion, a deficit in goods. So how far does the dollar have to drop and what are the implications for the U.S. consumers and our standing in the world if the dollar gets into something like Argentina?

I spoke a couple of years ago to a couple of economists, and I said I am pretty worried. I look at Argentina, and I said, I think that used to be one of the wealthiest countries in this hemisphere. They have an educated populace and a lot of stuff going for them, and look. I said their economic collapse is extraordinary. I said, but when I look at where we are, their deficit in trade was less than ours as a percent of GDP and their foreign debt was obviously much, much lower than ours. We owe over $2 trillion around the world because of these trade policies. I said, I think maybe we could become Argentina.

I said to these economists, I think this could happen in 5 or 8 years. And they sort of leaned over to one another and whispered; and then one of them said, no, no, no, it will take at least 10. But the response was not, no, we are not at risk of becoming Argentina; no, we are not hollowing out our wealth, our manufacturing, our future; no, we are not exporting new technology jobs; no, everything is going to work out. The response was, well, it will take a little longer than that to totally destroy our standing in the world and our economy.

That is a pretty alarming statement; but they said, oh, yeah, that is kind of the way things are going.

Mr. PALLONE. The other thing, Mr. Speaker, the gentleman has just pointed out, which is important, is that we do not have to accept what is happening. In other words, some people have said, okay, we have already signed some of these free trade agreements, they are in effect, the WTO is in effect, the U.S. is in it. But the bottom line, as the gentleman pointed out, is there is a lot we can do.

First of all, we can sort of review all these agreements. I think it was JOHN KERRY who said that once elected President that he would spend like the first 6 months reviewing all the existing free trade agreements to see to what extent they are harming the United States. And as the gentleman pointed out, the U.S. can file complaints with the WTO, can investigate how these other companies subsidize things and dump them in the United States. There are a lot of things we can do that this administration is not doing.

And most important, stop signing new free trade agreements with other countries. Because I guess the majority of countries still do not have free trade agreements with the United States, and so simply not continue the policy until we review it and see how we can protect ourselves.

Mr. DEFAZIO. Oh, Mr. Speaker, my colleague just used a bad word. Protect. We should protect the American standard of living? We do not want to become protectionists. That is what this administration would say.

I agree with my colleague. There is something at risk here. I think we are in an economic war, as I said earlier. I think we need to protect ourselves and maybe fight back. And this administration is choosing not to do that because there are a few people here in this country who are accumulating just fabulous wealth by outsourcing, by moving jobs and production overseas, producing goods much more cheaply. They are selling them at roughly the same price back here in the United States, but the profit margin is a lot larger.

I noticed a number of years ago when we could still buy shirts made in America. I think that is probably something we cannot do any more. But I used to go through the labels looking for them, and 5 or 8 years ago I could still find some. I would notice they were right on the rack next to shirts made in Bangladesh or somewhere else, and they were all the same price.

The Bangladesh shirt did not sell for 15 cents. It sold for $25. The U.S.-made shirt sold for $25. The person who made the U.S. shirt made enough money to raise a family, buy a home, be a productive citizen in our economy and live a good life. The Bangladeshi was earning less than a dollar a day, very often child labor or whatever else, but they sold for the same price.

That is what is going on now, except now there is this new spin where the Bush people say they want a level playing field. And if their level playing field does not bring other people up, which they are indicating they have no intention of forcing, then what they are saying is they are expecting Americans to come down, as the CEO of Intel said. If people want to compete, they have to look at competing with engineers from Russia who earn $5,000 a year.

Mr. PALLONE. It is just amazing. I was at a clothing store for kids with my wife buying some things for the kids, and I searched throughout and I think I counted 50 countries that were on the labels, and the only thing I could find that was made in the United States were some socks. And then another day I was at Cracker Barrel on the way back to New Jersey on 95, and I had to wait in line, so I just looked around to see if there was anything made in the U.S. I found one shawl, or something like that, that was made in North Carolina. A cotton shawl. That was the only thing in the place.

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As the gentleman said, they were certainly no more expensive than the

other things in the store. They looked like they were on the way out. Once they were sold, I felt like I was looking at the last item. My own town of Long Branch was a major textile center. My grandmothers on both sides both worked in textile factories and raised the kids that way.

The Bush administration does not do anything to try to promote American manufacturing or American jobs. They basically follow this policy that it is okay for everything to flow out of the country. It has got to stop. Maybe because they have refused to acknowledge that is their policy is something, but unless they actually change their policy in day-to-day operations, it is not going to make any difference.

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman. The implications are dire, not only for the standard of living of Americans, our productive capacity, our future standing in the world as a great power, but just one last item. During the war with Iraq, we used a lot of cruise missiles. There is a critical component of the cruise missile made in Europe, either Sweden or Switzerland make that component, and they refused to sell us any because they did not support the war.

What is going to happen in 10 years when China is looking at invading Taiwan or Mongolia for its resources, and the United States has to go to the Chinese and say can we buy some weapons from you because we think next year we are going to have to defend ourselves from you.

I do not understand the hawks around here who are blithely allowing this hollowing out of our wealth and capacity to happen. I know it is enriching the contributor class in this country, which has a lot of clout at the White House and in Congress; but it is very disturbing to me. There are so many reasons why Members should be appalled by the trade policy. The policy at the White House is to change the names, not the policy.

Mr. Speaker, I thank the gentleman for participating on this, and for all the time he spends on the floor on this and on so many other issues.

## REVOLVING DOORS

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes.

Mr. PALLONE. Mr. Speaker, I do not plan to use the entire hour, but I did want to come to the floor tonight to discuss a troubling issue that seems to be becoming more and more rampant within the Bush administration and within the back rooms of the Congressional Republican Caucus, and that is the revolving door of powerful lobbyists turning in their corporate lobbying cards in order to undermine the programs they are supposed to strengthen within the administration, a revolving door where Republican congressional staffers leave Capitol Hill, but continue to advertise their relationship with their former Republican boss, relationships they claim can get their clients anything they want with Republican legislation.

Mr. Speaker, before I get into that discussion, I want to talk about another revolving door, this one at the White House and Camp David. Today the Associated Press reports that President Bush opened the White House and Camp David to dozens of overnight guests last year, including at least nine of his biggest campaign fund-raisers. According to the Associated Press, more than 270 people have stayed at the White House since President Bush took office with at least the same number spending the night at Camp David. The President appears to be opening the White House and Camp David to the highest bidders.

Members may remember the controversy surrounding President Clinton and how he allowed guests to spend the night in the Lincoln bedroom. Republicans came to the floor and were aghast at that. At the time, candidate Bush also expressed his outrage over what he said was happening at the White House. In fact, during a debate with Al Gore in 2000, then-candidate Bush stated, ''I believe they have moved that sign 'The buck stops here' from the Oval Office desk to 'The buck stops here' on the Lincoln bedroom, and that is not good for the country.''

Today, the Associated Press article clearly shows that President Bush has changed his tune. The story lists nine of Bush's biggest fund-raisers either sleeping over at the White House or at Camp David.

First, there is Mercer Reynolds, an Ohio financier, who is leading Bush's campaign fund-raising effort. He stayed at both the White House and Camp David. Then there was Brad Freeman, a venture capitalist who is leading Bush's California fund-raising effort, and he has raised at least $200,000 for President Bush's re-election campaign. Freeman also stayed overnight at the White House.

Then there is William DeWitt, who also raised at least $200,000, and who also spent the night at the White House. The list continues. I do not want to take up my whole hour, so I am not going to go over the whole list.

Over the last 3 years, the President's credibility has been tested from creating jobs to the issue of whether or not Iraq had weapons of mass destruction; and now we learn that President Bush, who sharply criticized President Clinton's actions in allowing people to stay overnight in the Lincoln bedroom, is doing exactly the same thing. Nine of his largest contributors have spent the night at the White House or Camp David. As a candidate, Bush criticized these same actions.

Mr. Speaker, the door at both Camp David and the White House continues revolving with President Bush's campaign contributors coming in and out. And as President Bush said, the buck does not stop at his desk. The buck stops with these campaign contributors as the President opens the White House and Camp David to the highest bidder.

Mr. Speaker, since President Bush entered the White House more than 3 years ago, the buck has also been passed to administrators who have acted in the best interests of the corporate interest rather than the best interest of the American people. On Valentine's Day, the gentleman from California (Mr. GEORGE MILLER), who is the co-chair of the Democratic Policy Committee, released a 21-page report that was titled ''How the Republicans Have Turn the Government Over to Special Interests.'' In the report of the gentleman from California (Mr. GEORGE MILLER) he stated, ''Pick almost any issue of public concern, water quality, food safety, defense contracts, pension security or health insurance, and you will find that at every level of the Bush administration, powerful roles and key agencies have been turned over to industry advocates who in many cases have long opposed the very programs they are now charged with implementing.''

Imagine that, the Bush administration has appointed former industry officials to run national programs that they oppose. Let me give a few examples from the report of the gentleman from California (Mr. GEORGE MILLER).

The first one I would like to mention is when President Bush appointed David Lauriski, the Assistant Secretary for Mine Health and Safety at the Department of Labor. Lauriski's background was 30 years in the coal industry. No wonder last June Lauriski's department issued controversial industry-friendly regulations that would cut down the amount of coal dust testing in mines. In addition to promoting industry-friendly regulations at the expense of miners' health, the report cites a whistle-blower in Lauriski's department who alleged in a complaint that Lauriski awarded no-bid contracts to former business associates and friends and that he pressured investigators to approve an inaccurate report on the devastating coal slurry spill in Kentucky. This is the guy that President Bush appointed to supposedly ensure that miners working in coal mines around our Nation are safe.

Another example from the report of the gentleman from California (Mr. GEORGE MILLER) is when President Bush appointed William Hansen as the Deputy Secretary of Education where he was in charge of, among other things, overseeing the department's direct college loan program which competes with private lenders. You ask where was William Hansen before he joined the Bush administration. Well, Hansen served as CEO of a trade group representing private lenders, and he founded a PAC that gave contributions to Federal candidates who favored private lenders over the department's direct loan program.

Even worse, Hansen testified before Congress against the direct loan program; and yet somehow President Bush determined that he was the perfect person to run the direct loan program. Based on Hansen's past, we should not be surprised that on his watch the Education Department cut off marketing for the direct loan program and stopped competing for new schools to offer the direct loans. The Bush administration even proposed selling the direct loan portfolio to private lenders.

After weakening the direct loan program, Hansen left the Bush administration last July to become the managing director of education services for the Affiliated Computer Services, an information technology business that specializes in outsourcing solutions to commercial and government clients. Four months later, that company was awarded a $2 billion contract from the Department of Education.

Mr. Speaker, these are just two examples, not even a half page, in this 21-page report that the gentleman from California (Mr. GEORGE MILLER) put together. There are many other examples that probably will be brought to the floor or discussed further on other nights.

Within the Bush administration, it is clear that a revolving door has been created in which corporate leaders come in and work for the administration for a period of time, weakening popular laws that benefit the American people.

Unfortunately, this revolving door does not only exist within the Bush administration. It also exists here within the Republican majority in the House of Representatives, and it should stop. The revolving door within the Republican majority is becoming so widespread if you picked up the newspapers the last week or so, you would think that was the only thing going on up here on Capitol Hill.

There was a front page story in last Thursday's Roll Call, which is the Capitol Hill newspaper, one of the Capitol Hill newspapers. The first headline in last Thursday's Roll Call read, ''Revolving Door Snags Hill Aide.'' There is a subheading, ''Taylor Staffer Negotiated Lobby Contract While on House Payroll.''

Roll Call reports that Robert France, the former top aide to the gentleman from North Carolina (Mr. TAYLOR), negotiated a $60,000 lobbying deal on House time. The negotiations came 2 months after the aide was able to secure a $750,000 appropriations projected earmarked to his boss.

This revolving door, my question is, Where does it end? Ken Gross, an ethics and campaign finance lawyer told Roll Call, ''People are certainly able to seek jobs, cashing in on their background and experience on the Hill.'' Gross continued to say, ''If there is evidence of this person working as a staffer on legislation that would especially benefit this company while he is talking to them about going to work for them, that would be troubling.'' Yet that is what seems to go on.

Going back to the front page of last Thursday's Roll Call, there is another headline that says, ''McCain Seeks Files in Abramoff Probe.'' This article surrounds actions first discovered by The Washington Post several weeks ago in which the paper discovered Jack Abramoff, a White House lobbyist, and Michael Scanlon, a former aide to the gentleman from Texas (Mr. DELAY), persuading several Indian tribes to pay their firms more than $45 million over the past 3 years. Senator MCCAIN is now investigating these payments.

The Scanlon-Abramoff investigation is a perfect example of how Scanlon used his relationship with his former boss, the gentleman from Texas (Mr. DELAY), the majority leader, to influence legislation. When Republican Leader DELAY was asked about how both men promote their ties to him, he stated, ''I have no idea how their operation is or what it is.'' DELAY continued, ''What I can tell you is that if anybody is trading on my name to get clients or to make money, that is wrong and they should stop it immediately.''

Mr. Speaker, that is an interesting statement. I wish it were true. However, we have to consider that the gentleman from Texas (Mr. DELAY) has played an instrumental role in the K Street Project, a database that tracks the party affiliation, Hill experience, and political giving of every single lobbyist here in Washington. The K Street Project was featured in a July 2003 edition of the Washington Monthly, and the article stated back in 1995 that the gentleman from Texas (Mr. DELAY) compiled a list of the 400 political action committees, along with the amounts and percentages of money that had recently been given to each party. Lobbyists were then invited into the office of the gentleman from Texas (Mr. DELAY) and shown their place in friendly or unfriendly columns.

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A veteran steel lobbyist told Washington Monthly that the House Republican leadership ''assembled several large company CEOs and made it clear to them that they were expected to purge their Washington offices of Democrats and replace them with Republicans.'' The House Republican leaders also demanded more campaign money and help for the upcoming election. According to the article, the meeting descended into a shouting match and the CEOs, most of them Republicans, stormed out of the meeting.

The gentleman from Texas (Mr. DELAY) essentially is telling lobbying firms around Washington whom they can and cannot hire. He also has worked hard to place former aides in key lobbying and trade positions. The practice is so well known that these former aides are known as ''graduates of the DeLay school.'' And yet, with a straight face, the majority leader tells reporters, ''If anybody is trading on my name to get clients or make money, that is wrong and they should stop immediately.'' Well, it does not seem to be very believable.

Tonight, as I said, I have been talking about a revolving door, a door that swings for the Republican corporate interests but shuts in front of everyday Americans. Whether it be the President opening rooms in the White House and Camp David to the highest bidder, or the administration hiring many of its key officials to advocate on behalf of policies they have opposed in the past, or the questionable actions of former Republican staffers who are functioning in a climate created by the majority leader, it is just unacceptable.

I know that the media has been paying a lot of attention to this, and I think it is important that we bring it out. I do not want people to think that this is always the case, but it certainly is a strong indication that the President and the Republican leadership in the Congress have been essentially involved with this revolving door for some time, and let us just hope it does not get any worse.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. BERKLEY (at the request of Ms. PELOSI) for today from 3:00 p.m. and the balance of the week on account of a funeral in the district.

Mr. CARDOZA (at the request of Ms. PELOSI) for today after 4:15 p.m. and the balance of the week on account of medical reasons.

Ms. HARMAN (at the request of Ms. PELOSI) for today after 5:00 p.m. on account of official business.

Mr. ORTIZ (at the request of Ms. PELOSI) for today before noon on account of personal business.

Mr. REYES (at the request of Ms. PELOSI) for March 9 and today before 2:00 p.m. on account of personal reasons.

Mr. WICKER (at the request of Mr. DELAY) for today and the balance of the week on account of the death of his mother.

## 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. BROWN of Ohio) to revise and extend their remarks and include extraneous material:)

Mr. UDALL of New Mexico, for 5 minutes, today.

Mr. BOYD, for 5 minutes, today.

Mr. STENHOLM, for 5 minutes, today.

Mr. CASE, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. ALLEN, for 5 minutes, today.

Mr. MATHESON, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. POMEROY, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

(The following Members (at the request of Mr. PEARCE) to revise and extend their remarks and include extraneous material:)

Ms. HARRIS, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, today.

Mr. MARIO DIAZ-BALART of Florida, for 5 minutes, today.

Ms. GRANGER, for 5 minutes, March 16.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. STRICKLAND, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

## ADJOURNMENT

Mr. PALLONE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 32 minutes p.m.), the House adjourned until tomorrow, Thursday, March 11, 2004, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7126. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747–400 and -400F Series Airplanes [Docket No. 2003–NM–140–AD; Amendment 39–13373; AD 2003–24–04] (RIN: 2120–AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7127. A letter from the Porgram Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 727 Series Airplanes Modified in Accordance With Supplemental Type Certification SA1444SO, SA1509SO, SA1543SO, or SA1896SO [Docket No. 97–NM–235–AD; Amendment 39–12861; AD 2002–16–22] (RIN: 2120–AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7128. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model DHC–8–102, -103, -106, -201, -202 -301, -311, and -315 Airplanes [Docket No. 2002–NM–11–AD; Amendment 39–13459; AD 2004–03–15] (RIN: 2120–AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7129. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Certification of Airports [Docket No. FAA–2000–7479; Amendment No. 121–304, 135–94] (RIN: 2120–AG96) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7130. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737–100, -200, -200C, -300, -400, and -500 Series Airplanes [Docket No. 2001–NM–156–AD; Amendment 39–13478; AD 2004–03–34] (RIN: 2120–AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7131. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Manokotak, AK [Docket No. FAA–2003–16083; Airspace Docket No. 03–AAl-19] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7132. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Greenfield, IA. [Docket No. FAA–2003–16504; Airspace Docket No. 03–ACE–88] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7133. A letter from the Progrm Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 727 Series Airplanes Modified in Accordance With Supplemental Type Certificate SA1368SO, SA1797SO, or SA1798SO [Docket No. 97–NM–233–AD; Amendment 39–12859; AD 2002–16–20] (RIN: 2120–AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7134. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Common Mistakes on Tax Returns [Notice 2004–13] received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7135. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Frivolous Arguments to Avoid [Notice 2004–22] received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7136. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Citizens or Residents of the United States Living Abroad (Rev. Rul. 2004–28) received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7137. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—1986 Code (Rev. Rul. 2004–27) received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7138. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—1986 Code (Rev. Rul. 2004–29) received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7139. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Income from Sources within the United States (Rev. Rul. 2004–30) received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7140. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—1986 Code (Rev. Rul. 2004–34) received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

## 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:

Mrs. MYRICK: Committee on Rules. House Resolution 554. Resolution providing for consideration of the bill (H.R. 3717) to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language (Rept. 108–436). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. KIRK (for himself, Mr. BASS, Mr. CASTLE, Mr. EHLERS, Mr. FEENEY, Mr. FRANKS of Arizona, Mr. GIBBONS, Mr. GILLMOR, Mr. HOUGHTON, Mrs. KELLY, Mrs. MYRICK, Mr. PLATTS, Mr. RYAN of Wisconsin, Mr. SHAYS, Mr. UPTON, Mrs. BIGGERT, and Mrs. JOHNSON of Connecticut):

H.R. 3925. A bill to amend the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985 to reform Federal budget procedures, provide for budget discipline, accurately account for Government spending, and for other purposes; to the Committee on the Budget, and in addition to the Committees on Rules, Ways and Means, and 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. BILIRAKIS (for himself, Mr. BROWN of Ohio, Mr. BARTON of Texas, Mr. DINGELL, Mr. UPTON, Mr. WAXMAN, Mr. BURR, and Mr. PALLONE):

H.R. 3926. A bill to amend the Public Health Service Act to promote organ donation, and for other purposes; to the Committee on Energy and Commerce.

By Mr. EMANUEL (for himself, Mr. FRANK of Massachusetts, Mr. WEINER, Mr. DEUTSCH, Mr. WAXMAN, Mr. LANTOS, Mr. ENGEL, Mr. ACKERMAN, Mr. ISRAEL, Mr. BERMAN, Mrs. MCCARTHY of New York, Mr. MICHAUD, Mr. NADLER, Ms. SCHAKOWSKY, Mr. CARDIN, Mrs. LOWEY, and Mr. WEXLER):

H.R. 3927. A bill to prohibit discrimination in the provision of life insurance on the basis of a person's previous lawful travel experiences; to the Committee on Financial Services, 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. FALEOMAVAEGA:

H.R. 3928. A bill to amend title 10, United States Code, to allow nationals of the United States to attend military service academies and receive Reserve Officers' Training Corps (ROTC) scholarships on the condition that the individual naturalize before graduation; to the Committee on Armed Services.

By Mr. GILLMOR (for himself and Mr. POMEROY):

H.R. 3929. A bill to establish a national sex offender registration database, and for other purposes; to the Committee on the Judiciary.

By Ms. HOOLEY of Oregon:

H.R. 3930. A bill to amend the Richard B. Russell National School Lunch Act to improve the summer food service program for children; to the Committee on Education and the Workforce.

By Mr. KING of New York:

H.R. 3931. A bill to provide for certain tunnel life safety and rehabilitation projects for Amtrak; to the Committee on Transportation and Infrastructure.

By Mr. NUNES:

H.R. 3932. A bill to amend Public Law 99-338 to authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project; to the Committee on Resources.

By Mr. RAMSTAD (for himself and Mr. CRANE):

H.R. 3933. A bill to repeal section 754 of the Tariff Act of 1930; to the Committee on Ways and Means.

By Mr. WEINER (for himself, Mr. FERGUSON, Mr. WEXLER, Ms. BERKLEY, Ms. JACKSON-LEE of Texas, Mr. NADLER, Mr. DEUTSCH, and Mr. ISRAEL):

H.R. 3934. A bill to halt the issuance of visas to citizens of Saudi Arabia until the President certifies that the Kingdom of Saudi Arabia does not discriminate in the issuance of visas on the basis of religious affiliation or heritage; to the Committee on the Judiciary.

By Mr. WU:

H.R. 3935. A bill to amend title XVIII of the Social Security Act to provide geographic equity in fee-for-service reimbursement for providers under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COOPER (for himself and Mr. CUNNINGHAM):

H. Con. Res. 380. Concurrent resolution recognizing the benefits and importance of school-based music education; to the Committee on Education and the Workforce.

By Mr. RYUN of Kansas (for himself, Mr. ENGEL, and Mr. WALSH):

H. Con. Res. 381. Concurrent resolution supporting the goals and ideals of Tinnitus Awareness Week; to the Committee on Energy and Commerce.

By Mr. LEACH:

H. Res. 553. A resolution electing Members to a certain standing committee of the House of Representatives; considered and agreed to.

By Mr. MEEKS of New York:

H. Res. 555. A resolution expressing the heartfelt sympathy of the House of Representatives for the victims of the earthquake on February 24, 2004, near Al Hoceima, Morocco, and for other purposes; to the Committee on International Relations.

By Mr. MORAN of Virginia (for himself, Mrs. CUBIN, Mr. TOM DAVIS of Virginia, Mr. DICKS, Ms. ESHOO, Mr. KIND, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. LOFGREN, Mr. REGULA, Mr. SMITH of Michigan, Mr. YOUNG of Florida, and Mr. BOEHLERT):

H. Res. 556. A resolution congratulating the United States Geological Survey on its 125th Anniversary; to the Committee on Resources.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. TOOMEY.

H.R. 31: Mr. SANDLIN.

H.R. 58: Mr. STENHOLM.

H.R. 97: Mr. GRIJALVA, Mr. NEY, Mr. WILSON of South Carolina, Mr. DAVIS of Tennessee, and Mr. BACA.

H.R. 236: Mr. MICHAUD.

H.R. 369: Ms. LINDA T. SANCHEZ of California.

H.R. 463: Mr. SNYDER and Mr. RANGEL.

H.R. 676: Mr. ABERCROMBIE.

H.R. 677: Mr. MCGOVERN and Mr. WOLF.

H.R. 687: Mr. MURPHY.

H.R. 732: Mr. KLINE, Mr. WILSON of South Carolina, Mr. GORDON, Mr. KILDEE, Mr. ISRAEL, Mr. STUPAK, Mrs. MCCARTHY of New York, and Mr. KENNEDY of Minnesota.

H.R. 792: Mr. ROHRABACHER, Mr. TURNER of Ohio, and Mr. FILNER.

H.R. 857: Mr. SCOTT of Georgia.

H.R. 871: Mr. DEMINT.

H.R. 1078: Mr. DOYLE.

H.R. 1097: Mr. BERMAN and Mrs. MCCARTHY of New York.

H.R. 1105: Ms. MAJETTE.

H.R. 1214: Mr. DAVIS of Illinois, Mr. GEORGE MILLER of California, Mr. WU, Mr. HYDE, Mr. SIMMONS, and Mrs. CAPITO.

H.R. 1228: Mrs. CHRISTENSEN and Mr. STARK.

H.R. 1231: Mr. VITTER.

H.R. 1241: Mr. SHERMAN.

H.R. 1258: Mr. ISRAEL and Mr. FILNER.

H.R. 1534: Mr. BACA.

H.R. 1567: Mr. GINGREY.

H.R. 1608: Mr. GOSS and Mr. MCGOVERN.

H.R. 1613: Mrs. CHRISTENSEN, Mr. MCINTYRE and Ms. MCCOLLUM.

H.R. 1684: Ms. CORRINE BROWN of Florida, Mr. WEINER, and Mr. CUMMINGS.

H.R. 1749: Mr. LEACH.

H.R. 1767: Mr. HOEKSTRA.

H.R. 1769: Mr. MEEHAN and Mr. DAVIS of Florida.

H.R. 1861: Mr. PAYNE.

H.R. 1930: Mr. TIERNEY and Mr. GUTIERREZ.

H.R. 2037: Mr. MORAN of Kansas.

H.R. 2068: Mr. NADLER, Mr. LEACH, Ms. WATERS, and Mr. FILNER.

H.R. 2069: Mr. LEACH.

H.R. 2239: Mr. LEVIN.

H.R. 2339: Mr. FERGUSON.

H.R. 2402: Mr. FROST.

H.R. 2475: Ms. HARRIS.

H.R. 2482: Mr. BAIRD.

H.R. 2490: Ms. ROYBAL-ALLARD.

H.R. 2824: Ms. NORTON, Mrs. CAPPS, and Mr. BURGESS.

H.R. 2987: Mr. NADLER, Mr. ABERCROMBIE, and Mr. HINCHEY.

H.R. 2905: Mr. JENKINS, Ms. NORTON, Mr. SMITH of Washington, Mr. MORAN of Kansas, and Mr. HOSTETTLER.

H.R. 2926: Ms. SCHAKOWSKY.

H.R. 2932: Mr. FARR.

H.R. 2949: Mr. BAIRD.

H.R. 2971: Mr. OBEY.

H.R. 3103: Mr. WAMP.

H.R. 3125: Mr. JENKINS and Mr. STENHOLM.

H.R. 3142: Mr. NEAL of Massachusetts, Ms. SCHAKOWSKY, Mr. DOGGETT, and Mr. ISSA.

H.R. 3246: Mr. CANTOR.

H.R. 3257: Mr. RAHALL.

H.R. 3277: Ms. LEE.

H.R. 3295 Mrs. JOHNSON of Connecticut.

H.R. 3337: Mr. KIND.

H.R. 3377: Ms. NORTON, Ms. ROYBAL-ALLARD, and Mrs. CHRISTENSEN.

H.R. 3386: Mr. DAVIS of Illinois.

H.R. 3403: Mr. DEAL of Georgia and Mr. BURR.

H.R. 3416: Ms. ROYBAL-ALLARD.

H.R. 3441: Mr. BALLANCE, Mr. BOEHNER, Ms. WOOLSEY, Ms. CARSON of Indiana, Mr. BURR, Mr. TAYLOR of Mississippi, Mr. LUCAS of Kentucky, Mr. MCINTYRE, Mr. SNYDER, and Ms. LEE.

H.R. 3444: Mr. MCGOVERN.

H.R. 3474: Mr. SCHIFF, Mr. STENHOLM, Mr. HINOJOSA, and Mr. BOUCHER.

H.R. 3480: Mr. WOLF.

H.R. 3482: Mr. GREEN of Wisconsin.

H.R. 3507: Mr. MCNULTY.

H.R. 3528: Ms. LEE.

H.R. 3572: Mr. LEWIS of Georgia.

H.R. 3574: Mr. MATHESON, Ms. LORETTA SANCHEZ of California, Mr. GARY G. MILLER of California, and Mr. MORAN of Virginia.

H.R. 3599: Ms. MCCOLLUM.

H.R. 3643: Mr. FROST and Mr. WOLF.

H.R. 3664: Mrs. JO ANN DAVIS of Virginia.

H.R. 3668: Mr. STENHOLM.

H.R. 3673: Mr. CARDOZA and Mr. ANDREWS.

H.R. 3684: Ms. SCHAKOWSKY and Mr. SABO.

H.R. 3716: Mr. TURNER of Texas, Mr. BALLENGER, and Mr. BERRY.

H.R. 3719: Ms. CARSON of Indiana, Mr. RANGEL, Mr. CLAY, Mr. HOLT, Ms. LINDA T. SANCHEZ of California, and Mr. HOEFFEL.

H.R. 3745: Mr. SOUDER.

H.R. 3755: Mr. EMANUEL, Mr. MCCOTTER, and Mr. DELAHUNT.

H.R. 3763: Mr. ADERHOLT and Mr. VISCLOSKY.

H.R. 3764: Mr. KIND, Mr. DAVIS of Illinois, Mr. KUCINICH, Ms. WATSON, Mr. LANTOS, and Mrs. CAPITO.

H.R. 3773: Mr. RAMSTAD, Mr. AKIN, Mr. FOSSELLA, Mrs. MUSGRAVE, Mr. SESSIONS, Mr. CANTOR, Mr. FLAKE, and Mr. VITTER.

H.R. 3781: Mr. NUNES.

H.R. 3793: Mr. KING of New York.

H.R. 3799: Mr. MILLER of Florida, Mr. WAMP, and Mrs. JO ANN DAVIS of Virginia.

H.R. 3800: Mr. ISAKSON, Mr. UPTON, Mr. BROWN of South Carolina, Mr. SMITH of Texas, and Mr. BRADY of Texas.

H.R. 3846: Mr. WALDEN of Oregon.

H.R. 3881: Mr. JEFFERSON, Mr. SABO, Mr. MOORE, and Mr. OLVER.

H.R. 3901: Mr. AKIN, Mr. CHOCOLA, Mr. UPTON, and Mr. HASTINGS of Washington.

H.R. 3913: Mr. UPTON.

H.R. 3917: Mr. ACKERMAN, Mr. BISHOP of New York, Mr. BOEHLERT, Mr. CROWLEY, Mr. ENGEL, Mr. FOSSELLA, Mr. HINCHEY, Mr. HOUGHTON, Mrs. KELLY, Mr. KING of New York, Mrs. LOWEY, Mrs. MALONEY, Mrs. MCCARTHY of New York, Mr. MCHUGH, Mr. MCNULTY, Mr. MEEKS of New York, Mr. NADLER, Mr. OWENS, Mr. QUINN, Mr. RANGEL, Mr. REYNOLDS, Mr. SERRANO, Ms. SLAUGHTER, Mr. SWEENEY, Mr. TOWNS, Ms. VELÁZQUEZ, Mr. WALSH, and Mr. WEINER.

H.R. 3919: Ms. JACKSON-LEE of Texas, Mr. VAN HOLLEN, Mr. FRANK of Massachusetts, Mr. SANDERS, and Mr. DAVIS of Illinois.

H.R. 3921: Ms. BERKLEY.

H. Con. Res. 70: Mr. RUSH.

H. Con. Res. 98: Mr. NUNES.

H. Con. Res. 247: Mrs. MALONEY.

H. Con. Res. 285: Mr. CASE.

H. Con. Res. 314: Mr. LEWIS of Georgia.

H. Con. Res. 332: Mrs. EMERSON, Mr. CHOCOLA, and Mr. FOSSELLA.

H. Con. Res. 338: Mr. LANGEVIN.

H. Con. Res. 352: Mr. VAN HOLLEN and Mr. TIERNEY.

H. Con. Res. 356: Mr. STUPAK and Mr. EVANS.

H. Con. Res. 365: Mr. WILSON of South Carolina.

H. Con. Res. 366: Mr. ACKERMAN, Mr. ABERCROMBIE, Mr. LEWIS of Georgia, Mr. DEFAZIO, Mr. MCHUGH, Mr. VISCLOSKY, Mr. OBEY, Mr. BECERRA, and Mr. CONYERS.

H. Con. Res. 367: Mr. FLAKE.

H. Con. Res. 371: Mr. GREEN of Texas.

H. Res. 402: Mr. BURR.

H. Res. 446: Mr. GOODLATTE.

H. Res. 524: Mr. INSLEE and Mr. RANGEL.

H. Res. 540: Mr. SMITH of New Jersey.

H. Res. 542: Mr. MARKEY and Mr. GUTIERREZ.

United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, WEDNESDAY, MARCH 10, 2004 No. 30

# Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray:

O God of field and forest, who made the hill and stream, thank You for creating in us a wonder for sky and brook and stone. Thank You for the glorious inspiration of the brilliant dawn and sunsets fading from blue to gold. Forgive us when we let our priorities compete with our loyalty to You. Open our minds to the counsel of eternal wisdom and breathe into our souls Your peace. Lord, increase our hunger and thirst for right living and lead us nearer to You. Bless our Senators. Help them to honor You both in spirit and deeds. We pray this in Your holy name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

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

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, March 10, 2004.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,
*President pro tempore.*

Mr. BROWNBACK thereupon assumed the Chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, this morning we resume consideration of the budget resolution. There are now 27 hours remaining for debate on that resolution. The chairman and ranking member are here and are ready to continue with the consideration of amendments.

Under the order from last night, following Senator ENSIGN's remarks, Senator MURRAY will offer an amendment related to education. Following the Murray amendment, Senator GRAHAM of South Carolina will offer an amendment regarding TRICARE. Rollcall votes will therefore occur throughout the day.

We will complete the budget resolution this week. It will be a long day today and late tonight, I assume, as well as tomorrow and tomorrow night. I ask for the cooperation of all Members as we do everything we possibly can to assist the managers in completing the budget resolution.

Mr. President, once we get on the bill, I have a short statement.

## ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the statement of the two leaders be charged against the time on the budget resolution.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2005

The ACTING PRESIDENT pro tempore. Under of the previous order, the Senate will resume consideration of S. Con. Res. 95, which the clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 95) setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Nevada, Mr. ENSIGN, is to be recognized for up to 30 minutes.

The majority leader is recognized.

Mr. FRIST. Mr. President, I have a short statement I will give, and I assume the Democratic leader will have a statement. Following that, I ask unanimous consent that the Senator from Nevada be recognized.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The majority leader is recognized.

Mr. FRIST. Mr. President, I want to open by congratulating the chairman of the Senate Budget Committee and ranking member and all committee members for the outstanding work they have done in bringing this resolution to the floor in a very timely manner. It was a little over a month ago that the President of the United States transmitted his proposed budget to the Congress, and the Budget Committee, under real time constraints, was able to hold hearings and debate, mark up, and report its own congressional budget plan and bring it to the floor last Thursday evening.

My experience with budget resolutions on the Senate floor tells me that

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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it will become very hectic, really beginning today and tomorrow and the next day—over the next 3 days. There is a limited amount of time, as we all know. There are 27 hours remaining for debate on that resolution as of this morning. That time will end up passing very quickly, particularly when we have a recess sitting on the other end awaiting completion of this resolution.

As I mentioned earlier, we will complete this budget resolution this week before the recess. Since we have a limited time, I want to right upfront pay tribute to Chairman NICKLES and one other Senator this morning.

Chairman NICKLES, as we all know, will be leaving the Senate at the end of his fourth term. After 2 years as chairman of the Budget Committee, this will be the last Federal budget he will manage on the Senate floor. Last year, with his first budget resolution as chairman, we were able to complete a budget resolution in record time. Eighty amendments were offered last year and were all considered on the floor. That was the third highest ever considered on the budget resolution in history. In 1998, there were 106 amendments. Last year was the third highest.

I have had the opportunity to serve on the Budget Committee in the past and I know it is a very difficult assignment; it is a demanding committee. But I believe the ranking member would agree with me, while the ranking member and the chairman have not always agreed on policy, Senator NICKLES has maintained a fair and open and collegial committee on which to work.

Six years before Senator NICKLES was first elected to the Senate, in December 1974, Sam Ervin, the distinguished chairman of the Committee on Governmental Operations, wrote:

> I have no doubt that the Congressional Budget and Impoundment Control Act of 1974 will stand as a monument to the 93rd Congress and its devotion to our constitutional system of Government.

This is the 30th anniversary of the enactment of the historic legislation which established the Senate Budget Committee, established the Congressional Budget Office, and established the procedures that we are involved in today in considering a congressional budget resolution.

Many did not expect that what at the time was a completely new process to survive. Indeed, it has survived over the last 30 years. In a way, over those 30 years, it certainly had its bumps and bruises. Just down the road from Senator Ervin's home, one Senator, and only one Senator in this Chamber today, has served on the Budget Committee from its very beginning, and that is Senator FRITZ HOLLINGS. He has been there from the very beginning. For 2 years, in 1979 and 1980, Senator HOLLINGS—and this was when Ed Muskie left the Senate to serve as Secretary of State under President Carter—also served as its chairman.

Just a little bit of budget trivia: As I was looking through the history, the first reconciliation bill was, indeed, crafted under Chairman HOLLINGS' leadership in 1980.

Senator HOLLINGS was instrumental in the first major reforms to the Federal budget process, being one of the authors, along with Senators Gramm and Rudman, of the Balanced Budget and Emergency Deficit Control Act of 1985, more familiarly known as Gramm-Rudman-Hollings.

I mention Senator HOLLINGS in part because of this long history, and I discussed some of it with him last night at dinner. As we all know, he too will be voluntarily leaving the Senate at the end of this Congress. So this is his last budget resolution debate on the Senate floor, and just like the 30 debates before, I am sure he will not disappoint the Senate with his contribution to this debate over the next 3 days.

We have begun deliberating a blueprint for next year's Federal budget, and that is exactly what it is; it is truly a blueprint. For those who may be observing these proceedings for the first time, it may appear we are passing laws on spending for our national defense, education, or health programs, or it may appear we are enacting tax legislation, but we are not. Listening to the debate it may sound like it but that is not what we are doing.

It is really not unlike a family sitting around the kitchen table at the beginning of a new year discussing and estimating how much income they will have over the course of the next 12 months, how that income will be spent and how it should be allocated to the basic needs, whether it is to their shelter, food, or health care, and then how much they should save for their children's needs. It might be for schooling or it might be for their own retirement.

That is exactly what we are doing, or it is very similar to what we are doing, over the course of this week in this 50 hours of debate when we are adopting a congressional budget plan.

Just like that family sitting around the kitchen table, we are going to have differences and those differences are going to be expressed. There will be strong opinions on how our income should be divided among what people project as demands that will come and demands that we have today. Once we come to an agreement on a budget plan, which we will in the next 3 days, just like that family, we will be tasked to implement it by passing the revenue and spending totals that are assumed in that blueprint.

We will also be asked to stick to it throughout the year, and so we will be putting up some roadblocks and some warning signals in our budget plan to remind us if we get off track or if we begin to go astray. Indeed, that is the importance of passing this budget resolution.

There are differences, just like sitting around that table in a family, when planning a budget. As we have heard over the last several days, and we will hear for the next 3 days, there will be debate and an amendment process. The big difference between what goes on here and what goes on with that family is size, the obvious one. Another difference is that what we plan here can have a direct impact on that family sitting around that kitchen table.

Will we keep that family's taxes from increasing next January by planning our budget here to prevent that child tax credit, now $1,000, from falling to $700 per child, thus taking $300 per child away from that family?

Will we plan to keep the 10-percent rate bracket from dropping next January from $4,300 to $12,000 as a threshold for joint filers?

Will we plan to prevent the standard deduction for that married couple, and this is known as the marriage penalty tax, from dropping next January and thereby continuing to penalize them simply because they are married?

All of these, which we are talking about in the resolution, will keep families from having to pay more beginning January. In fact, these three tax items alone could mean the difference of over $13 billion in additional take-home pay next year for nearly 38 million hard-working families. Add that up and it becomes over $100 billion in additional income to those families sitting around those kitchen tables over the next 5 years. So what we plan for in our own Federal budget can and will impact the budgets of millions of America's families in a very direct way.

This is a challenging budget year. We are all aware it is a political year, with the Presidential election this November, and thus reaching real consensus on a budget will be difficult under the best of circumstances, let alone in this Presidential election year.

The deficits we currently face are unacceptable. The budget crafted by the committee puts a priority on reducing them. We understand why the deficits are there: recession and war on terror. Through this budget plan we will cut those deficits in half over the next 3 years.

At the same time, the budget blueprint that we debate from the committee remains committed to certain priorities. The budget blueprint assumes spending for our national security will increase over $20 billion next year. That is an increase of about 5.1 percent. It assumes funding for domestic, or our homeland security, will increase by 15 percent. Both of these increases are essential in our war on terrorism.

Important domestic programs are not ignored. We all know a key to job growth in the future is one that gives a high priority to education, to retraining, to learning in schools, the basics of mathematics, writing, and verbal skills.

Chairman Greenspan recently testified:

> By far the greatest contribution during the past century to our average annual real GDP

increase of 3¼ percent has been the ideas embodied in both our human and physical capital. Technological advance is continually altering the shape, nature and complexity of our economic processes.

Yes, education has always been, and will continue to be, the key to our country's economic future, and the blueprint assumes we will increase funding for disadvantaged children for title I grants to local education agencies by over 8 percent, up over $1 billion next year, bringing the total Federal funding for this program to $4.6 billion. This program is the single largest Federal funding source for the No Child Left Behind legislation.

The resolution also makes room for increased funding for special education, or the Individuals with Disabilities Education Act. This increased funding for special education assumes to go up by $1 billion, and that is the fourth consecutive year of $1 billion increases, bringing funding for this special education program next year to over $11.1 billion.

The resolution allows for a 5-percent increase in veterans medical care funding, up $1.4 billion, to a total of nearly $30 billion for these important programs next year.

The resolution also assumes moneys for critical international assistance programs, a 13.5-percent increase in discretionary funding in this area, including last year's newly authorized Millennium Challenge Corporation. Full funding for the HIV/AIDS initiative of $2.8 billion next year is assumed in the blueprint, putting us on the path to meet our goal of $15 billion over 5 years.

In closing, these are a few of the priorities embodied in this blueprint. It does not please everyone. How could it? There is no guarantee that all of the assumptions in the blueprint will be fulfilled as we move on to the funding legislation that will implement this blueprint.

The demands are great. The resources at this point in time are limited. Just like a family making difficult and unpopular challenging decisions, we, too, will not be able to provide all of the funds some think are needed for particular programs or needed projects. I believe it is a solid, strong budget plan, presented to us by the chairman and the committee and it is one that deserves our strong support.

The ACTING PRESIDENT pro tempore. The Democratic leader.

Mr. DASCHLE. Mr. President, last Friday we were presented with the latest report on the creation of new jobs in our economy. The administration predicted about 200,000. In February, unfortunately, we only created 21,000—180,000 short of what the administration predicted. If you don't count the increases in Government payroll, there was actually no job growth whatsoever in the entire year of 2003. Unfortunately, that could also be said of 2002, and 2001.

The administration's economic forecasts appear to be little more than wishful thinking. A chart appeared in the New York Times yesterday that lays out very graphically how inaccurate the job predictions have been. In his column yesterday, Paul Krugman wrote about this unfortunate miscalculation in the prediction of jobs. His most graphic illustration of this miscalculation is entitled ''Promises, Promises.'' It is a chart. It is easy to understand.

The administration predicted in 2002 the creation of 138 million jobs. Then in 2003 they corrected that prediction. They said it isn't going to be 138 million; it will be 135 million. In 2004, they said it isn't going to be 138 million, it isn't going to be 135 million, now it's going to be 132 million. Now we find out, in 2004, it wasn't 138, 135, or 132 million; it was 130 million jobs, which means they were 8 million jobs off the mark in predicting where the non-farm payroll employment rolls would be during the course of their term in office.

From the very first days in office, the Bush economic team has failed to understand what it takes to create jobs. I might say, as we look at the job creation, this is American job creation. Unfortunately, I fear, while we don't have any numbers, the outsourcing job creation probably does exceed the prediction. I wouldn't be surprised if, under the watch of President Bush, we have actually seen more than 8 million jobs created. The problem is, most of them have been in India and China, and countries in south Asia. It is American jobs we are gauging here, and it was a prediction that it was American jobs that would be created at that 138 million level.

We know how to create jobs, but for some reason this administration has not been willing to commit, in policy or in resources, the effort that must be made to ensure those jobs are created. We had the most recent illustration of that a couple of weeks ago. The transportation bill the Senate has now voted on, on an overwhelmingly bipartisan basis, we are now told would create 1.7 million jobs in 6 years. South Dakota would see over 5,000 jobs created; California, 87,000 jobs created; Texas, 60,000; New York, 61,000; Virginia, DC and Maryland, 45,000 jobs. Thirty percent of our roads and bridges are in a state of severe disrepair and those jobs would go to dealing with the incredible problem we have with infrastructure deconstruction.

I think the broad support, 76–21, in the Senate marked yet another statement about our appreciation of the magnitude, the importance of that bill; yet what the administration has done in response to our passage of that bill is to say they would veto it today, veto it because they say we cannot afford it. We just talked yesterday about the fact we are spending $27 billion this year to provide those who are making incomes of more than $1 million a tax break. We can afford to give millionaires a tax break of $27 billion, but we can't afford the commitment this country must make in infrastructure.

Ironically, that is about the difference between where the Senate is and where the administration wants to go with regard to highway construction funds. They would rather spend it on millionaires. Many of us feel very strongly it is important to spend it where we can create jobs—not jobs in India, not jobs in China, but jobs here at home, trying to meet that target the administration said was so important, 138 million. They are right. It is important. We need to create those jobs. But we are not going to do it with the policies that have so far been articulated by this administration.

Later today, Senator BOXER will be offering an amendment that will create jobs beyond those we now know could be created in the highway bill. We are going to allow for an amendment that would discourage the flow of jobs overseas and give assistance to workers whose jobs have been actually eliminated in the Bush economy. It would offer tax credits to companies that create manufacturing jobs by making it more affordable for small businesses to offer coverage to their employees. It would discourage the exporting of American jobs by eliminating the tax advantages for companies that take their plants overseas, and by prohibiting the Federal Government from dealing with contractors who outsource the work of their Government contracts to workers overseas. It would also help workers who are dislocated by global economic forces by including service workers in the Trade Adjustment Assistance Program and by extending health care coverage to trade-dislocated workers.

Most of us believe families should not have to lose their health coverage because of economic forces beyond their control. The amendment we will be offering today says, while they are still trying to get back on their feet, they must have the opportunity to access health care in some form.

Since the administration has come to office, its economic policy has been to borrow money from foreign bankers, hand it over to the wealthiest people in the country, and hope for the best. The result is a $9 trillion meltdown of our fiscal position and now the loss of 3 million jobs.

We need a new direction. Yesterday in the Washington Post the poll suggested 57 percent of the American people shared that view. We have come to a point where we must take a different direction. Economists are worried if jobs are not created soon, Americans could lose confidence and spur an even steeper downturn in the economy.

We know how to create jobs. Let's pass the highway bill. Let's pass the Boxer Democratic amendment today. Let's ensure we send the right message about the direction we want this country to take. We can do that with this budget resolution and with legislation that has come before the Senate. I hope, on a bipartisan basis, we can send that message to the American people.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized for up to 30 minutes under the previous order.

Mr. ENSIGN. Mr. President, this morning I rise to speak about the national defense function of this budget resolution. The resolution provides $413.9 billion in discretionary spending for our national defense. This amount represents a increase of almost $20 billion, 5 percent above the 2004 level.

As chairman of the Readiness and Management Support Subcommittee of the Armed Services Committee, I am keenly aware that today we are a nation at war. Almost 200,000 U.S. military service personnel are currently deployed around the world in Operation Iraqi Freedom, Operation Enduring Freedom, and other military operations in the ongoing global war on terrorism.

Our soldiers, sailors, airmen and marines remain deployed in Korea, the Balkans, at sea and elsewhere, protecting American interests and deterring aggression.

There can be no disagreement on the magnificent manner which our Armed Forces have answered their nation's call. Their professionalism and performance have been brilliant, and their willingness to sacrifice for this country is inspiring.

That is why I am so troubled today by the Democrats' response to President Bush's weekly radio address last Saturday. That response was delivered by Senator JOHN KERRY, their party's presumptive Presidential nominee.

We all know that each Senator has a right to state their opinion on defense issues. However, when a Senator, or in this case, a party's presumptive nominee, makes an argument built on a foundation of facts as distorted as Senator KERRY's was, then the argument becomes more than an honest disagreement.

He quoted the Secretary of the Army as saying that U.S. forces were ''not prepared'' for the present conflict in Iraq.

This is the exact quote:

> The Secretary of the Army admitted that the United States forces were ''not prepared'' for the present conflict.

But yesterday at the Senate Armed Services Readiness Subcommittee hearing, the Vice Chief of Staff of the Army, General Casey, testified that comment ''was taken out of context.'' He stated ''we were very well prepared, all of the services.''

General Moseley, Vice Chief of Staff of the Air Force, said, ''I would have to tell you that . . . all airmen, whether they were Navy, Marine, or Air Force, were exceptionally well prepared. . . . and I would take issue with anyone that criticized our magnificent airmen.''

General Huly, Deputy Commandant of the Marine Corps, said, ''I believe we were very well prepared . . . I think that's evidenced by the fact that we exceeded our expectations, accomplished the mission in a shorter period of time, with far fewer losses than we even anticipated ourselves.

Senator KERRY has woven a picture of incompetence and malfeasance by our military leaders and our President. Nothing could be further from the truth. It is amazing the different pictures painted by those who have been there, and those who have not.

I personally visited Iraq last December. As a matter of fact, I was privileged to have been in the country the day the Third Infantry Division captured Saddam Hussein. I have to tell you what impressed me the most was watching our troops go above and beyond the call of duty; painting schools, rehabbing hospitals, and winning over the hearts and minds of the Iraqi people, even in the Tikrit region where their safety was most at risk.

Watching events in Iraq unfold underscores that America is blessed with more than her fair share of heroes. These men and women are doing what needs to be done in an extremely hostile environment. And they are depending on this Congress to pass a budget that gives them the resources to complete their mission and return home safely to their families. This budget ensures that the military has the resources it needs to remain properly prepared and adequately equipped.

In his radio address, Senator KERRY also stated that: ''I will never send our troops into harm's way without enough firepower and support.''

Strong words, but words alone offer little in this context and in the overall context of our budget discussions. It is interesting to note that while Senator KERRY claims to be a devout supporter of our troops, he was one of only 12 Senators who voted ''no'' for an Iraqi supplemental that provided that very ''firepower'' and ''support'' he now claims is so necessary.

The Iraqi supplemental was used to purchase the same body armor and ''up-armored Humvees'' Senator KERRY rails about as being insufficient. If we had allowed Senator KERRY to make the decision, our troops would indeed be ill prepared.

Votes have consequences. By voting against the Iraqi supplemental Senator KERRY voted to undermine the troops in the field and that is not only inexcusable, it is reprehensible. I hope no Senator would make such an egregious mistake with respect to the current budget resolution.

Therefore, I am calling upon Senator KERRY to retract his comments about our military being unprepared and to apologize to the men and women of our armed forces for using their sacrifices as political fodder. It is important to remember that in a democracy there will always be honest differences of opinion over the difficult decisions about the best way to fund, train, and equip American forces who are being sent into harms' way. I appreciate the opportunity to work with Members on both sides of the aisle to resolve these differences.

On February 24, Senator LEVIN, ranking member of the Armed Services Committee, sent a letter to Chairman NICKLES and Senator CONRAD.

In his letter he stated that ''no one can predict with precision what these fiscal year 2005 costs will be'' and recommended an increase in ''budget authority for the national defense function by $30 billion in fiscal year 2005.''

I agree with my distinguished colleague from Michigan when he said that this is ''the responsible thing to do for our troops and for budget accuracy.''

This budget takes Senator LEVIN's suggestions to heart and includes the supplemental resources necessary to provide for the 200,000 men and women in our military who are currently serving abroad.

I look forward to working with my Senate colleagues to ensure that we adequately address the sacrifices of our men and women in uniform, by passing a budget resolution that provides the resources that will sustain and improve our military as they fight for security of this great Nation. By fully supporting this budget, we will send a clear message of support to our troops, worldwide, and an important message to the world of America's complete commitment to freedom and security.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I ask unanimous consent for 5 minutes before Senator MURRAY begins her remarks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I don't know precisely what Senator KERRY was referring to in his remarks the other day. But I think we all know there were deficiencies in terms of resources provided to our troops going into Iraq and Afghanistan. We have all read the stories repeatedly of soldiers not having the body armor they needed. We have all heard of people actually raising money back home in order to get the body armor for our soldiers in Iraq and Afghanistan. That should not be. We shouldn't have a circumstance where American soldiers don't have the best equipment to keep them safe when we have sent them into harm's way. I think we have all read the stories of our Humvees not being properly armored to protect soldiers against these bombs that have been going off.

I remember very well going to Walter Reed Army Hospital visiting young men who had been badly injured in Iraq. I remember very well visiting with one young soldier who had been in a Humvee that had not been properly armored. One of the roadside bombs had gone off, and that young soldier was terribly injured—blind in one eye,

lost a leg, an arm. He was badly wounded. As he lay in that bed, another Senator and I visited him. As we left the room, having visited that patient, we commented about how it can be that we send into Iraq Humvees not properly armored against the kind of truck bombs and roadside bombs that had been used to injure and kill our troops.

I don't know precisely what Senator KERRY was referring to in that speech. We all know there were serious deficiencies in terms of body armor for our troops and in terms of Humvees being properly armored against bombs.

I think Senator KERRY was certainly not out of line in suggesting that more could have been done to have our troops fully protected on the battlefield.

I thank the Chair, and I thank especially my colleague from Washington, Senator MURRAY, who is such a valuable member of the Senate Budget Committee for permitting me to speak ahead of her.

The PRESIDING OFFICER. Under the previous order, the Senator from Washington is recognized to offer an amendment.

AMENDMENT NO. 2719

Mrs. MURRAY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for herself, Mr. KENNEDY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. CORZINE, Mr. LEVIN, Mr. DODD, Ms. STABENOW, Mrs. CLINTON, Mr. KERRY, Mr. HARKIN, Mr. SCHUMER, Mr. PRYOR, Mr. REED, Mr. DAYTON, Mr. KOHL, and Ms. LANDRIEU, proposes an amendment numbered 2719.

Mrs. MURRAY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 9, increase the amount by $516,000,000.

On page 3, line 10, increase the amount by $13,244,000,000.

On page 3, line 11, increase the amount by $2,924,000,000.

On page 3, line 12, increase the amount by $516,000,000.

On page 3, line 17, increase the amount by $516,000,000.

On page 3, line 18, increase the amount by $13,244,000,000.

On page 3, line 19, increase the amount by $2,924,000,000.

On page 3, line 20, increase the amount by $516,000,000.

On page 4, line 20, increase the amount by $516,000,000.

On page 4, line 21, increase the amount by $13,244,000,000.

On page 4, line 22, increase the amount by $2,924,000,000.

On page 4, line 23, increase the amount by $516,000,000.

On page 5, line 3, decrease the amount by $516,000,000.

On page 5, line 4, decrease the amount by $13,760,000,000.

On page 5, line 5, decrease the amount by $16,684,000,000.

On page 5, line 6, decrease the amount by $17,200,000,000.

On page 5, line 7, decrease the amount by $17,200,000,000.

On page 5, line 11, decrease the amount by $516,000,000.

On page 5, line 12, decrease the amount by $13,760,000,000.

On page 5, line 13, decrease the amount by $16,684,000,000.

On page 5, line 14, decrease the amount by $17,200,000,000.

On page 5, line 15, decrease the amount by $17,200,000,000.

At the end of Title III, insert the following:

**SEC. . RESERVE FUND FOR NO CHILD LEFT BEHIND ACT EDUCATION PROGRAMS.**

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $8,600,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for Department of Education programs in the No Child Left Behind Act (P.L. 107–110).

Mrs. MURRAY. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors: Senators KENNEDY, LIEBERMAN, MIKULSKI, CORZINE, LEVIN, DODD, STABENOW, CLINTON, KERRY, HARKIN, SCHUMER, PRYOR, REED of Rhode Island, KOHL, DAYTON, and LANDRIEU.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, parents, teachers, and students throughout Washington State and across our entire country are looking for our help today as they try to implement the No Child Left Behind Act.

Unfortunately, the budget before the Senate by the Republicans falls $8.6 billion short of what our schools and our students need this year. It is yet another broken promise to our schools, our students, and our families.

We can do better. That is why I am offering this amendment this morning. I have visited schools in every corner of my State and I know firsthand that our educators everywhere are working harder than ever to help their students to meet these new accountable requirements. They want to do a good job. They want to do what is right. I also know it is not fair for the Federal Government to leave our schools without the funding they need to meet these Federal mandates we place on them.

Today our State and local budgets everywhere are stretched thin. Our local communities cannot afford to make up the difference between what our schools were promised and what this budget actually provides. That is why I am offering this amendment today to fully fund the No Child Left Behind Act. My amendment tells students, teachers, and parents that the Federal Government will be a full partner with our local schools as they carry out the new law we passed.

I am not asking for some unheard of amount of funding. I am simply asking we provide the funding we promised our schools 2 years ago. As everyone knows, the No Child Left Behind Act increased accountability for schools so we can ensure that all of our children will receive a high-quality education. However, accountability is a two-way street. We cannot demand that schools follow all of these new mandates and look the other way when it is time to write a check. If we expect our schools to uphold their part of the bargain, then we have to do our part and fund these requirements.

Let's not forget, the funding levels in the No Child Left Behind Act were based on a bipartisan agreement on what it would take to implement this new law. It is hard to believe we are here 2 years later and the Federal Government is still not doing its part.

This is especially important today because States are now confronting the true cost of implementing this law. The only study that looked at the actual cost to the States of the No Child Left Behind Act was conducted in Ohio. That analysis estimates that the cost to Ohio of complying with the law will reach $1.447 billion annually by fiscal year 2010.

Again, the President's budget request and this Republican budget fail to live up to the promises we made in this Senate just 2 years ago when we passed No Child Left Behind. That is why we need to pass this amendment today. This amendment adds $8.6 billion to function 500 to fully fund the No Child Left Behind Act and to improve overall funding for educational programs.

I am sure we will hear those on the other side saying their budget increases funding for No Child Left Behind by $1.2 billion over last year. It does. But it is still $8.6 billion short of what our schools need. That shortfall is going to have real and painful effects on all of our students unless we fix this budget.

Mr. President, 4.6 million low-income children in this country will not get the help they need under title I unless we pass this amendment. In my home State alone, the difference between the President's request and the promise of No Child Left Behind means 28,000 low-income students will be left behind.

This budget will result in fewer students being served by a number of important programs. That is because the Republican budget freezes funding for programs but those freezes mean real cuts in service when you factor in that we have rising enrollment and costs to our schools. At the end of the day, the Republican budget will mean that fewer students will be served in impact aid, dropout prevention, school counseling, afterschool, teacher quality, migrant education, and rural education.

Let me give one example of what those cuts mean for our students. This budget will leave nearly 20,000 children in Washington State alone and 1.4 million children nationwide without a safe, adult-supervised environment

after school. We can do better. My amendment shows how.

My amendment will live up to the commitments we made to our students when the No Child Left Behind Act was passed. It fully funds programs such as title I, English language acquisition, afterschool, and rural education. If this amendment passes, more than 2 million additional needy children will be served by title I, as we promised, when we passed No Child Left Behind.

My amendment will mean more than 38,000 children in Washington State and 1.4 million students nationwide will have access to safe, adult-supervised afterschool programs.

My amendment is also fiscally responsible because it also asks for $8.6 billion in deficit reduction, something many of our colleagues have talked about.

Our priority should be educating our students. This amendment reflects that priority because both the education increase and deficit funding reduction are taken by closing tax loopholes. During the debate on my amendment, I suspect we will hear a whole list of reasons why we cannot give our kids the funding we promised them. I want to debunk some of those plans right now.

We will hear some argue that we have already increased funding for education to a high enough level. I say to any one of my colleagues, go to your local schools in your communities and ask them if they agree with that. See what type of reaction you get. Let's remember, we have never fully funded the No Child Left Behind Act—never. How can we ask our schools today to comply with the law when we are not holding up our end of the bargain?

Let's not forget that the only reason we have reached this level of funding is because many in Congress pushed and pushed last year to do better than the President's budget. If we had accepted the President's funding request, there would be at least $10.7 billion less for education than was appropriated by Congress and $6.6 billion less for No Child Left Behind.

Another claim we will hear during this debate is that if my amendment is accepted, we will come back and ask for more funding next year. That is exactly what the law called for when we passed it. The requirements on our schools ratchet up throughout the lifetime of this bill, including requirements to increase test scores and to have an increased number of highly qualified teachers that we require under the law. That is why the funding in the bill was slated to increase annually as well and why we are now falling further and further behind as we fail to live up to that commitment. That is why we are hearing from our teachers in our schools today. As parts of this law become implemented, they have to live up to them.

If my amendment is accepted, the request for fiscal year 2006 will not have to play catchup again as we have done for the past 2 fiscal years.

Finally, we will hear opponents argue that States and schools do not really need all of this funding. I disagree. The bottom line is that our schools do not need more excuses from Washington, DC. They need the funding we promised and my amendment will provide it.

As I conclude, I want to be very clear what is at stake. This amendment will determine whether we keep the funding promises we all made when we voted for No Child Left Behind. Those who vote against this amendment will have to explain to parents and teachers and students and families and communities they represent why they refused to provide the funding we promised in the No Child Left Behind Act.

If any of my colleagues want to argue against fully funding No Child Left Behind, that of course is their right, but I will fight with everything I have to give our schools the funding we promised so this law can work. Our students deserve nothing less.

I urge my colleagues to stand up with all of us who are working hard to make that law work for all of our students. I urge my colleagues to vote for the Murray amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Senator from Washington for offering this amendment. She offered it in the committee. This is one of the most important amendments we will vote on during the consideration of the budget resolution. The Senator from Washington has been a strong leader on education issues.

If we are going to have a competitive country for the future, if we are going to do something about this job loss that is occurring, we have to have the best educated, best trained workforce in the world. That is the message the Chairman of the Federal Reserve Board has sent to Congress and to the United States.

Senator MURRAY is saying, we ought to put our money where our mouth is, that we ought to keep the promise of No Child Left Behind, not just send all the requirements out to the States but send the money along with it that was promised in order to provide the resources necessary to make these promises a reality.

I again thank the Senator from Washington for her leadership.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington controls the time.

The Senator from Washington.

Mrs. MURRAY. Mr. President, I yield 5 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I thank the Senator from Washington State. I enthusiastically rise in support of her amendment to fully fund No Child Left Behind.

This is the 21st century. In our own country, we have to make sure we are safer, that we have a stronger, more competitive economy. The way we are going to be safer and stronger is if we get smarter. By ''smarter,'' I mean develop a 21st century workforce. In order to do that, we need to make sure our elementary, middle, and high schools are the best they can be.

This is why I support full funding of No Child Left Behind. We need to focus on achievement. We need to focus on accountability. But while we are looking to hold our public schools accountable, we need to hold ourselves accountable in order to bring the resources to our public schools.

Requirements without resources are an unfunded Federal mandate. If we want to have a smarter workforce, we need to get behind our public schools. The Murray amendment really takes us a long way in making sure we have smaller class sizes, better trained teachers, and all the other resources that go into that.

College is also an important part of being smarter. I am deeply troubled that access to college, which has been one part of the American dream, could now become part of the American financial nightmare. I will be offering an amendment later on to help families who want to send their children to college: a simple, straightforward $4,000 tuition tax credit for every year of college.

Our middle-class families are stressed and stretched. Families in my own State of Maryland are worried. They are worried about jobs. They are worried about losing their health care, with costs ballooning. They are worried about holding down more than one job to make ends meet. They race from carpools to work and afterschool activities and back again. But most of all, they want to know can they count on their public schools, which is what Senator MURRAY is defending. They want to know will their children be able to go to college.

I believe the United States of America should provide an opportunity ladder and we need to make sure one of the rungs in that ladder is access. That is why I believe a $4,000 tuition tax credit will go a long way toward giving help to those who practice self-help—the families who are working and saving to send their children to college, and young people who are working and saving to send themselves to college.

Tuition is on the rise at colleges. At my own University of Maryland, there has been a 30-percent increase over the last 2 years. Tuition for Baltimore Community College rose by $300 in 1 year. The average cost of a 4-year public college is about $10,500. If you add the fees and everything, at University of Maryland it is about $14,000. Those are not numbers. Those are real costs to real families.

Financial aid, though, is not keeping up with the rising costs. Today, Pell grants only cover 40 percent of the average costs at 4-year public colleges. Twenty years ago, it covered 80 percent of the costs.

Our students are graduating with so much debt it is becoming their first mortgage. Families and students are looking for help. But I regret to say President Bush's budget does not offer them much hope.

The Republican budget has all the wrong priorities. It freezes the Pell grants. It does not offer real tax breaks. Yet at the same time it gives tax breaks to those who do not need them.

We need to do more. We need to help middle-class families have the best education out of our public schools to get them ready for college. But when they are ready to go to college, there should be the financial help to get them there.

We need to double the Pell grant. We need a larger tuition tax credit. We also need to make sure families have access to the American dream.

College education is more important than ever. Forty percent of the new jobs for the new century will require postsecondary education. This cannot happen with platitudes. It has to happen with programs. To compete in the global economy, we have to make sure all of our young people have 21st century skills. In order to compete in the new world order, we need to make sure all of our children have 21st century skills for 21st century jobs. We need to remember the benefits of education accrue not only to the individual but to society as well.

I stand here with my colleagues to say, if we are going to make investments, we need to invest in human capital, to create a world-class workforce. Let's have the best public schools the world has ever seen and make sure we continue to have access to the American dream.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleague from Maryland.

Mr. KENNEDY. Mr. President, will the Senator be willing to yield for a question?

Mrs. MURRAY. Yes.

Mr. KENNEDY. First, I see my friend and colleague from Montana wants to address the Senate. I would like to comment after he concludes. But I first of all want to thank the good Senator from Washington for offering this amendment.

There is varied experience that is brought to the Senate by Members of this body. But we are listening to a voice who has been a teacher and also a school board member, and prior to entering the Senate probably spent more time in the area of education, particularly young children, certainly, than any other Member of this body.

When she speaks about education and what happens in the classrooms and to the teachers, she is talking on the basis of a lifetime experience. She makes a compelling case. I welcome the opportunity to join with her.

I want to take a moment of the Senate's time and ask whether the kind of situation we are facing in Massachusetts is typical of what she is finding in her State or if she has heard about it in other States.

In my own State of Massachusetts, we passed effectively a ''no child left behind'' bill 4 years prior to the time we passed it here in the Senate. As a result, over a 7-year period, we find Massachusetts is No. 1 in the country in the fourth grade and No. 1 in the eighth grade. We reduced the disparities with regard to race more than any other State. It is because of those accepted concepts which the Senator from Washington has talked about: smaller class size, well-trained teachers, supplementary services, parental involvement, evaluation of the children themselves, and support from the local communities.

These are the things for which she has fought. But when you fail to do that—I have here before me a copy of the Boston Globe newspaper of February 19, which talks about what is happening in the region: ''Deep Cut in School Systems Taking a Toll on Educators.'' It lists school systems feeling the effects because of the cutbacks, because of the failure of us to provide for No Child Left Behind, plus what is happening in the State.

Boston has lost 396 teachers. They have closed six schools. They have cut the budgets on individual schools and eliminated programs.

For Braintree, they have lost 56 teachers and increased class sizes.

Bridgewater-Raynham Regional has lost 35 teachers, increased class sizes, added a $175 bus fee, $200 athletic fee, and a $50 extracurricular fee, being paid by parents.

Fitchburg lost 47 teachers, increased class sizes, added a $180 annual bus fee, and raised the athletic fees from $30 to $40.

Haverhill lost 143 teachers, closed 6 schools, increased class sizes, eliminated full-day kindergarten, added a $250 music fee, and raised athletic fees from $50 to $300. As we all know, in education, if the child works in music for 3 to 4 years, their average goes up 50 to 75 points in their test to go on to college.

The list goes on.

Lynn lost 85 teachers, closed 3 schools, eliminated full-day kindergarten and prekindergarten.

Pittsfield lost 51 teachers, increased class sizes, eliminated afterschool programs, added a $100 student activity fee.

Let me read this and ask whether this is something the Senator has seen. Here we have this extraordinary superintendent, Thomas Giancristiano, who has been in education for 30 years.

Let me read from the story:

> On good nights, the superintendent fretted. On the bad nights sleep vanished. Hours before dawn, thousands of dollars and cents reeled in his head. Thomas Giancristiano would lie in his bed in his Peabody home, eyes open and red, and make deals with the school finance devil.
>
> How many custodians do we need, the Winthrop superintendent would ask. How many secretaries? If we keep the libraries closed, can we keep one more kindergarten teacher?

That is what is happening out in the schools. Men and women who have worked a lifetime trying to educate our children, this is what they are going through.

Going back to the article, he then saw the cutbacks that took place in his school district:

> It was a hard moment to watch: A confident, likeable, optimist with 30 years of education experience was faced with cutting 17 teaching jobs. He chose instead to cut himself.
>
> Giancristiano's voice was steady, his pique never showing. Only his reddening eyes displayed his anger.
>
> ''Either you do not support me, or you do not support your children,'' he read from notes.

This is happening across the country. This is what this budget is all about. We have a chance to do something for these schools or we can provide the additional kinds of tax breaks for the wealthiest individuals.

The amendment of the Senator from Washington is responsible because it pays for itself and also helps reduce the deficit. I commend the Senator. I intend to speak longer, but I am just wondering, since I listened to the Senator speak and since she is back home every weekend talking to parents and schoolteachers and superintendents, whether the kind of stories I mentioned very briefly are happening in her State and are having a similar kind of impact on the men and women who have devoted their lives to provide greater educational opportunity to children in the State of Washington.

Mrs. MURRAY. Mr. President, I thank the Senator from Massachusetts for defining for all of us what I think we are seeing across our country in every school and every classroom where the morale among our educators who are responsible for caring for our children every day has declined dramatically.

The Senator will remember not that long ago when the Senate passed a bill to increase class sizes in kindergarten, first, and second grades. As I traveled around my State at that time, teachers were so enthusiastic. They were excited about being given the opportunity to help their young students learn to write and learn to do math so they could be successful in life.

That atmosphere has changed dramatically. Now you travel around to classrooms and they are begging and pleading for help. Every teacher says to me: I want to do the right thing. I want to be accountable. I want my students to be able to succeed. I want to make this work. But my class size is twice as large. I get less time with parents. I am paying more out of my own pocket for basic supplies. We don't have enough books for all of our students. And even more so, I am spending

every single second teaching to this test because my students don't have art and music and other things that help them be well-rounded adults.

We can change this. We can make it better. We can do what we promised 2 years ago and fund this and really make a difference in our children's lives.

I thank the Senator from Massachusetts for his question. I yield 10 minutes to the Senator from Montana.

Mr. BAUCUS. I thank my good friend from Washington.

Mr. President, I don't know what the debate is all about. This is a no-brainer. It is an absolute no-brainer. All of us, when we are home talking to our teachers and to our communities, to school boards, know this is the right thing to do. It is clear. There is no contest. There is no debate.

Congress passed No Child Left Behind trying to set levels of accountability. But then Congress did not provide the money to implement No Child Left Behind. It is contributing to all the cutbacks in our elementary and secondary schools about which we are hearing. I hear this constantly at home. I daresay that every Member of the Senate, when he or she returns home, finds the same comments.

Again, I don't know why we are debating this amendment. It is pretty clear. I highly compliment the Senator from Washington. I don't know anybody who believes more and has spent more personal time helping to educate our Nation's children than the Senator from Washington, who is a schoolteacher. She is right. We should take our cues from what she is telling us.

There is another reason to vote for this amendment. How are we paying for it? Closing tax loopholes. That in and of itself should be enough to pass the amendment. Also, we are closing tax loopholes to do something that is good; that is, supporting education.

Education truly is a means of developing our greatest assets. We have built the strongest, the most diverse economy on the planet, basically through education. There is more mobility, more opportunity in America, and one reason is our educational system.

We have pushed the technology horizon. We have developed a quality of life that is the envy of much of the world. There is no doubt that we can further improve our economy and our quality of life. But it is important to note that it is the investment in education that has essentially brought us to where we are, and it is an ongoing investment. You cannot stop investing in education. You have to keep going for obvious reasons.

Fully funding No Child Left Behind is a no-brainer. It is obvious we should do this. Our people back home want us to do it. If you took a poll at home, should No Child Left Behind be paid for, the results would be overwhelming because people at home know what a tight spot elementary and secondary education is in.

We are not giving our children our best shot. We have a moral responsibility to leave this place in as good a shape or better than we found it. That applies to the environment, education, the general conditions in which the America public finds itself. It is unfortunate in a certain sense—we are kind of lucky in another—that we have to accelerate our support for education. Why? Because the world is changing so quickly. New technologies are developing worldwide so quickly. We, therefore, have an obligation to accelerate our emphasis on education generally, and that is at all levels. It is Head Start, elementary and secondary, continuing, 4-year colleges, graduate education. It is at all levels.

Clearly, a key part of that is No Child Left Behind. So far this administration is giving words to the concept. It says vote for No Child Left Behind, but it has not backed it up with dollars.

A Presidential candidate years ago once asked: Where is the beef? I will ask the same question: Where is the beef? Where is the support? Where is the funding?

We have an opportunity to assist our children by providing them with the necessary resources to help them meet the challenge. Under No Child Left Behind, Montana was promised $71 million in 2005 to comply with the new educational standards. What does this budget include? Half of that, $46 million, and that is a shortfall. Add to that all the other pressures schools are facing.

Again, this is a no-brainer. I compliment the Senators from Washington and Massachusetts. Both of them work very hard for education.

Jack Kennedy once said:

> Our progress as a Nation can be no swifter than our progress in education.

I think we all agree. Funding education is key to maintaining an American workforce that can compete in the world economy. Education is critical to keeping jobs and creating new jobs in the United States. A big problem we know is the offshoring of American jobs. It is very serious. We deserve to give it an answer.

I don't believe the answer has been given to us thus far by this administration. We have heard nothing. It is laissez-faire: Let things happen. So what if people lose their jobs. It is good in the long term. That is essentially what the administration is saying.

I believe in order to keep our country strong we have to do something positive. We have to take some action. We must advance policies to help create new jobs in the United States, undertake measures designed to keep good-paying jobs in the United States.

Finally, when jobs are lost in trade, we need to retrain workers and help them get back in the workforce as quickly as possible. That is why I believe it is right that one of the priority amendments on this side of the aisle addresses jobs. It is why at the appropriate time I will offer an amendment that will set us as a country on the path to accomplishing those goals.

We must begin where the jobs begin. We must adopt policies to create jobs in America. One of the best ways to do that is by supporting research. Most of the innovative research done in the United States is at universities and research institutes which attract students from across the globe. Over the last 20 years, Federal research funding in the physical sciences and engineering as a percentage of GDP has actually declined. It has declined by nearly one-third. I believe we should reverse that trend, increase Federal spending on basic research. The money we spend will come back to us many times over in the creation of new jobs and new industries making products yet to be invented.

If we want to support Federal spending on research, we should support the National Science Foundation. The NSF funds research and education in science and engineering through a variety of successful programs. It accounts for roughly 20 percent of all Federal support to academic institutions for basic research, a crucial engine of innovation for our economy.

NSF funds have helped discover new technologies that have led to multibillion-dollar industries and created countless new jobs. The list is astounding: fiber optics, radar, wireless communication, nanotechnology, plant genomics, magnetic resonance imaging, ultrasound, and, yes, the Internet. All were made possible by work in the basic sciences and engineering funded by the NSF.

Each year, the NSF helps fund over 200,000 students, teachers, and researchers. Many of these people take their NSF-supported work into industry, where they found company startups selling new products and new technologies. That means one thing: jobs. Fully funding NSF will lead to more jobs.

When the President signed the National Science Foundation Authorization Act of 2002, the intent was to double in 5 years the funding devoted to the NSF. Not fully funding NSF shortchanges America's future.

The amendment I am offering will fulfill the promise of the NSF Act and restore funding to its fully authorized levels. That means providing $7.4 billion in fiscal year 2005, $8.5 billion in 2006, and $9.8 billion in 2007. All told, that is $7.4 billion above current levels—certainly money well spent.

Our future depends upon our ability to continue to innovate, and that depends upon the support we give to America's innovators—our scientists and engineers. We should fully fund the NSF.

At the same time, we must ensure America's families can afford higher education, which is an important part of the solution. This is the key to America's continued prosperity. Education provides the skills necessary to unleash the creativity of our citizens.

We should improve, consolidate, and expand the educational tax incentives that already exist and make them more effective. There are many ways.

We can expand and extend the deduction for tuition expenses, expand the Hope and lifetime learning credits, craft targeted incentives for student pursuing science and engineering careers, and focus on programs to make it possible for nontraditional students to obtain an education. These are all good options.

We need to ensure that young Americans are not discouraged from obtaining postsecondary education because of costs. That is the American dream, to get an education. We should not discourage it. Tuition costs have risen considerably in recent years, and our Federal assistance programs have not kept up.

Increasing tax incentives can help to lessen the burden on students, and allow students to attend the schools that best fit their needs, whether 4-year colleges or 2-year colleges, which can also provide vocational and technical training.

I ask for an additional 2 minutes.

Mrs. MURRAY. Off of the Senator's time.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. BAUCUS. Different students will opt for different types of training. That is good. We need workers with different skills to fill all the new jobs that are constantly being created.

One thing is sure: We need to train more engineers. Listen to this, Mr. President. We train only half as many engineers as does Japan. We train only half as many engineers as does Europe. We train only a third as many as does China. Think how many engineers China is going to train next year and the year after that and the year after that. Where will we be? Engineers play a critical role in the development of new jobs and new industries. We should encourage students to pursue training in this vital field.

We need to help displaced workers to receive the retraining needed to succeed in a changing economy. There is one thing they can be sure of: Things will always change. Jobs will change. Workers should be equipped with the tools to change with these jobs. Education is certainly the key.

The amendment I am going to offer will put a downpayment of $10 billion into our workforce. The U.S. economy is the most flexible, vibrant, dynamic in the world. We have to keep it that way. We owe that to the ingenuity of the American people and their relentless thirst to create and innovate.

I urge my colleagues to join me in a positive response to offshoring. It should not be negative; it should not be protectionism. It has to be positive. I am offering a sound, positive approach. Create jobs in America by fully funding the National Science Foundation and support education. That is one of the keys to our long-term prosperity.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, before my friend and colleague from Montana leaves, I want to say this amendment increases taxes by $17.2 billion. It increases taxes next year by $13.2 billion.

For the information of colleagues, we are assuming next year, on the reconciliation, which is all that is going to happen this year—or maybe all that will happen—that is the total child credit, it so happens. Some people say, well, this is assuming revenue loophole closings. That is not accurate. This resolution says increased taxes by $17.2 billion. We are assuming that the child credit is going to stay at $1,000 per child. So these two are in direct conflict. I want everybody to know this is a big spending increase in an area where we already have big spending increases—enormous, if you go over the last few years.

In spite of that, it is a big tax increase. In fact, it is a lot bigger tax increase than the amendment we voted on yesterday. I want people to know this is a tax increase that is very large.

Mr. BAUCUS. Will the Senator yield on that point?

Mr. NICKLES. Yes.

Mr. BAUCUS. Will the Senator read the first line of the description of this amendment?

Mr. NICKLES. I am reading the amendment where it says offered by Senator MURRAY and ''on line''——

Mr. BAUCUS. Above that, further up.

Mr. NICKLES. The purpose?

Mr. BAUCUS. Yes.

Mr. NICKLES. It says, ''by closing tax loopholes.''

Mr. BAUCUS. Does the Senator disagree that we should close tax loopholes?

Mr. NICKLES. But that is not what this amendment does. That is the purpose. The amendment says: ''On page 3, line 10, increase the amount by $13.2 billion.'' That is increasing taxes, an instruction to the Finance Committee.

Mr. BAUCUS. By closing tax loopholes.

The PRESIDING OFFICER. The Senators all address each other through the Chair.

Mr. BAUCUS. The purpose is to close tax loopholes.

Mr. NICKLES. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. NICKLES. I have the floor. I want to make sure my colleague knows how to understand what these amendments say. If you read lines 1, 2, 3, and 4, that increases taxes by $17.2 billion over the resolution. Our resolution assumes continuation of the existing tax law. So this would increase taxes by $17.2 billion over existing law.

All we are assuming, frankly, in the big amount we have for next year, since that is the bulk of our tax increase, it happens to be for the child credit. So I am telling my colleagues, we talk about closing loopholes—and there are some out there. I know the chairman and ranking member are trying to do that with the leasing provision. I happen to support that. But you are spending it as well.

This resolution says increase taxes. The purpose doesn't make law; the purpose doesn't change the resolution. You can put anything up there. You could have as a purpose to make everybody feel good and to have nice incomes in education. That can be your purpose. But when you are amending the budget resolution, you are saying how much money to spend and how much money to tax. This resolution says to raise taxes by $17.2 billion and raise spending by $8.6 billion.

I might also say that it raises spending by $8.6 billion in the first year. One would think you would not do that for 1 year and drop it down. So you can assume it would be 8.6 for a multitude of years. This is really like a $100 billion amendment on the spending side over 10 years, and then on the tax side, I don't know how many. If you multiply this out over the years, it increases taxes by 17.2 and spending by 8.6.

Mr. BAUCUS. If the Senator will yield, the only way to close tax loopholes is by raising additional revenue. That is the only way you can do it. There is no way to close loopholes otherwise. Does the Senator agree that he will work with me in closing loopholes and if not by raising revenue in some other way? The purpose of the amendment is to raise revenue by closing tax loopholes. I assume the Senator agrees with me that is the best way we should raise the revenue, although technically we have to have the numbers in here; otherwise, the amendment serves no purpose.

Mr. NICKLES. Mr. President, I enjoy working with my colleague from Montana on the Finance Committee, and I am one who is more than willing to close loopholes. I also tell my colleagues that my friend from Montana and the Senator from Iowa have used almost every loophole closer, multiple times.

I am happy to close loopholes, but this amendment does not close loopholes. This amendment tells the Finance Committee to raise taxes by $17.2 billion, period. The Finance Committee can do it any way they want. I am just telling the Senator that is exactly what it says.

What we have assumed is we are going to allow the child tax credit to go forward. Maybe that is not a correct assumption. Maybe families are not going to get to keep the present tax law. Maybe the child tax credit will be reduced from $1,000 to $700. Maybe the marriage penalty relief we have in the year 2004 will not happen in 2005. I am afraid, if this amendment is adopted, it will not happen.

Ms. LANDRIEU. Will the Senator yield?

Mr. NICKLES. Not just yet. My point is—and I have not even alluded to the

education issue, and I am going to hand that to Senator GREGG who knows far more about education than this Senator—no matter what level we had in this resolution, I was more than confident somebody would say that is not enough for education. I have looked at the total education function we have, and it totals $97.6 billion. That does not include the additional $5 billion—yes, it does. That includes the $5 billion Senator GREGG has put in for higher education reauthorization.

I looked at what we spent. That is $97 billion. In 1990, we spent $39 billion, almost three times as much. In the year 2000, we spent $49 billion. It is right at twice as much as we spent in the year 2000. We have had dramatic increases in education—dramatic increases—including the last several years. But no matter what that amount is, people are going to say that is not enough and, oh, yes, we want to increase taxes a lot more and throw a lot more money at it. I am just not sure that is the correct result we should be following.

I want everybody to know this is a tax increase. I want everybody to know this is a humongous increase in this program. I have not figured the percentage.

Ms. LANDRIEU. Will the Senator yield?

Mr. NICKLES. With this additional money, it is a 40.6-percent increase. For everybody who says we want to balance the budget, how do you balance the budget and simultaneously increase programs by 40 percent? This fictitious point of let's close loopholes, if there are loopholes out there, I am sure the chairman and the ranking member of the Finance Committee want to close them because they have a lot of demands. I am all for closing loopholes, but that doesn't fly. The amendment says raise taxes by $17.2 billion.

Ms. LANDRIEU. Will the Senator yield?

Mr. NICKLES. I yield the floor.

The PRESIDING OFFICER. The Senator from Washington controls the time.

Mrs. MURRAY. I yield to the Senator from Louisiana 10 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 10 minutes.

Ms. LANDRIEU. I thank the Chair. Mr. President, I thank my friend from Washington.

I wanted to ask the Senator from Oklahoma, before he leaves, since he has gone on record several times this morning as to what loopholes he would agree to close, would he for the record indicate or give us some idea what some of those loopholes would be and how much money could be generated by those loopholes, because there are many people in Oklahoma, Louisiana, Massachusetts, and Washington who would be interested in identifying those dollars so we could apply them to fulfill the promise the President made to fund education. As the Budget chairman, I am very interested in what specific loopholes he would be willing to close.

Mr. NICKLES. To answer my colleague's question, in the budget resolution we assume $20 billion of revenue loopholes and that, frankly, is to pay for the tax cuts we have in this bill.

Ms. LANDRIEU. Can I clarify? The loopholes the Senator from Oklahoma is supporting are going to fund additional tax cuts for those at the higher end of the tax cuts?

Mr. NICKLES. The Senator is absolutely incorrect. The loopholes we are closing basically will pay for extending present law. What we assumed in this budget resolution is continuation of present law, plus the AMT fix.

Ms. LANDRIEU. I thank the Senator from Oklahoma. I have the floor. I want to make clear for the record, as the Senator from Oklahoma just clarified, he and the administration are willing to close loopholes, but only if the savings from those loopholes go to make permanent the tax cuts that drain the education budget and leave our children at risk. I am glad we got that cleared up.

Let me begin the remarks I wish to make this morning.

The Senators from Massachusetts and Washington are absolutely correct about the dire situation in our States and communities all across the Nation. They are also correct that one of the strongest aspects of the American dream—and I could argue the strongest aspect of the American dream—is the dream parents have for their children, the dream Americans share that no matter how tough their life has been, no matter how shortchanged they might have been when they started, they work hard because they want their children to get the kind of education that will help them be the human beings parents dream their children can and should be and to make their communities stronger.

When this administration took office, they noted that dream. The President said:

> The time has come for excuse making to end. With this No Child Left Behind Act, we have committed the Nation to higher standards for every public school, and we have committed the resources necessary to help children achieve those standards. We want accountability with results, and we are willing to fund it.

That is what was said, but is not what was done. Budgets are difficult to put together. This document does not look very thick, but this document is a blueprint. This document sets a course for the Nation. This document, if it is not written correctly, cannot meet the promises I have just described.

You know what, Mr. President, this document does not meet that promise. This document does not provide the money promised to every Governor, every superintendent, every teacher, and every parent in this Nation. This document is short $9 billion, and not one Senator on the other side is willing to close one loophole to fill that hole. They are only willing to close loopholes to give more tax cuts. That is the debate on this floor, and that is the choice the American people are going to make in the next election.

With the surplus disappearing, with the war at hand, with the war on terrorism perhaps escalating, the question is, Do we want to make some adjustments in our plans to provide tax cuts or do we want to provide some tax cuts and fund education, invest in homeland security, and support our troops? That is the issue. But this administration, faced with the facts of declining and evaporating surpluses, faced with the facts of a war that is costing more than we anticipated, faced with those facts, chooses to ignore the facts and put out a budget that goes straight dead ahead 100 miles an hour into deficits and in doing so robs the opportunity, pulls the rug out from under every superintendent, every Governor, and every teacher because they are struggling in the schools.

This is what the President says, but this is not what he does. This is what the President says:

> Once failing schools are identified, we will help them improve. We'll help them help themselves. Our goal is to improve public education. We want success, and when schools are willing to accept the reality that the accountability system points out and are willing to change, we will help them.

We are doing this in Louisiana. We have received accountability. We have identified our schools which are failing. We believed the President, but when we turned to him to ask him and this administration to help us hire new teachers, help us to train the teachers who need to be certified by a date certain the President and the administration forced us to do in this act, when we asked them please help us put on two new classrooms in these schools because we have to meet these new goals, they said we do not have any money, because he wants to extend the tax cuts permanently. He will close the loopholes, but not for them. Sorry, kids, we cannot close the loopholes. I have to close the loopholes for people who need tax cuts.

Now I am going to talk about the increases in education. I know Senator KENNEDY is going to speak about this and he knows these numbers better than I do. I will admit, and I understand and know—so don't anybody bother coming to the floor to tell me I do not understand—there is increased funding in education. I am clear and so are the people in my State that the Federal Government has increased funding. That is not the point. The point is, the increases have not been what the administration promised and do not help us meet the new goals that have been mandated on every county and every parish in this Nation.

I will also say, if the Senator from New Hampshire wants to come to the floor and debate this issue—and as Senator MURRAY knows very well—the increase in education in 2001, which was

the last budget of the previous administration, was 19 percent. That is how much the increase was. The next year is 2002, which was 18 percent. In the years of the President's budget, which is right here—this is the administration's budget and this is the chairman's mark. The chairman's mark is a little different than the President but it is basically the same document. These are the increases they provide: 19 percent, 18 percent, down to 6 percent, 5 percent, and 3 percent. The outyears look even bleaker.

They put No Child Left Behind basically in here, and as we can see, they pulled the rug out from everybody. That is what this election is going to be about.

I know I only have a couple minutes remaining, but I want to say I know, not because I represent and am a leader from my State and I travel just like Senator MURRAY does all over her State, how angry people are about this. The front page of the Washington Post yesterday issued a poll that says 57 percent of the American people polled all over the country do not think the country is going in the right direction.

This budget sets the direction, and 57 percent of the people know what is in this budget, not in every line but they are getting the general gist of it. They do not like it, and I do not blame them. There are many things it does, but one thing it does is it breaks the promise to their kids, and when you start fooling with people's children and you start upsetting the dream people have for their children and their education, there is going to be a repercussion from that.

In conclusion, to use the President's own words: The time for excuse-making has come to an end. We have committed to our schools and our children. We have said if we ask for accountability and results, the Federal Government will be there, will be a reliable partner, and this administration has made different choices.

I end with a quote from another President. We have had many great Presidents in our history, thank goodness, and we had a great one in President Kennedy who said:

> I believe we possess all the resources and talents necessary, but the facts of the matter are we have never made the national decisions or marshaled the national resources required for such leadership.

He was speaking about the space program.

> We have never specified long-range goals on an urgent timetable, or managed our resources and our time so as to insure their fulfillment. . . . [L]et it be clear that I am asking the Congress and the country to accept a firm commitment to a new course of action—a course which will last for many years and carry very heavy costs . . . if we are to go only half way, or to reduce our sights in the face of difficulty . . . it would be better not to go at all.

That is what I am saying. If we have set a course by this budget, we owe it to our parents, to our teachers, and our children to stay the course, and if we are not ready to go the whole distance, we should not have started. That is the promise that has been broken.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, I have been talking with the manager of the bill on the Democratic side, and he suggested maybe we should enter into some sort of time agreement on this amendment. I see there are a number of people on his side who want to speak. Is there something the Senator recommends?

Mr. CONRAD. I would say first to the people on our side, we are now getting in a real jam and we are also getting further toward vote-arama in a way I think is probably not something we want to do. I recommend we agree to an additional hour on each side, 2 hours equally divided.

Mr. GREGG. Mr. President, I recognize that probably is a disadvantage for us because the other side has been going now for an hour, and although we are probably more succinct and more persuasive in less time——

Mr. CONRAD. That is what we were counting on.

Mr. GREGG. It is still not necessarily a fair division of the time. I would agree to some sort of time limit that gave us a little extra time. If the other side wants to go for an hour and we go for an hour and 15 minutes, which would be 2 hours and 15 minutes on this amendment, that would give them an additional hour—they have already done an hour—and we would get an hour and 15 minutes.

Mr. CONRAD. Would that be acceptable if we took an additional hour on our side and an additional hour and 15 minutes on their side?

Mrs. MURRAY. It is acceptable to me.

Ms. LANDRIEU. Is there any additional time that could be available? This is such an important amendment. Could we take an hour and a half?

Mr. CONRAD. We had hoped to do this in 2 hours. We have already spent an hour, and this would be an additional 2 hours 15 minutes.

Ms. LANDRIEU. I understand.

Mr. CONRAD. It would be agreeable on this side.

Mr. GREGG. I ask unanimous consent that debate on this amendment be for an additional 2 hours and 15 minutes with an hour on the minority side and an hour and 15 minutes on the majority side.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. I ask that there be no second degrees.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? Without objection, it is so ordered.

Mr. CONRAD. Is Senator REED seeking time?

Mr. REED. Yes.

Mr. CONRAD. Will Senator MURRAY give time off the amendment?

Mrs. MURRAY. I yield to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I rise in support of the Murray amendment to fully fund the No Child Left Behind Act. This is an important amendment. It will keep our commitment to educational reform in the United States.

There are two keys to the success of the No Child Left Behind Act: effective implementation by the Department of Education and robust funding. Both are presently lacking.

Without the needed resources, we will not meet the law's goals of closing achievement gaps and ensuring an excellent education and opportunity for all children.

When the President signed the No Child Left Behind Act into law 2 years ago, he pledged to support greater Federal investment in education. That pledge has not been kept by this President. He has proposed eliminating some of the No Child Left Behind Act programs, cutting others and only increasing title 1 by $1 billion. That is over $7 billion short of the authorized level of $20.5 billion.

The No Child Left Behind Act was a fundamental change in the way we do business. Part of that change was a commitment to fund all of our aggressive ambitions to help every child succeed. What has been left are the requirements on children but insufficient resources for school systems throughout this country to implement them.

It is no wonder general assemblies across this country, in Utah, in Virginia, Republican assemblies, are revolting against these provisions, not because it is not a good effort at reform. Rather it is because we have not provided the resources to accomplish the reforms. Senator MURRAY's amendment would provide the needed resources.

I believe we have to go ahead and fund these programs, and we will not do so unless the Murray amendment is accepted. I urge support of the Murray amendment. This is not just about giving individual opportunity to every child. That is central and crucial. This is also about our economic future. If we do not fully fund education now in the elementary and secondary years, we will fall further behind in a very competitive world economy. This is about giving every child a chance and making sure our economy and our society works. I commend the Senator for doing that, and I yield the floor to Senator MURRAY.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, the other side is not ready to go. I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Fine, if that is the desire. Mr. President, I ask 10 minutes on the Murray amendment.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. KENNEDY. Mr. President, I mentioned a moment or two earlier what is happening in my own State, in Massachusetts, in the school districts all across that State, a State that was attempting to enhance educational opportunities for the children of Massachusetts. They relied upon the commitment that the Federal Government made a few years ago, some 3 years ago, to try to complete the commitment of that State, in partnership with the Federal Government, in enhancing educational opportunities for the children in our State and in States across this country.

The Murray amendment addresses the nature of the commitment that the administration made to not just the Members of the Senate but to the children and to the parents and to the school districts across the country; that is, we were going to have reform and the resources to make the reform take hold.

What we are talking about is a budget of $2.4 trillion, and the issue is can we find $8.6 billion in that $2.4 trillion. Education is either important or it is not. If we ask families all across this country, people would say, I would think you would be able, in a budget of $2.4 trillion, to find the $8 billion to make sure we are going to fund No Child Left Behind. It should not be that big a deal. It is a question of priority.

The Senator from Washington stated what her priorities are. I agree with them, and I think most families in this country would say we can afford that, if it is going to make a difference in the quality of the education of the children of this country.

Let's review very quickly the bidding, what has happened in the period since we passed No Child Left Behind. Since we passed the No Child Left Behind bill in 2002, let's be frank about where the funding is and where it has come from. When we passed No Child Left Behind, the administration asked for $1.3 billion. We raised that up to $4.8 billion during the period of the negotiation. That legislation would not have passed at $1.3 billion. It would not have passed. I can tell you that. I know that.

Then the next year the administration came in for less than $1 billion and we were able to raise that up $3 billion more. That is the record. That is the increase right here, as a result of Democratic amendments to the appropriations, right there.

Last year, in the Omnibus bill, the administration asked for a $900 million cut and we increased it $1.9 billion.

We will hear from the other side, look at the increases we have had in this area. They are the result of the amendments from this side. We want to continue it. If you like what we have done, vote for the Murray amendment.

Look at what this amendment does right here.

Mr. GREGG. Will the Senator yield on that point?

Mr. KENNEDY. Not just yet, if I have 10 minutes. I will at the end of my time.

Here we are, the cost of the Bush tax cut for those making over $337,000 in 2005—$45 billion. It is $45 billion.

Look at what the Murray amendment has, $8.6 billion. That is in addition to what was added, in terms of the Budget Committee—$8.6 billion. This is $45 billion.

The issue is choices. The issue is priorities. The issue is, as a matter of national urgency, is it more important to give $45 billion for those making over $337,000 in 2005, or to provide the full funding for the children of this country? That is the choice. That is the decision we are facing.

The Murray amendment says let's get that money. We can certainly afford $45 billion—with that budget.

Let's look at what happens if we do not do this, if we do not accept the Murray amendment. What is going to be the impact on the children of this country?

I tried, in just the couple of minutes, to tell what the human impact was on a superintendent who has for 30 years been committed to improving the quality of the life of the children in his district. He was restless. He couldn't sleep. Finally, rather than face the additional cuts he was going to have to provide in this system, he actually resigned. That is happening in schools all across this country. Those are the real stories. That is what is really happening.

If we look at it in the broad sweep of what this means, this chart tells it. Under the Bush budget going out the years from 2005 to 2013, you are going to leave 4 million children behind. Under the Murray amendment and the follow-on, all the children will be addressed; no child will be left behind.

I was absolutely amazed, listening to the other side, saying if we go and approve the Murray amendment this will be a 40-percent increase. Imagine that, a 40-percent increase, thinking this body will never go for a 40-percent increase. In fact, even with that, that will only mean 60 percent of the total funding for No Child Left Behind. We are requiring 100-percent performance by those children. We are expecting 100-percent performance by the teachers. We are expecting 100-percent performance by those people who are providing the supplementary services, and we in the Congress say you do it on 60 percent of the money.

It is like in this Nation, if we passed a voting rights act to apply to all of the country and we say it is not going to apply to 10 States. We will have Social Security for America but we are going to leave 10 States out.

We really didn't mean it when we said we were going to really address the needs of the 12 million children who fall into the category of title I. We didn't really mean it for all of them. We said it in the bill. We require it in the legislative proposal that in 12 years they have to be proficient—except you are not funding it. What sense does that make?

It would have been like President Kennedy saying, you are going to go to the Moon, and we appropriate enough money to go up 50 miles and say we have had a success. You either do it or you don't. We were either serious at the time when we passed No Child Left Behind, like we were on voting rights, like we were on Social Security, like we were on Medicare, and like we were on going to the Moon. Or we are not. That is what the issue is. That is what the issue is in the Senate. Either children have that priority or they do not. The Democrats believe they do.

We find there is more than enough money in here right now to be able to do it. There is more than enough money in here to be able to do it.

I am glad to yield to my friend from New Hampshire if he still has a question.

Mr. GREGG. I will try to recall it.

Mr. KENNEDY. Mr. President, I will be around for a little while. I know there are others who want to speak. I will withhold the remainder of the time but I will be around, ready to answer any questions. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, I appreciate the comments of the Senators supporting the position represented by Senator MURRAY. But I do believe it is important to understand from where we come and where we are going, relative to educational spending in this country, and specifically in this Congress, and who is accountable for what. Because, obviously, the representation coming from the other side is that this President and this Republican Congress has not been as committed to education as we should have been.

It is a hard case to make, honestly, in light of the history of educational spending.

Let us return to the scene of the crime, as they say in the business of reviewing evidentiary facts. The scene of the crime is the Clinton administration, its spending on education, and its woeful efforts in the area of special education and title I. The scene of the crime is the Clinton administration and its failure to address the fact that for generations low-income children had been left behind in this Nation.

That is what this is about. You can throw out all the numbers you want. But the issue is whether we as a Nation will continue to abandon the low-income child and leave him or her in school systems which simply shuttle him or her through, meaning when he got to the end of his or her academic career—if you can even call it that—in our school systems, he or she was unable to participate in the American dream because she couldn't read and he couldn't write relative to their peers.

The President of the United States, George Bush, came into office and he

said, Let us do something about this. Let us address the issue of the fact that so many children in this Nation for generations have been shuttled through the system. He proposed the No Child Left Behind Act as a way to address that. The No Child Left Behind Act is not only about money in a tangential way. No Child Left Behind is really about the philosophy of whether a low-income child should enter the school system at a level at which they are not competitive with their peers and be left in that school system for the rest of their academic career and come out at a level that is not competitive with their peers.

The No Child Left Behind Act is an issue of whether we are going to try to take the children in this country who come from a low-income family and give them a shot at the American dream by bringing their education up to a level where they at least know what they need to know in order to participate in our society, which is a very academically oriented society—a society which depends disproportionately on your educational ability in order to obtain success.

The President proposed the concept which was to say to local school districts throughout this country, You decide, school districts, what children in your school know in the third grade, in the fourth grade, in the fifth grade, in the sixth grade, in the seventh grade, or in the eighth grade. You decide. We as a Federal Government are not going to tell you. You go out as a community, you sit down and brainstorm and decide what your fourth graders should know, what level of math, what level of composition capability, what level of English. Then once you decide that, you set up a process, a regimen, where you evaluate whether the children in your school system are meeting those obligations, are meeting those standards, are learning English at the level and writing and spelling at the level you, the local school district, decide is appropriate.

One of the key things the President said was don't cover up the low-income child by putting them in a large group with all the other children in the school system—what is called disaggregation. Let us look at these different groups, whether they come from minority backgrounds, whether they come from low-English backgrounds, or low-income backgrounds. Let us find out what each group of children actually is learning.

Let us not say just because fourth graders in the school system which has a lot of kids and who come from average income families that are doing well on the scores as a gross number, but that school system is working well when we know for a fact the low-income kids in that school system are still being left behind—disaggregation.

We set up a system. The President proposed a system where we go out and say to the local school, You find out, you find out, parents, teachers, and principals, what children should learn in these elementary school grades and say whether the children by income groups or by ethnic groups are learning.

Those two ideas were rather radical. But the radical idea was we were actually going to tell the parents in the school system whether their children are being taught, whether they are learning at a level that is going to bring them up to their peers. Low-income parents—most of whom, by the way, are single parents struggling to make ends meet—are finally going to know whether their children in that school system are learning what is necessary in order to make them competitive as defined by that school system and as defined by their peers. If the parent finds out their child is in a school system that is not teaching that child, then we are going to give the parents some tools to try to correct that problem. We are going to allow public school choice. We are going to allow extra help for low-income kids so they can be brought up to speed if they aren't up to speed with their peers. We are going to allow the school districts to go into schools, which unfortunately have systemic failures, or large percentage failures, and put more resources into those schools to try to correct their problems.

This was the idea. It was revolutionary, and it has fundamentally improved education in this country. Everywhere you go in this country today, school districts are addressing the issue of whether the children are learning, whether the low-income kids are learning, whether they are being assessed, and the information is being put out to the public and the public is making assessments as to whether it is right.

This bill has been one of the most creative and aggressive bills we have ever passed as a Congress, or even the States, in the area of trying to correct what has been a fundamental problem in which our public school systems, regrettably for years, were passing low-income kids off and not giving them a shot at the American dream. It is working.

We incessantly hear from the other side about the failure of the bill. Why are we hearing that? Is it really because it has not been funded? No. It is because there is an educational establishment out there which does not like the fact it is being held accountable. This isn't about funding. This is a raw attempt by the educational establishment to try to undermine the No Child Left Behind Act law because they do not like the fact they are being held accountable. They do not like the fact low-income kids are finally getting a chance, are finally learning something, or are being told they have to learn something.

That is what this debate is about. Let us not try to color it with money because it is not about money. Let us get into the money issue to prove that is not the case.

If money were the issue, the prior administration would have poured a lot more money into this program than they did. They did not. If money were the issue, the school systems in this country would not have enough money to do the assessments that are the essence of this whole bill. They not only have enough money to do the assessments, but they have more than enough money to do the assessments under this bill. If money were the issue, the money we have already put in the pipeline would have been spent. There wouldn't be any available.

What we find is there are literally billions of dollars of money in the pipeline which have not been spent as a result of the fact this law has been aggressively funded.

Let me put it in context. The last time the President of this country was a Democrat and the Congress was Democratically controlled was 1995. You would have thought at that time, if you listened to the rhetoric around here, title I and the programs under title I which still existed at that time—the No Child Left Behind Act obviously wasn't the law—would have been funded right up to the authorization amount. That is all we have heard about from the other side on this bill.

Surprise. It wasn't. It wasn't even close to the full authorization amount in 1995. Not only that but the increases which flowed into the account under a prior administration were minuscule in key areas such as title I and special education.

I heard the good Senator from Massachusetts come down here and say all the new money that has gone into title I, or most of it, is the result of the fact they offered amendments on the other side and those amendments made the changes in these programs and added all of this extra money. I appreciate the fact he at least gives credit to this administration for putting a larger amount of new dollars into the education accounts. That is nice, because it is true. There has been a huge infusion of new dollars into the education accounts.

This chart shows that in real terms. I appreciate the fact the Senator from Massachusetts basically acknowledged it. The last year of the Clinton administration, it was $42.2 billion in education accounts. As of this year, there will be $58.7 billion in education funding, which shows the rather dramatic increase.

Ms. LANDRIEU. Will the Senator yield?

Mr. GREGG. I will yield when I finish my statement. I would be happy to.

If we go to title I, we will see in the last year the Presidency and the Congress were controlled by the Democratic Party, there was $6.7 billion spent on title I. When the Republicans took over the Congress, by the way, that started to move up. In the years since President Bush has come into office, that number has jumped dramatically, so we are now up to $13.3 billion being spent on title I.

The same is true of IDEA, which is a more startling number because the Clinton administration never proposed increases in IDEA until the last year and they were the result of a Republican Congress forcing those increases into the Clinton administration. Again, the IDEA numbers went down during the first years of the Clinton administration and started to go back up when the Republicans took control of the Congress. I was very involved when we demanded $1 billion a year. This President has proposed more increases in the first 3 years in IDEA funding—$1 billion each year onto each prior year—than the Clinton administration proposed in their entire 8 years in office. This is an example of that during the Clinton administration. IDEA funding was increased by $1.4 billion over their 8 years. In three years in office, President Bush has increased that money by $3.7 billion.

It brings me back to a side issue. I found it entertaining that basically if we listen to the Senator from Massachusetts, he said all this new funding which has flowed into the various accounts—and it has been dramatic, as shown by the first chart, into special education and title I—it was a function of amendments offered by the Democratic leadership and the Democratic membership of this Congress. I point out I am not aware the Democratic Party controlled the Congress for these 3 years and it certainly did not control the Presidency, so I am not sure how they managed to do that. The fact is we could not pass the amendments unless the President agreed to them, signed the bills, and the Republican Congress agreed to them and passed it.

What can be pointed out is when the Clinton administration and the Democratic Congress did control the issue of funding, had unilateral control of the issue over funding because they had both Houses of Congress and the Presidency, their accounts went down. It was not until a Republican Congress and a Republican Senate made it its No. 1 priority under Senator LOTT, Senator SPECTER, and other Members of this Congress that we started to see the IDEA funding go back up dramatically.

This is a very substantive point because it makes the case that what we are hearing from the other side is truly politics, the politics of education, not the substance of education. The substance of education is whether a low-income child in America today is better off in the system than they were 3 years ago. There can be no question but that child is. Finally, after years and years and years, we are finding out whether that child is being educated at the same level as his peers, through assessment, and when we find that out and if we discover that child is not being educated up to his peers, we put in place systems to address that.

It is also important while we are on this topic to address the nature of this amendment. The amendment does not actually say the funding will go to education. The amendment sets up a reserve fund. The only thing the amendment actually does is raise taxes. It raises taxes by $17 billion and puts that money in an account. That account may or may not get spent. What we do know is it will raise taxes.

What does $17 billion in new taxes account for? We heard from the other side it will go against those wealthy Americans who are making too much money and we need to tax them some more. That may philosophically be what they want to do, but as a practical matter that is not the effect this amendment would have. The proposals which are most at risk today in the tax laws do not impact wealthy Americans; they impact moderate- and middle-income Americans. It is the child tax credit that lapses, it is the marriage tax penalty which goes back into place, and it is the 10-percent bracket which gets kicked back out if we do not extend the tax reductions which are on the books.

Ironically, the $17 billion of higher taxes which this amendment is going to force on the American people is probably going to be borne primarily by people who are married, because the spousal deductions and the marriage tax penalty, if not extended, add up to $15.7 billion, an ironic joining of numbers but clearly a logical place where it will occur. If the $17 billion tax increase occurs, it will occur as a result of these extenders not being put in place. Therefore, the spousal tax, which is $15.7 billion and which basically says if you are married you should not have to pay more than if you were separated, will end up being most likely the place I suspect this tax increase will occur.

This amendment is unique in that it does not really impact the education accounts because it puts it into reserve. It does, however, raise taxes, and most likely on married people.

While we are on the subject of how well funded No Child Left Behind is, we should go into some specifics. The No Child Left Behind part of title I—and what we have are charts that reflect how significantly we have increased funding under title I since President Bush came into office. Over the 8 years President Clinton was in office, he raised the dollars into title I by $2.6 billion. In the 3 years since President Bush has been in office, we have seen a $4.6 billion increase or almost twice as much, at least 70-percent higher funding levels from President Bush as from President Clinton.

The argument is made that is still not enough, that we should be funding this to the full authorized level. I have been around this place for 11 years and I think I understand we do not fund at authorized level and everyone in this institution understands the authorized level is a statement, not a number. It is a goal. But it is not necessarily the goal that will be reached.

What proves that beyond any serious doubt is the fact when the Democrats did control both the Presidency, the House and the Senate, they did not fund title I at full authorization. If there is credibility to their argument today, they would have had to have funded the authorization at its full level back when they controlled the Congress. But there is not credibility to their argument because they did not do that.

In fact, when we look at the level of funding increases that occurred during their administration when they had the Presidency and when they held the Senate, it was pretty much flat funded, and it has only been with President Bush that the dramatic increases in these accounts happen.

Do we have enough money in the pipeline to address title I and No Child Left Behind? That is an argument we hear a lot about. We do know the number has increased dramatically. States are getting a lot more money. In fact, a lot of states are not pulling down the full amount they have available to them. We know there is some good anecdotal information coming in right now that says No Child Left Behind is being adequately funded.

I was interested to see a recent study by two public officials in Massachusetts, one of whom was the Massachusetts State school board chairman and another who was a member of the school board in Massachusetts. James Peyser is chairman of the Massachusetts Board of Education and Robert Costrell is a professor of economics at the University of Massachusetts at Amherst, on leave, and currently serves as the chief economist for the Executive Office for Administration and Finance.

These two gentlemen did a study of how much money was coming in under No Child Left Behind and whether it was adequate. The report says they thought there was sufficient money in the pipeline in Massachusetts to effectively implement the law.

Here are a few things they cite: The $391 million of Federal Department of Education money that has been set aside specifically to administer the additional State assessments required under No Child Left Behind is more than adequate.

That was their conclusion.

They did say:

> Although new funding may be needed in the future, the authors observe that ''The needed dollar amounts are relatively small and could be met easily by allocating funds from lower-priority problems.''

Another finding:

> Shortfalls in federal support of school technical assistance, as required under No Child Left Behind, are small at present but are likely to grow significantly as more schools are found to be in need of improvement. To fill the gap, the authors call for greater flexibility in federal guidelines. ''Much of the gap can be filled,'' Peyser and Costrell explain, ''by allowing states to allocate more of their federal dollars to supporting turnaround efforts in low-performing districts.''

The estimated cost of testing required by No Child Left Behind runs at

$20 per student, a small fraction of the per-pupil cost in the United States. Today, the per-pupil cost in the United States is $7,392. Interestingly enough, if you take the $391 million that the Federal Department of Education has set aside—and this is not their numbers—to do the assessment work, you find it exceeds the $20 by a rather dramatic number. I know in New Hampshire, for example, it exceeds it by a factor of almost 10. In fact, the dollars increased per pupil from 2000 to 2004 in Federal spending, these two gentlemen discovered, was about $300 per pupil across the country, which certainly far outstrips the cost of the per-pupil testing requirement, which is the primary requirement in this law.

So you have folks who are very intimately involved in this business in Massachusetts concluding that the funds which are flowing, which have represented a very significant increase in funding—as shown by this chart, $13.3 billion right now under this budget—more than exceeds what is needed to efficiently deal with the No Child Left Behind requirements.

One of the reasons we hear a lot about No Child Left Behind not being funded I think is that most States and school districts today are under significant pressure. But the pressure is not coming from No Child Left Behind; the pressure is coming from local property tax burdens and State revenues.

We have gone through a recession and those States have contracted in their revenues. Property taxes have gone down. As a result, school districts find themselves under pressure. I do not deny that. Everybody recognizes that. But because money is fungible, people easily identify the Federal dollars as being less than what are required to fund what traditionally would have been cost driven by and funded by local property taxes and State dollars.

The No Child Left Behind function is well funded. In fact, in this bill we have increased it again. It is up another $1 billion specifically have increased special education funding in this bill by $1 billion. We have done that, by the way, without repealing the child tax credit. In fact, we plan to extend that. We have done that without requiring parents—people who are married—having to pay more in taxes by not extending the marriage tax penalty relief language. We have done it by retaining the 10-percent expansion so low-income people pay much less in the way of taxes. All of that would be at risk—all three of those areas—were the $17 billion of new taxes, which this amendment represents, to be adopted.

I do not believe this amendment is legitimate from a standpoint of addressing the concerns of No Child Left Behind. I do not believe it is consistent with what happened in this Congress when the Democratic Party controlled the Presidency and the House and the Senate. It requires full funding of an authorization level, which was not done at that time.

I do believe it would have a huge detrimental impact, potentially, especially on married women and men, as a result of its ironic identity with the cost of extending the marriage penalty, which is $15 billion, which is essentially the amount of taxes this bill would raise.

I believe it is hard to defend this amendment either on a substantive ground that it is going to make No Child Left Behind work better or on a policy ground that it is consistent with historical actions in this Congress—funding full authorization—or on the ground that raising taxes makes good sense because I do not think you can support raising taxes, especially when it might have such a dilatory effect on married people or people with children. Therefore, I strongly oppose this amendment.

Mr. President, I would yield to the Senator from Louisiana on her time.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GREGG. Mr. President, I think the Senator from Louisiana had a question. I yield to the Senator from Louisiana, but I ask that the time for this question be taken off the side of the Democrats.

The PRESIDING OFFICER. Does the Senator from Washington yield time to the Senator from Louisiana to ask a question of the Senator from New Hampshire?

Ms. LANDRIEU. I would be happy to ask the question, but I think the Senator from Washington would like to ask the question, and then I assist her in that.

Mr. GREGG. Mr. President, I have not yielded the floor yet.

Mrs. MURRAY. Then, I will yield time to the Senator from Louisiana to ask the Senator from New Hampshire a question.

The PRESIDING OFFICER. Is that acceptable to the Senator from New Hampshire?

Mr. GREGG. As long as my answer is also coming off the time of the Senator from Washington.

Mrs. MURRAY. No, I will not agree to that.

Mr. GREGG. Then, Mr. President, I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, the Senator from New Hampshire has strewn a number of arguments across the floor that need to be responded to. Every one of them has a very legitimate, responsible answer.

I used to teach preschool, and I am reminded of the kids who came in and threw all their toys on the floor and then trying to figure out which one to pick up first to try to make it look better. Frankly, there are so many arguments out here that I want to respond to—and I know the Senator from Louisiana wants to respond to—but every one of these arguments can legitimately and clearly be denied.

First, let me respond that this amendment does not raise taxes despite the rhetoric from the other side. This amendment closes loopholes, just as the Republican budget requires within itself in order to pay for this. That is legitimate. It is not raising taxes. It is closing loopholes. I think it is an argument all of us in the Chamber understand.

Senator LANDRIEU has been listening carefully to the Senator from New Hampshire on his argument about funding and funding increases, and she is going to respond to that. I will yield her time to do that.

But let me point out, when President Clinton came into office in 1993 and 1994—and the Republican chart that was up only talked about 1993 and 1994; it did not talk about the tremendous increases later—the President's No. 1 priority at that time was to balance the budget, which was extremely out of whack. President Bush, when he came into office—and that chart was showing us the numbers of increases at that time—his No. 1 priority was to cut taxes. That is the difference.

I remind my colleagues on the other side, the reason the budgets for education were increased is because Democrats demanded it. I know they have forgotten this, but Democrats were in control in the Senate from about June of 2001 until January of 2003, when much of those increases were in place, because we came to the floor and said it needed to be done.

I know my colleague, Senator LANDRIEU from Louisiana, is here. I yield to her such time as she needs to respond.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I thank the Senator. I appreciate the leadership of the Senator from Washington.

I am sorry the Senator from New Hampshire has left the floor because I do have about five points to make.

The first point I want to make is, while I respect his leadership in education, and while I think he has absolutely put the best spin possible on the situation that we face, I would say, in Louisiana, that dog just won't hunt.

Those numbers don't add up. His charts do not tell the true story. People in Louisiana and throughout this country are very anxious right now because what they want to hear is the truth, the whole truth, and nothing but the truth. While I am not saying those specific numbers were not correct, the truth is not just about giving the specific numbers; it is about the whole picture.

I will begin with the truth and the facts to put it in reference. I wish they would put the chart up, but they may not because they will not be able to defend it. But if they would put the chart back up that shows the years they put up there—1993, 1994 and 1995—the Senator said when the Democrats were in charge in 1993, 1994, and 1995, we did not

have that much of an increase in education. That is true.

But what is also true is that the previous Republican administrations had left this country in such debt and in such despair and the deficits were so high that we could not contribute money to any program of any substance because the country was going broke.

So it is true we could not spend that much money on education because we had to take care of the deficit, this big red line. So we had to cut back.

Although Republicans say the Democrats don't know how to cut back and Democrats never will cut budgets, that is absolutely not true. We, under good and solid leadership, started trimming back. And we had to raise some revenues to get the country back into surpluses. When we did get back into surpluses, the budget numbers will reflect that there were increases made by the Clinton administration in education.

I will submit this document for the RECORD. It is a little scratched up and it is not very clear. I am sorry I don't have it in big print. But it will be put in the RECORD. If anybody wants to argue about this page, they are more than welcome. This is the official document of the U.S. budget. Nobody will refute these numbers. They are all right here.

What they say is that there were increases of 15 percent, 12 percent, 12 percent, 6.2 percent, 12 percent, 18 percent. It is true that as we got surpluses, we gave more money to education. But what is also true is this budget, which Senator MURRAY is trying to amend but the Republicans won't allow it, is saying that this budget, then, with these surpluses, wants to take some of that surplus money and commit it to education. This budget says, no, we are going to commit to it tax cuts, all to tax cuts, and no money to education.

In addition, when President Bush came into office, which was 2001, although we had increased funding for education as the condition of the country improved and we were doing as much as we could, the truth is, the President came into office and said: Even though we are increasing money to education, the past administration didn't do a good job, and I, as the new leader of the country, am going to put in a new law. We are going to step up the requirements and we are going to have accountability. If we do that, then I will fund those new efforts. As you know, he and the Republican leadership have decided they are not going to fund it. They are going to provide tax cuts.

Let me talk about pressure. I know the Senator from New Hampshire, who was Governor and is now Senator, understands pressure. I don't know exactly what he was talking about. Maybe he could clear this up.

But when I supported No Child Left Behind, 40 percent of the teachers in Louisiana were uncertified and their average salary was $27,000 a year. We are one of the lowest in the country. But when that law was passed, a mandate was put in that all of those teachers had to be certified by next year, 2005. We are in 2004. I don't know if the Senator from New Hampshire thinks that is not pressure, but let me tell you, my superintendents are feeling some heat. My legislature is feeling some heat. I am feeling some heat in a good way, because 40 percent of the teachers in Louisiana aren't certified. In this budget, which promised to help train them, help increase their skills, help recruit them, the funding is not there to do it. That is what I call pressure.

Let me talk about the pipeline for a minute. The pipeline issue came up because our Secretary of Education, supported by this administration, after calling all the teachers in America and one of the leading organizations a terrorist organization, which he has apologized for but a lot of people don't think the apology went far enough, after calling them terrorists, he appeared before the committee and said, from a letter:

> States are not fully utilizing the Federal education funds available to them in a timely manner, allowing billions of dollars to remain in the federal Treasury instead of improving education for our children.

He has put in writing, for this administration, a charge to every Governor, every superintendent, and every administrator across the country basically telling them, I don't know what you all are complaining about, because you have a lot of money.

Wait until you see the reaction that is going to happen across the country. It starts with the superintendent of Iowa who has gone on record as saying:

> The implication that we have let huge sums of federal money languish, that the funds are at our disposal to use at our discretion, or that we have not been good stewards of the public money is not only unfair, but it is patently insulting.

If this administration, the Republican leadership, wants to continue to insult everyone in America who is trying their best across party lines, across racial lines, across geographic lines to improve education, if they want to keep putting out insults such as this, they may go right ahead. But that dog doesn't hunt. The arguments won't stand. The facts do not justify the story that is being told.

I am going to conclude with this. The facts are these: When the country was in huge deficits, which the Republicans, in large measure, were responsible for because of their irresponsible policies, everything had to be cut back. And as soon as the surpluses started to appear, which was a good thing and everyone worked on making that happen, we said: Let's set a new course for education and invest money but not just throw money at the problem. Because I agree money is not the solution, but let's have accountability and we will find results.

We started down the path. We believed the administration. We pressed on, and then the rug was pulled out from under our feet. That is what this budget is about. That is what Senator MURRAY's amendment is about. I am proud to be a cosponsor of it and that is the truth.

I ask unanimous consent to print the following material in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF EDUCATION, DISCRETIONARY SPENDING

[Program level—in millions of dollars]

| | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 President | 2001–2005($) | 2001–2005 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Program Level | | 24,709 | 24,712 | 23,036 | 26,645 | 29,903 | 33,521 | 35,606 | 42,231 | 49,936 | 53,114 | 55,662 | 57,339 | 15,108 | 35.8% |
| Budget Authority | | 24,709 | 24,712 | 21,738 | 26,645 | 29,753 | 28,765 | 29,363 | 40,097 | 49,506 | 53,114 | 55,651 | 57,339 | 17,242 | 43.0% |
| Difference | | 0 | 0 | 1,298 | 0 | 150 | 4,756 | 6,243 | 2,134 | 430 | 0 | 11 | 0 | | |
| Program Levels | | | | | | | | | | | | | | | |
| Enacted (plus 2005 President) | | 24,709 | 24,712 | 23,036 | 26,645 | 29,903 | 33,521 | 35,606 | 42,231 | 49,936 | 53,114 | 55,662 | 57,339 | | |
| Change from previous year ($) | | 858 | 3 | −1676 | 3,609 | 3,258 | 3,618 | 2,085 | 6,625 | 7,705 | 3,178 | 2,549 | 1,677 | | |
| Change from previous year (%) | | 3.60% | 0.01% | −6.78% | 15.67% | 12.23% | 12.10% | 6.22% | 18.61% | 18.24% | 6.36% | 4.80% | 3.01% | | |
| 4 year average (1997–2001) | | | | | | | | | 12.20% | | | | | | |
| 4 year average (2001–2005) | | | | | | | | | | | | | 7.95% | | |
| President's Requests | | | | | | | | | | | | | | | |
| Program Level | | 26,753 | 26,281 | 26,378 | 25,829 | 29,686 | 32,601 | 34,685 | 40,088 | 44,541 | 50,310 | 53,139 | 57,339 | | |
| Request vs. previous enacted year ($) | | 2,903 | 1,572 | 1,665 | 2,793 | 3,041 | 2,698 | 1,164 | 4,482 | 2,310 | 374 | 25 | 1,677 | | |
| Request vs. previous enacted year (%) | | 12.17% | 6.36% | 6.74% | 12.13% | 11.41% | 9.02% | 3.47% | 12.59% | 5.47% | 0.75% | 0.05% | 3.01% | | |
| Enacted vs. Request ($) | | −2,044 | −1,569 | −3,342 | 816 | 217 | 920 | 921 | 2 | 5,394 | 2,804 | 2,523 | 0 | | |
| Enacted vs. Request (%) | | −7.64% | −5.97% | −12.67% | 3.16% | 0.73% | 2.82% | 2.66% | 5.35% | 12.11% | 5.6% | 4.7% | 0.0% | | |

Ms. LANDRIEU. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I understand the Senator from Wyoming is on the floor. I want to set up some

time allotment for our side so we can go back and forth. Under our time, I yield 10 minutes to the Senators from Delaware, 5 minutes to the Senator from New Mexico, and 10 minutes to the Senator from Minnesota. We will alternate time with the other side as they require.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER. Do I understand that Senator BIDEN and I have 10 minutes to divide among ourselves?

Mrs. MURRAY. The Senator has 10 minutes. I assume that is equally divided. If you need more than that, I am happy to yield it.

Mr. CARPER. What I would like to do is have maybe 5 minutes to talk on your amendment, and then Senator BIDEN and I wish to welcome some special guests.

Mrs. MURRAY. That is fine. I will yield the time on my side to allow them to do that.

Mr. CARPER. I thank the Senator.

I will say a word, if I can, in support of Senator MURRAY's amendment to fully fund No Child Left Behind.

In 1995, the Congress passed, with the urging of many Governors, unfunded mandate legislation that said Congress and the Federal Government should not tell the States what to do and then not provide the money to do it. The Federal Government should not be taking money away from States without providing an offsetting amount of revenue for the money taken off the table for the States.

If we fail to adequately fund No Child Left Behind, yet at the same time mandate higher performance requirements in classrooms, whether it is in Delaware, Washington, New Hampshire, South Carolina, or in New Mexico, we are putting in place an unfunded mandate. I have been visiting a number of schools in my State over the last couple of weeks. What I have asked is, what have you done with the extra money we have given you as a result of No Child Left Behind? I got some interesting answers.

A lot of the money is being invested especially in title I increases, in early childhood. We are seeing some remarkable results. These children who are doomed to fail, instead of going on to failure, have age 3 and age 4 quality prekindergarten programs, and age 5 full-day kindergarten programs, and extra learning time that follows beyond that, and there are remarkable results.

By the time these kids are in the third grade, they are doing basically as well as the kids coming from places where we expect success. We are cutting in half our revenues to special education. I urge my colleagues to support the amendment proposed by our colleague from Washington to fully fund No Child Left Behind.

I will add a few comments to that, if I may. Every minute, the Bush administration spends $991,000 more than it takes in—every minute. During the 2 minutes I have been talking, we have spent about $2 million more than we are taking in.

In 2001, the first year I was here, and when George Bush was President, he said:

> We can proceed with tax relief without fear of budget deficits.

He was wrong.

He said:

> Our budget will run a deficit that will be small and short-term.

He was wrong.

In 2003, he said:

> Our current deficit is not large by historical standards and is manageable.

He was wrong.

Now he says:

> The deficit will be cut in half over the next 5 years.

He is wrong again.

My friends, our budget deficit this year is going to be about a half trillion dollars. When you actually take away the surplus funds from Social Security that mask the Federal budget deficit, it is even larger than that. While there is a little downtrend starting this year for a couple years in the budget deficits, the real budget deficit, the operating deficit, is about $450 billion. Then it climbs steadily up. The boomers, my generation, will begin to retire, and we are looking at a budget deficit for 2014 of about $785 billion. That is three-quarters of a trillion dollars. Those are operating deficits, not debt.

I wish we had a chart of the debt. We do.

In 1962, I was a 15-year-old kid growing up in Danville, VA. It is hard to see the red ink down there on the chart because it wasn't very much. It was less than a trillion dollars; it was a couple hundred billion dollars. In 1982, we hit $1 trillion. In 2003, last year, we exploded up to about $6.8 trillion. You can see this leveling off from about 1998, 1999, and 2000. That is what happened in the last administration and in the very beginning of this administration.

What happens now, starting in 2003, is the debt—real debt, how much we are borrowing as a country from the Bank of China and banks in Japan, and from people all over the world—goes from where it is today, about $7 trillion, to in 2014 some $15 trillion.

There are going to be about 29 or so babies born in Delaware today. They are going to be facing something I call a birth tax. Some of my colleagues on the other side talk about a death tax, which is their term for the estate tax. I am talking about a birth tax. For every baby born in my State today, they will face a debt of $35,000 apiece when they come into the world. So do their brothers and sisters and parents and grandparents. By 2009, it is going to be over $35,000. That is the kind of welcome to the world we are giving children in my State, and other States as well.

The fastest growing entitlement program in the Federal budget is not the Medicare plan or Social Security or Medicaid. The fastest growing entitlement program in our Federal budget is servicing our national debt, as you can see from the last chart I shared with you.

In 2009, our Federal Government will spend some $1.5 billion per day in interest on our national debt. In 2009, the Federal Government will spend more money servicing the debt than we spend on the entire defense for our country.

I will say that again. In 2009, we are going to spend, if we stay on this track, more money servicing the Federal Government's debt than on defending our Nation.

Let's get real. I don't have the time to go through this entire chart, but this is instructive. The debt we are going to have this year—about $521 billion—is actually more than all of our nondefense discretionary spending. We could get rid of the EPA, the housing programs, the education programs, and homeland security on the appropriations side—everything but defense—and we would still have a deficit of about $55 billion or $56 billion.

There will be a vote later this week, beyond the vote on the Murray amendment. I think it will be offered by Senator FEINGOLD of Wisconsin. It speaks to getting real. There was a time not too long ago when we were real. When somebody came to the floor and said, I want to raise spending by some magnitude, they had to come up with an offset. If they wanted to raise spending, they had to cut spending someplace else or raise revenue by that amount. Similarly, if I or anybody else wanted to come here and say, let's cut taxes by some amount of money, we had to come up with an offset. That is common sense in my State. That is just common sense. We used to do business that way here.

A couple of years ago, those pay-as-you-go rules lapsed. We need to reinstate them. We have the opportunity to do that this week. In an hour or so, we are going to vote on the Murray amendment to avoid an unfunded mandate and make good to those kids born in Delaware today and around the country so they are not saddled with a huge debt to face for the rest of their lives, and to give them a chance to be successful in school and in life.

The PRESIDING OFFICER (Ms. MURKOWSKI). The senior Senator from Delaware is recognized.

Mr. BIDEN. Madam President, I am told we used up a lot of the time, necessarily. I ask unanimous consent to have an additional 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object, I didn't hear that.

Mr. BIDEN. Earlier the distinguished Senator from Washington yielded to Senator CARPER and me to allow us to both acknowledge support for her amendment and then a total of 10 minutes of morning business to speak to another issue.

The PRESIDING OFFICER. There is 1 minute remaining of that time.

Mr. BIDEN. Madam President, I ask unanimous consent that my colleagues would permit an additional total of 10 minutes, divided between the junior Senator from Delaware and myself.

Mr. CONRAD. I am happy to yield that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BIDEN and Mr. CARPER are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. I yield to the Senator from Wyoming such time as he may consume.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I rise in opposition to the amendment. I really appreciate the comments of the Senator from New Hampshire where he went over the No Child Left Behind legislation and what it really does. The No Child Left Behind legislation is to get kids to be able to read and do math, hopefully by the time they are in third grade but definitely by the time they graduate from high school, and to have some confidence in it. Every State has the right to set their own standards and they have to follow them, but the idea is to get them to do reading and math.

We held some hearings in Wyoming. I had the Department of Education come to Wyoming and talk about some of the rules and there were concerns about the law and some of the ways it affected Wyoming. We are a very rural State. We have a large State. We have very small populations. We have some different classrooms than in other places and we needed to be sure when the rules were written they would work for Wyoming, which has a very tough law that was already in place before No Child Left Behind even came along.

It has increasingly difficult standards that have to be met over the next several years, and they adopted that as their No Child Left Behind standards. I do not want people to have the impression No Child Left Behind forced the States to do all of these things. Yes, it did force some of the States to do some of these things, but a lot of the States were already doing things to make sure no child got left behind.

I appreciate the President joining those States and encouraging in a very forceful way the other States to do that, too.

Incidentally, I had people drive as far as 200 miles to come to one of these hearings and we are going to hold two more of them in Wyoming yet. But I did have one person stand up and say there is not anything in No Child Left Behind about improving physical education and that is very important. If people are not healthy, they cannot do well in school.

I pointed out there also is not anything in No Child Left Behind that says they have to have competence in science until several years from now, and that is very important. We are starting with some very basic points. If a child cannot read and do math, they do not stand much of a chance. Their choices in life are very limited, and the President recognized that.

He did not say: On the average, we want everybody to be able to read and do math. He said: I want every child in this country to be able to read and do math.

That is where we are starting. Now, we have places we can go with that, science will be added in, and other things can be added in, but we are trying to do something very basic. We also get the impression from this discussion the Federal Government provides all of the money for education. That is not true and it never was true. I do not think it was ever intended to be true. We used to provide about 7 percent of the education dollars in the United States. The local people provided the rest of it.

It always fascinated me that for the 7 percent in education funding we provided, we caused 50 percent or more of the paperwork. Yes, we really tie a lot of things to our money that does not have anything to do with local control. It has to do with jobs in Washington because if we have a lot of reporting that has to be done, somebody has to make sure those reports are filled out.

I had a school superintendent who came out for one semester. He spent some time in my office, and actually I had him go down to the Department of Education and look at where his reports were going and what was done with them. He was fascinated to find out they read all of them. He was tremendously disappointed to find out that is all that happened to them, and he did not see why we were filling out reports that just provided people with a job to make sure the report was complete.

There is a lot of room to eliminate paperwork. That would save time and money at the local level, which is absolutely essential.

I also wish there was more in the bill that dealt with parental responsibility. When the parents are involved in a child's education, the child does better. Again, we focused on reading and math and what the schools could do because that is where the money goes.

We held a hearing last week and one of the people present mentioned that in one area of the country, Washington State, there was a high school that forced the parents to sign up the courses for the kids. That is a fascinating concept. Kids in high school can go sign up for their own courses, and when they do they will say: This one looks easy, and this teacher is easy for an A, and I like doing this because it is a little more outdoors. But when the parents look at it, they say: I want my kid to excel and these are the things he or she will have to do or be able to do to excel in the school. It makes a whole lot of difference in what the kids take. The biggest difference is the parents have to pay attention to what they want their kids to be able to do and make sure the plan they are signing their kids up for will make that kind of progress.

In the discussion over our priorities on the current budget, my colleagues continue to suggest funding for education is being ignored. Well, we have had some charts that show it is not being ignored; it has been greatly increased under the Bush administration.

We had a fascinating display of a chart on the other side that gave the impression the reason the Clinton administration had declining amounts going into education funds was because there was a deficit and they were trying to overcome the deficit. I remember when I arrived here 8 years ago we were trying to force that balanced budget constitutional amendment. We failed by one vote, but it had a positive effect. The positive effect was both sides of the aisle understood we needed to do a better job on balancing the budget, and we did. That helped grow the economy, and the economy's growth is really what provided the money. We did not cut programs. We increased programs. We did not eliminate programs. We added new programs. The growth of the economy kept ahead of the spending.

There have been a number of things that have affected the economy lately, but a very important part of this discussion is, we are on the U.S. budget. We are not appropriating. We are not doing Finance Committee work of figuring out what the taxes should be. We are doing a budget. The purpose of a budget is to set targets. Maybe that is not a good word to use on this floor, but I think it is a very important word to use. It reminds me of a cartoon that I saw of a grizzly bear that had this big target on his chest, and the other bears gathered around and said: Oh, rotten birthmark, rotten birthmark.

Targets are important, and all the budget does is set targets up. We do not shoot at them. We do not decide how big the rings are going to be. But we set targets up.

Now, if my colleague will listen to the debate we are having, sometimes we are suggesting the target be moved a little higher. Sometimes we suggest the target be moved a little to the left. Sometimes we suggest the target be moved a little to the right. Listen carefully and see if anybody ever suggests moving the target down. No. That is not good politics. It is important politics, but it is not good politics.

What we are going to do is set the budget, the targets. Once those targets are set, the authorization committees get to work with them. They are the ones who actually work with the rings of the budget. They decide what the priorities are and how big each of those ought to be, and then the money gets turned over to the Appropriations Committee. They are the first ones

that get to shoot at the target. When that comes to the floor, we get to shoot at the target. Everything before that is setting up targets.

A lot of the discussion we have heard this morning is based on three assumptions I believe are mistaken. The first assumption of my colleague from Washington State is that raising taxes, by repealing some or all of the recent tax reductions, will not have a negative impact on the economy. I noticed that the discussion changed a little bit to loopholes, and it was pointed out that in the budget there are some loopholes. We talked very specifically about some loopholes, how big those loopholes are and whether they could be achieved in the budget assumption. I think in order to add to that, a person would have to figure out what those other loopholes are. There is a limited amount of loopholes. There are some real ones that can be identified. They can have a price put on them. But if that is not done, what is being talked about is the common campaign tactic of saying we are going to take it out of waste, fraud, and abuse.

Yes, probably in many of the Government programs there is waste, fraud, and abuse. If you add it up, there is a limited amount of it. Finding it and eliminating it is a whole other problem. The same with loopholes.

So when they talk about the money here, they are talking about raising taxes, which would repeal all or some of the recent tax reductions, and it would have an impact on the economy.

The truth is, a tax increase would hurt economic growth, which is the most important factor in terms of revenue. I mentioned that how we were actually able to come up with surpluses was growth, not reducing programs.

The second assumption my colleague is making is that the Federal Government is somehow responsible for creating new jobs. As a former small business owner, I know firsthand that expanding Government is not the best way to create jobs. Taxing small business is not the best way to create jobs.

We keep talking about these rich people out there. A lot of those rich people are not rich at all. They have businesses and, because they are single proprietorships or partnerships or subchapter S corporations, whatever profit shows up on the balance sheet goes to the bottom line on their taxes. It is considered to be money they have earned on which they need to pay taxes.

But having been a small businessman, this is how that really works. Yes, your business shows a profit at the end of the year. Yes, it is honest accounting. But you don't get to take the money out. Hopefully, you have a growing business, and a growing business needs ever more amounts of revenue. That is what the big corporations do, too. Their profits don't get paid out every year in the way of dividends. They stay in the corporation to grow the corporation.

The difference is, if you are a regular corporation you pay a small tax on the money that stays in there. When the dividend gets paid out, there are additional taxes that get paid on it. So it is not very appealing to the small businessman to use that form of corporation. But if they go with the subchapter S, or single proprietorship, there are some advantages to that, but the big disadvantage is they pay the tax in the year the balance sheet shows they earn it and they don't get to take that out.

When we are talking about raising taxes on the rich people in this country, that is a nice phrase people like to use but most of those business owners I know don't consider themselves to be rich. They do consider themselves to have a good business and they are employing a lot of people.

When we are talking about businesses, we are talking about small businesses, we are talking about 90 percent of the businesses in this country, and we are talking about the vast majority of jobs in this country. I can tell you for a fact when somebody works for a small business, they understand how tenuous their job is. They understand how fragile some of these small businesses are. They don't have the vast market to fall back on. If there is a small change in their market, it can mean the end of their job; the same as a change in taxes can make a difference in whether that person stays in business or goes to work for somebody else, abandoning the business and losing jobs.

When we are talking about taxes, we have to keep that in mind. The Federal Government can leverage resources. We were talking about job training, too. They can leverage resources to help train individuals for available jobs, but job creation is something done best by the private sector in this economy and it functions best when the Federal Government is not taxing these small businesses beyond the point where they are sustainable.

It has been interesting. When we were back in the times of the mega mergers, when the big companies would combine together to form an even bigger company, and then have what they called a downsizing, or a ''right sizing''—that is when they would lay off 6,000 or 9,000 people; I called it laying people off—when that happened, the small businesses of the country picked up those employees. So it is not the big businesses of this country that do the job for us; it is the small businesses in this country. And a change in taxes affects those small businesses.

I am also confused as to why my colleagues argue for additional funding for programs that they argue will help generate jobs, yet they continue to oppose naming conferees to the Workforce Investment Act, which would help train individuals for jobs that are already available.

The Workforce Investment Act passed last year. Senator MURRAY and I worked on that, along with Senator KENNEDY. We got it out of committee unanimously. We got it through this body unanimously. Now we can't name a conference committee. Until a conference committee is named and we can work out the differences with the House, improvements to that bill are not available.

Training for 900,000 people is in jeopardy. Training for people who could upgrade their skills to fill in the kinds of jobs that are available in the country versus the jobs they are trained for. It is 900,000 jobs a year and we can't have a conference committee to get that done. It makes more sense to me that we would try to fill the jobs that are available now rather than spending more Federal dollars to try to create jobs.

The third assumption my colleagues are making is that this Congress is not maintaining its commitment to education. I would like to point out to my colleagues that under this Federal budget resolution, Federal education funding will be at its highest level in history. It will come close to doubling since the year 2000—doubling. We doubled the National Institutes of Health's budget over a period of about 8 years, but this President has nearly doubled the education budget since 2000—nearly doubled it. It amazes me.

The opposition, of course, is upset with that because this President has had the audacity to take the leadership on education. Leadership in education used to be from the other side of the aisle. But this President said, We are going to do it, and he put the dollars behind it to do it. It amazes me that, despite these increases every year, we hear about how this administration and the current congressional leadership failed to support adequate funding for educational programs, particularly title I of No Child Left Behind.

The truth is, these programs have seen enormous increases over the past 4 years. Even so, my colleagues assert that we are somehow undermining our commitment to education.

I am reminded of the debate this body had over last year's budget resolution. We heard over and over from our minority colleagues that the Federal commitment to education was too small. Despite all of the discussion surrounding our failure to support education funding, the current Senate leadership has increased spending for title I and other educational programs more than any other Congress in history. Yet my colleagues argue that is insufficient. They argue we need to raise taxes to support more education spending.

What is the impact of all this new spending on education? State and national studies show that funding for No Child Left Behind is adequate. I would like to remind my colleagues from Massachusetts that a study in their State suggested that more than enough funding is available for implementation of the law. Opponents of the budget resolution might suggest that other

States have found that funding for No Child Left Behind is insufficient and that more money is needed. Many of these estimates are based on some risky assumptions. Some of these studies are anticipating costs more than 10 years into the future.

As an accountant, it strikes me that these studies are missing the point, because they are suggesting that current funding is inadequate for challenges that are not even going to appear for 5 or 10 years in the future, if they appear at all.

I asked for some information about the title I grants for local educational agencies to see what kinds of increases we have had between 2001 and 2005. I was fascinated to see Louisiana, which has been part of the discussion this morning, had a 46.9-percent increase in funding. Massachusetts got a 24.1 percent increase in Title I. New York got an increase of 65.2 percent. Rhode Island got an increase of 76 percent. Washington State got an increase of 47.9 percent.

The Senator from Louisiana also mentioned they didn't have enough money. It is kind of fascinating to me that out of the discretionary funds, those that weren't used reverted to the U.S. Treasury. I have the list by State. Louisiana surrendered 6.37 million to the United States Treasury. All together more than $154 million was returned to the Treasury. All of it isn't being used.

I spoke to one Wyoming superintendent. He said the biggest problem with title I was they needed more flexibility to be able to shift that money to salaries because they already have all they can possibly buy with title I. I thought that was interesting.

I also would like to point out to my colleagues that the ''wealthy'' individuals who would be paying for these increases couldn't possibly afford to fund all the additional spending my colleagues in the minority are recommending. They would have to earn much more than $1 million a year. As my colleague from Utah has pointed out repeatedly, it is the small business owners who will be paying the bulk of these taxes.

I don't believe you want to send the message to the people who managed to achieve the American dream and finally have financial security that the Federal Government will then turn to them and ask them to surrender a much larger portion of their income and call it their ''civic duty.'' I shouldn't have to remind my colleagues that the highest tax rates in this country already apply to the wealthiest Americans. The graduated tax scale relies largely on the wealthiest 10 percent of Americans for most of the Federal Government's revenue already.

The ''wealthiest'', as I have explained, are the people who are business owners who are putting most of that back into a business. My colleagues are suggesting these Americans don't contribute enough and if these Americans were truly interested in their country's well-being, they would agree their taxes should be even higher. I think that is simply ridiculous.

I don't believe the tax increase is the only option we should consider. We are discussing a budget that would provide $814 billion in discretionary spending. My colleagues are saying that simply is not enough money.

Reflecting on my experience as an accountant again, when a company is running deficits there are two things that can be done: They can raise revenue or they can cut spending. This body has shown an insatiable appetite for new spending, but there is a genuine lack of support for reductions in spending. We talk about tax loopholes, we talk about fraud, waste, and abuse, and we talk about tax increases, but we don't talk about truly cutting because we haven't got the will to do it. Even when we talk about increases, it is not enough.

I mention the targets we put up for the budget, the targets the appropriators actually see. We talk about raising them, moving them to the right or moving them to the left, but never lowering them.

In the President's budget, there was some tremendous leadership. The President actually suggested cutting some programs. Why did he suggest cutting programs? He suggested it because Congress imposes on the Federal Government the Government Performance and Results Act. We said every federal program in this country has to do a report every year. In that report they have to show what their application is, what their goals are, how they are going to accomplish it, and how that fits with the money they are spending. They have to tell us what the job is they are doing and how they are getting it done.

It might be interesting to people who are listening, that in some of the agencies some of their programs failed those reviews. They aren't doing what they said they would do. According to the reports those people are writing, they are not doing their job. The President said if they are not doing their job, let us cut the program.

I can tell you that on the Budget Committee we did not do that. That is not in the budget. We didn't cut any of those programs no matter how bad the Government Performance and Results Act showed them to be. That would have been $5.9 billion. I hear that is not enough to do anything, but it would be a big part of what we are trying to do in this amendment for education. We are not cutting those programs. We will have constituents and interested people who will try to prove the Government Performance and Results Act reports were absolutely wrong.

We need to have some courage to cut some things, to revise some things, and to consolidate some things. That is what businesses would be doing. Businesses have to make cuts when revenues go down unless they can figure out a way to get those revenues to come up. They usually do both. They try to figure out a way to get the revenues to come up, but they also cut programs that don't work. They get rid of products that aren't selling.

For some of those programs, the products are only selling to the people who are employed by the programs—not to all of them. For some of them, it was probably a gross error in writing their report. But if we ever cut some of those, I would bet there would be a lot more attention paid to their own reports on performance and goals. That is something we ought to be doing.

Even under the current budget circumstances, my colleagues are asking for even more spending. At what point can we say enough is enough? How much Federal spending is adequate? I think I have said enough about raising taxes and why this body must oppose any effort to finance additional government spending by levying further taxes on our citizens.

Discretionary education spending has increased by 64 percent since 2000. In real dollars, there has been more than a $13 billion increase in discretionary program funding since 2000. Of that total, $4.5 billion has been in title I alone. More than enough has been dedicated in spending to cover the mandatory expenses of the No Child Left Behind Act. Additional increases are both unnecessary and irresponsible given the current budget situation. As we speak, States are waiting on new increases even though they have nearly $6 billion in unobligated funding to them. Almost $2 billion of that total is title I funding. It is time we stop taxing and spending to meet needs that have not presented themselves yet.

I yield the floor and reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, I ask unanimous consent to add Senator SARBANES and Senator BINGAMAN as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Madam President, I rise in strong support of the Murray-Kennedy amendment. This would fully fund the No Child Left Behind Act. The question of how much money the Federal Government should provide to local school districts to assist in meeting the goals of the No Child Left Behind Act was something we discussed extensively when the bill was being written. Many of us urged that those figures be higher than they wound up being, but the authorizing legislation contains figures which we think the Congress should honor and should step up to and fund. That is exactly what this amendment would do. I congratulate my colleagues, Senator MURRAY and Senator KENNEDY, for putting this amendment forward.

As I am sure has been discussed extensively, the core idea behind the No Child Left Behind Act was we would require States and school districts to establish what would be considered performance goals for their students, that they would make what we call ''adequate yearly progress'' in achieving those goals, and that the Federal Government is committed to provide assistance in doing that. Unfortunately, we have fallen short. Unfortunately, this President has not asked for the full funding on that legislation in any year since it has been in effect. Again this year, he has not asked for that funding. This amendment would try to correct that problem. I believe it is a very meritorious amendment.

I want to particularly spend my very few minutes here focused on one particular program I have spoken about many times on the Senate floor. It is very important in my home State of New Mexico; that is, a provision in the No Child Left Behind legislation the President signed which calls for the Federal Government to assist local school districts in trying to keep kids in school. It was dropout prevention efforts by the Federal Government to assist the local school districts in pursuing those. The idea was, as you are requiring more and more of students, teachers, and schools, there is a great temptation on the part of those schools and those teachers to just say, let's look the other way and allow some of these poorly performing students to leave school. That way we can get our standards up and everyone will be happy.

Unfortunately, that has happened. It is happening in my State. It is happening in many States in the country. We are not doing what we committed to do—we, the Federal Government are not doing what we committed to do in that legislation to assist schools in heading this off. We committed in the legislation to provide $125 million per year to assist in dropout prevention. This year, this current year, we are providing $5 million—not $125 million but $5 million. Considering the number of school districts in this country, the number of students who are at risk of dropping out, this is a ridiculously low figure.

Unfortunately, if we are not able to adopt the Murray-Kennedy amendment, we are going to be faced with a situation where when we come to the Appropriations Committee, they will say there is no money to fund this. It was funded at $5 million. Maybe we will continue to fund it at $5 million again. Essentially, the Federal Government is going to once again take a walk on any responsibility to assist with solving this problem.

I believe firmly when we allow a student to drop out of school before they graduate, we are leaving that student behind. We are leaving that child behind. Clearly, we need to make a priority out of this. This is a problem that particularly affects my State. We have a very large Hispanic and Native American population. The graduation rates among those groups are slightly better than 50 percent. That means we will find half of the Hispanic and Native American students who started in the 9th grade actually going through that graduation ceremony. That is a terrible indictment of our education system. The least we can do is put in the small amount that was contemplated when we wrote the No Child Left Behind Act.

This is very important to schools throughout my State, to the larger schools, also to the rural schools. I hope it is a correction that can be made. I hope very much the Murray-Kennedy amendment is adopted so the funds will be there to actually accomplish this objective.

I yield the floor.

Mr. KOHL. Madam President, I rise today in strong support of the Murray amendment. I am proud to cosponsor this amendment, which will finally provide the funding that Congress and the President promised when No Child Left Behind became law.

I supported the No Child Left Behind Act because I believed it would provide a real chance for real reform. For the first time, the Federal Government would provide the resources that schools, teachers and principals need to help all students succeed. And in return, we required real accountability for results. Teachers, principals and school boards are working hard to live up to their end of the bargain as they work to meet the requirements of the new law. Now they are counting on us to live up to our end.

Unfortunately, the President's fiscal year 2005 budget request—and the budget resolution before the Senate today—fall far short. This budget resolution falls $8.6 billion short of what was authorized under No Child Left Behind. Just when we're asking schools to do more, this budget resolution takes away the very funding they need to succeed.

It might be easy to dismiss this shortfall when you talk about it in terms of billions of dollars. So I want to tell my colleagues here what this shortfall in funding has actually meant for schools in my State of Wisconsin. In 2003, Milwaukee Public Schools received an $8 million increase in Title I funds. But the new requirements for supplemental services and transportation for students to better performing schools cost over $10 million. In other words, the new mandates cost $2 million more than the total increase MPS received, and they had to make up the difference. To cover the costs, they were forced to cut their popular summer school program, which had served 17,000 students.

This is just one example. Across Wisconsin, school districts are being forced to cut staff and increase class sizes, cut music, art and foreign language education, and cut textbook purchases. Some have even had to keep their schools colder during the winter months to cut down on their heating bills, or restrict how many pages students can print from their computers. These are certainly not the results we want.

Problems exist at the State level, too. Our State Department of Public Instruction is working hard to implement the new law. But they believe they will need more funding to create new data systems to meet new data collection and reporting requirements. They will also need more funding for technical assistance teams to help schools and districts in need of improvement.

It is time that the Senate and the President lived up to the promises that were made. The Murray amendment would establish a reserve fund to add $8.6 billion to the Budget Resolution for the purpose of fully funding No Child Left Behind. At the same time, this amendment lowers the deficit by $8.6 billion. The amendment is fully offset. I hope my colleagues will support this important amendment and finally provide the funding that our students need to succeed.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. JOHNSON. Madam President. I want to express my strong support for Senator MURRAY's amendment to the budget resolution to fully fund the No Child Left Behind, NCLB, Act.

Adequate funding is a necessity for school districts to continue to achieve adequate yearly progress. When Congress passed and the President signed NCLB, we set standards of achievement to improve education for all. However, I have been woefully disappointed with the administration's refusal to make good on the promises it made to provide state and local school districts with the resources they need to implement the NCLB reforms. The administration has underfunded NCLB by $26 billion since 2002.

In my home State of South Dakota, education officials and educators are working very hard to meet the requirements of this law. It is irresponsible for the Federal Government to say that States and school districts must meet the requirements in this law, while we do not meet the promises made in this law to provide funding to do so. Under NCLB, South Dakota should receive $62.3 million for Title I for Fiscal Year 2005. President Bush's budget would shortchange South Dakota by $24.6 million. This would result in 8,029 South Dakota children being denied full Title I services for which they are eligible. This is unacceptable to me.

As I travel South Dakota and meet with superintendents, principals, educators, school board members, and parents, I hear about how hard our schools are working to provide the best education possible to their students. However, this trend of continuing to underfund NCLB commitments will only make it more and more difficult

for our local school districts to meet the adequate yearly progress requirements of the law.

This Congress and the administration have an obligation to uphold our promise that no child be left behind by the public education system. I encourage my colleagues to support Senator MURRAY's amendment, which would go a long way in helping our schools meet the challenges in NCLB.●

Mr. DODD. Madam President, when this President came to office he called himself the education President and called for significant reforms. When he offered these reforms he promised to provide us with the resources needed to implement them. Taking him at his word, this body took up and enacted the No Child Left Behind Act two years ago. Yet here we are, only 2 years later, and No child Left Behind is being underfunded by $8.6 billion.

When we passed the No Child Left Behind Act we pledged to expect more, and provide more, to our Nation's schools. And yet this pledge is not reflected in this budget. I have to ask, how do my Republican colleagues and the administration, expect us to raise test scores, provide high quality teachers and prepare students for the 21st century without the funds to do so? Furthermore, who is it that they expect to feel the burden of these cuts? I can tell you who it will be.

First, it will be the States. States that need every dollar possible to do more than they have ever been asked to do before. States that are experiencing the worst fiscal crisis in decades. Second, it will be the localities. With less funds to do more, hard decisions will have to be made at the local level. Should local taxes be raised? Should music and art be cut? Should after school programs be eliminated? Should physical education classes be cut in the midst of a childhood obesity epidemic? Ultimately, the students will suffer. They will not be given the teachers that they need. They may not get the tutoring that they were promised. Music, art and foreign language may no longer be a part of the curriculum. After school programs could be cut.

When we passed No Child Left Behind, we made it clear that we were expecting more from our schools—and rightfully so. We were expecting more so that American children—all American children—children in the suburbs, children in our inner cities, children in our rural areas—would have real opportunities to reach their full potential.

This past September, some Connecticut students went back to schools that were labeled under performing by No Child Left Behind. And yet this budget is not committed to helping them overcome that label. This bill will not give them the added funds they need to fully perform.

If we fail to adequately fund No Child Left Behind, our States, our localities, our school districts, local taxpayers, and most importantly, our children, will suffer. Budgets are about priorities. What priority could be more important than ensuring the future of our children by providing them with a first-class, world-class education.

Mrs. CLINTON. Madam President, I support the Murray-Kennedy amendment to meet the funding promises in the No Child Left Behind Act.

When I voted for the No Child Left Behind Act I though we made a deal with our local school districts—we would ask more of them and we would provide the resources to allow them to meet those expectations. Today it is clear that this administration has deliberately chosen not to play by its own rules and has instead reneged on the promises it made to teachers, parents and millions of poor school children across the Nation.

For a third year running, this administration has shortchanged the reforms included in No Child Left Behind. Instead of helping ensure these children are not left behind, this administration has had a clear record of promising false hopes and of cutting resources targeted towards improving educational opportunities for all children.

This Democratic amendment ensures the President and the Republicans in Congress live up to their commitments to fully fund programs like Title I, English Language Acquisition, literacy programs, after school and rural education and that is why I am proud to cosponsor it.

We all know that there is no greater path to opportunity than education. Unless we fully fund No Child Left Behind, millions of needy students will be denied the opportunity to achieve the American dream

I have visited schools across the great state of New York and I know firsthand that our school districts are doing their part to help students learn at higher levels. Yet they continue to struggle with critical funding shortages to fully serve all children in need.

The Murray-Kennedy amendment would help ensure that 4.6 million children get the quality education they need and deserve. For New York, this funding will help close the $765.7 million gap in Title I funding between the funding proposed in the Republican budget and the amount that was promised to my state when we passed No Child Left Behind. With these resources, New York schools could decrease class sizes for 834,117 students, expand preschool to 105,689 eligible children and certify 102,740 teachers.

The more we hold off on funding these reforms, the more it will cost school districts to meet the requirements to increase test scores and the numbers of highly-qualified teachers. That is why we are falling further behind every year we fail to live up to that commitment.

I strongly urge my colleagues to support the Murray-Kennedy amendment.

Mr. LIEBERMAN. Madam President, I rise as a cosponsor to express my support for the amendment offered by my distinguished colleague from the State of Washington, Mrs. MURRAY, and my distinguished colleague from the Commonwealth of Massachusetts, Mr. KENNEDY, to fully fund the No Child Left Behind Act and to improve overall funding for education and training programs. I believe it is critical that my colleagues in the Senate adopt this amendment which represents a critical investment in America's future.

A little more than 2 years ago, in this Chamber, we made a bipartisan commitment to leave no child behind. This landmark legislation has the potential to strengthen our public education system. It represents an ambitious Federal effort to dramatically revitalize public education by closing the achievement gap, making sure every classroom has a qualified teacher, and giving parents and students adequate choices to ensure that their children receive a quality education. Adequate funding, however, is essential in order to give our public schools the support and resources they need to implement the act, and to meet the goals embodied therein.

The amendment before us will ensure that the budget resolution fully funds the No Child Left Behind Act at its authorized level. We have all heard complaints with this law; the predominant one being that it is another unfunded Federal mandate. Schools across the Nation are struggling to meet the requirements of the law. However, they have been shortchanged by this President, and they are being shortchanged again by the budget resolution before us—shortchanged to the tune of $8.6 billion. How can we expect our schools to embrace the act when their hands are tied by lack of funding? This issue has become so pronounced that 18 States have considered a resolution that would grant them a waiver from the law. I urge my colleagues to adopt this amendment to assure our school systems will receive the funding levels they were promised when the law was enacted.

This amendment will signal to our schools and school districts that we will meet our end of the bargain, in order to make public education in this country first class for every child in America. It will signal to our State and local education leaders that we will stand behind our commitment to them, and give them the support they want and need to do their job for our children. The $8.6 billion being allocated by this amendment can be used to ensure that we have highly qualified teachers in our classrooms, provide additional afterschool programs, send resources to schools identified as ''in need of improvement,'' supply tutoring and supplemental services, and give students specialized instruction in reading and mathematics. It can also be used to leverage additional State and local resources for public education in this country. Finally, I would like to point out that not only does this amendment pay for itself, but it also dedicates an

additional $8.6 billion for deficit reduction.

I commend the Senators from Washington and Massachusetts for offering this amendment as an investment in our Nation's future. I am proud to be a cosponsor. Our schools and students need adequate resources to meet the high expectations that have been placed upon them. I urge my colleagues to support this amendment.

Mr. LANDRIEU. Madam President, I rise today in support of Senator MURRAY's amendment that, put simply, proposes to close unfair tax loopholes and use the funding closing them brings to fulfill the promises we made to the parents, teachers, principals, superintendents and, most importantly, our children. For the past hour, my colleagues from across the aisle have tried to put a different spin on this amendment, claiming that it raises taxes to cover increased spending. That is what they would like the American public to believe because then their opposition to it is easier for them to explain. But the fact of the matter is, the underlying budget resolution now before us already proposes that we close these very same tax loopholes, the only difference is that under this budget the revenue generated would be used to pay for new tax cuts for corporations and millionaires. So it seems what we have here is a difference in priorities. Democrats are against tax evasion and for investments in education and Republicans are against tax evasion and for tax cuts for those who do not need them. That is a choice I will leave to the American people come this November.

Two years ago, we challenged our schools to reject mediocrity and failure and to embrace excellence and high standards. We laid out legislation that provided a blue print for reform and we promised we would be there every step of the way, in partnership, to bring about change in our public schools. I was one of the 13 Members of the U.S. Senate who advocated for the kind of change embodied by the No Child Left Behind Act long before it became a part of President Bush's political platform. I believe in the potential of this law, its founding principles, and the direction it leads our Nation. It is by no means a perfect law. No law, in the history of Federal involvement in education, has ever been perfect on the first try. But that does not mean we must abandon it and go back to the drawing board. What we must do is come together to both fund it and fix it.

As the old saying goes, ''talk is cheap.'' Unfortunately, this administration does pays a great deal of lip service to principles such as accountability, teacher quality, innovation and school choice, but are not willing to do a whole lot to be sure that these principles are reflected in the budget. For example, this administration says the following when it comes to the importance of teacher quality. ''We know that our children's future depends on their education. And the quality of their education depends on our teachers. Strong schools and quality teachers are the President's priorities,'' Laura Bush said on the First Anniversary of the Passage of NCLB.

Yet, what they do to fulfill the promise of a qualified teacher in every classroom is a different matter. In this year's budget, President Bush proposes to cut funding for Troops to Teachers and freezes funding for grants to States to improve teacher quality. What this means is that States like my own, are faced with the congressionally mandated challenge of closing the gap in the number of qualified teachers, and have had to try and meet this challenge with approximately $100 million less than they were promised.

The administration maintains that their goal is to improve public schools. In fact, in January of 2001, President Bush made the following promise: ''Once failing schools are identified, we will help them improve. We'll help them help themselves. Our goal is to improve public education. We want success, and when schools are willing to accept the reality that the accountability system points out and are willing to change, we will help them.'' If this is not a promise, I am not sure what is. States like Louisiana believed in this promise and they believe in accountability. For the past 4 years they have been working hard to identify schools that were failing and turn them around. They have done such an outstanding job that they were just recognized by Education Week for having one of the best accountability systems in the country.

Is President Bush fulfilling his promise to support and encourage these efforts? No. He is pulling the plug just when they need help the most. This year's increase in education, which has been shrinking a little more every year since Bush took office, is the smallest increase in education spending in 7 years. What's worse, is that according to his budget, next year, not coincidentally a year after the election, education funding will be cut by $1.5 billion.

Our schools need more than lip service and empty promises, they need help. Now, I have asked the President and my Republican colleagues, why the President would not provide States with the resources he promised would be available to support their efforts. Here is what they tell me. They say, ''Senator LANDRIEU, the President did not make any promises when it comes to funding, the funding levels listed in the law are just goals. Congress never appropriates as much as they authorize.''

I think it is important for the American people to be able to separate fact from fiction. Let me tell you what the facts are on this point. When a program is a high enough priority for the President, you can bet it will be funded. Let me give you some examples. Last year, Congress appropriated $1 billion for a program called the Millennium Challenge Account, a brand new foreign policy program proposed by the administration. The President demanded $1 billion and he got a full billion. Same was true for the tax package in 2003. Congress authorized the passage of a $350 billion tax cut and we spent all $350 billion. Medicare, the Iraq Supplemental, the Compassion Capital Fund, the list goes on and on.

The Secretary of Education claims that the reason for the decreased financial support from the administration is because States have too much money and are not even spending what they already have. In the words of Ted Stilwill, the school chief from Iowa, ''The implication that [States] have let huge sums of federal money languish that the funds are at our disposal to use at our discretion, or that we have not been good stewards of the public's money is not only unfair, but patently insulting.'' Here are the facts: According to data from the U.S. Department of Education, States are actually spending their federal money faster than expected. As of February 20, using normal spending rates, States should still be waiting to spend about 7 percent of their Federal education money from fiscal years 2000 to 2002. As a matter of fact, States have spent all but 6 percent.

What our kids need is less excuse making, fewer empty promises, and more leadership. In the words of President Bush himself, ''The time for excuse making has come to an end Accountability for results is the law of the land.''

I would like to close my remarks this morning with one final Presidential quote. ''We possess all the resources and all the talents necessary. But the facts of the matter are that we have never made the national decisions or marshaled the national resources for such leadership. We have never specified long-range goals on an urgent time schedule, or managed our resources and our time so as to insure their fulfillment . . . Let it be clear that I am asking the Congress and the country to accept a firm commitment to a new course of action—a course which will last for many years and carry very heavy costs . . . [but] if we were to go only halfway, or reduce our sights in the face of difficulty, it would be better not to go at all.''

Many of you may be saying to yourselves sounds like something President George Bush said when he urged Congress to pass the No Child Left Behind Act, perhaps the most sweeping reform of Federal education policy since 1965. But you would be wrong. This was from a speech given by another President making a historic challenge to the Nation. This is an excerpt from the famous ''Man on the Moon Speech'' delivered by President John F. Kennedy.

In 1961, President Kennedy presented a bold challenge to Congress and the Nation: to reach for the stars, to put a

man on the moon within the next decade. Most thought he was over ambitious, perhaps even crazy. It was such a large task, it could never be done. Put a man on the moon in less than 10 years? In June on 1969, 8 years and 1 month after this speech, Neil Armstrong and Buzz Aldren landed on the moon and Neil Armstrong uttered the immortal phrase, ''one small step for man, one giant leap for mankind.''

The difference is that President Kennedy was not only willing to make the challenge. He was willing to stand strong and provide the leadership and the resources necessary to meet it. In 1961, all tolled, the United States was spending $1.6 billion, the equivalent of $8.7 billion today on space programs. By 1966, just 5 years later, we were spending $7 billion, which is close to $30 billion in today's dollars. But it was more than just money, he provided the leadership and the support. He made commitments and he stood by them. This program was more than his speech for the day, it was a top priority. And it worked. History may have been very different if it hadn't.

In the words of the late President Kennedy, ''if we were to go only halfway, or reduce our sights in the face of difficulty, it would be better not to go at all.'' We made a promise to our States, more importantly, to our children. The Murray amendment fulfills that promise, it stays the course and that is why I am proud to support it.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I yield myself such time as I might consume off the 18 minutes remaining on this side.

Madam President, once again I remind the Senate about some of the issues that face the Senate Committee on Finance which I chair and how certain assumptions being made by some of the amenders of the budget resolution might be affected by that or how their decisions might affect decisions we have to make.

First of all, there is the general proposition with all budgets and all amendments that pretend to dictate to committees where they ought to get the money or what legislation they ought to pass. This is just a recommendation that has no force of law. It can be entirely ignored by any of the committees, including the Committee on Finance. So when there is a premise certain loopholes ought to be closed, certain tax rate changes ought to be made to affect upper income limit people, the people voting on this amendment and similar amendments ought to understand they are voting on numbers they are giving us, nothing else, because we will have to make those decisions not just on the substance of the dictates of the budget resolution but also on the responsibility to report a bipartisan bill.

We will have yesterday, today, and much more tomorrow, a whole series of amendments coming from the Democrat side of the aisle, trying to dictate something Democrats want Congress to accomplish, but with almost no Republican support. The Senate Finance Committee cannot function under that sort of partisanship. We have to get things done in a bipartisan way. If people who offer amendments to the budget expect their amendments to be adopted, it starts with bipartisanship. I have not seen that in very many of the amendments we have had thus far. I guarantee, nothing will be done by the Senate Finance Committee in a strictly partisan way. That is a dead end. That is an alley with no opening. We have to report a bipartisan bill if we expect to get it through the Senate.

The other thing I want my colleagues to understand, and why they should vote against this amendment, is it assumes gaining certain revenue from loophole closings. I can tell you of tens of billions of dollars we are going to get from closing loopholes, but we are doing that because of the responsibility of the Senate Finance Committee, first of all, has to have a fair Tax Code, and secondly because we have the obligation, if we are going to make tax changes, to have those offset. Without revenue neutrality we do not have bipartisanship, and without bipartisanship nothing is going to get through the Senate.

A lot of very popular tax provisions Democrats or Republicans expect me to get passed before this year is out, like the marriage penalty, like the $1,000 tax credit for children, and the 10-percent bracket so we can help low-income people pay less tax because they need that money themselves to live rather than sending it to us to spend—both Democrats and Republicans expect me to get that passed. We are going to use the revenue from the loophole closings to fund those provisions. We cannot have that money spent on appropriated accounts. It has to be used to offset this social and economic policy that is involved in doing away with the marriage penalty—the $1,000 child credit and the 10-percent bracket, and even in addition to that, maybe, finding some bipartisan solution to bringing finality to what the estate tax ought to be in America as opposed to what it is now or what it will be in 2011 when we go back to just the $1 million exemption.

Those are things we are going to do. Obviously, we ought to close these tax loopholes and shelters because they are unfair. Some of them are outright schemes for corporations to avoid taxation. However, we cannot use that money twice. It will be used once. It will be used by our economy to establish a fair tax policy.

In addition to that, and unrelated to my position on the Senate Finance Committee, how I react to the debate we have had thus far on this amendment—particularly when I hear some Senators on the other side say something like this: Don't tell me we have increased education spending by 60 percent, because I know that.

What that Senator wants us to hear is we have not appropriated what somebody thought we ought to appropriate, which we seldom do anyway. I am well aware of that. I am well aware of promises that were made by an administration on education expenditures, maybe in the first year of this administration, but what I have not heard from the other side of the aisle is, they decide how money ought to be divided, is what happened on September 11 and the war on terror and how that changes everything. How has that changed everything?

You put your resources behind the men and women in battle. You put your resources behind winning a war. That has caused the President of the United States and the Congress, in turn, to divert some money from domestic expenditures to the war on terror, to the Defense Department, and to homeland security. That is what is different now from the time when people thought this administration made certain promises on a lot of Federal programs, not just education.

It seems to me a responsibility we have when we overwhelmingly pass a resolution for war that, if we are going to put our men and women on the battlefield, you have to give them all the resources it takes to win that effort. If you do not, you should not be going to war.

Now, those who voted against that resolution may have the privilege of voting against funding our men and women in the battlefield, but it seems to me, regardless of whether you voted for the war resolution or not, you have a responsibility to stand behind our men and women.

That is what has changed between promises being made on education and today. There has been a diversion of money. But even considering all that, this administration, on the present budget and on previous budgets, has put education No. 1, after the war on terror—including Afghanistan and Iraq—and after homeland security, because education is the domestic program that gets the biggest increase in expenditures over anything else.

With that in mind, I ask that we defeat this amendment. I ask that it be defeated because the revenue supposedly being used is the revenue we are going to use to make the Tax Code more fair to implement the social and economic policy we have that we call doing away with the marriage penalty, helping families, by keeping the $1,000 child credit, and helping low-income people to pay less tax and to have more money in their pockets so they can support their families to a greater extent.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). Who yields time?

The Senator from North Dakota.

Mr. CONRAD. Mr. President, I ask the Senator, could I have 2 minutes off the amendment?

Mrs. MURRAY. Mr. President, I would be delighted to give the Senator from North Dakota 2 minutes.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 2 minutes.

Mr. CONRAD. Mr. President, we have heard a lot of talk that the amendment of the Senator from Washington raises taxes. Well, it does not raise taxes on anybody except those who are engaged in the abuse of tax loopholes. Because that is what the amendment of the Senator from Washington provides: that tax loopholes are closed in the amount of $8.6 billion.

All this talk about middle-class tax relief has nothing to do with this amendment—nothing. She is not talking about, in any way, affecting the 10-percent bracket or the childcare credit, or any of the other middle-class provisions—not at all.

The Senator from Wyoming indicated this is going to increase taxes on people, on small businesspeople, on middle-class taxpayers. It is not. It is aimed at tax loopholes.

Let's talk about the type of tax loopholes that one might consider. There is now, across the land, a scam going on of enormous proportion. New York has sold their subway system to a group of private investors, and then they turn around to lease it back, and the private investors get to depreciate the New York City subway system. New Jersey sold off their sewer system to private investors, which then depreciate the sewer system and then get away with a dramatic reduction in their taxes. These are scams.

The administration, to its credit, has said we ought to close these loopholes. They think it will raise $33 billion. The amendment of the Senator from Washington is $8.6 billion to keep the promise of No Child Left Behind—no tax increase, an end to scams.

It does not end there. The Joint Tax Committee did a thorough analysis of the Enron scandal and found a series of abuses that could be closed which would save billions of dollars in closing tax loopholes—no tax increase but stopping the scams.

And it does not end there. We have the spectacle of certain companies and certain wealthy Americans renouncing their U.S. citizenship—Mr. President, I ask for 30 seconds more, if I could.

Mrs. MURRAY. Mr. President, I yield 30 seconds to the Senator.

The PRESIDING OFFICER. The Senator is recognized for an additional 30 seconds.

Mr. CONRAD. We have the spectacle of certain wealthy individuals and major corporations renouncing their U.S. citizenship to avoid U.S. taxes. Closing down that loophole saves $3 billion.

Now, if anybody wants to vote against closing loopholes, let them vote against the amendment of the Senator from Washington. She is closing those loopholes in order to fund our kids' education. That is exactly what we ought to do.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mrs. MURRAY. I thank the Senator from North Dakota for that clarification.

Mr. President, I yield 10 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 10 minutes.

Mr. DAYTON. Mr. President, I commend my colleague, the Senator from Washington, for her amendment, along with Senator KENNEDY, and for her dedicated and lifelong efforts to improve the quality of education for all of our Nation's children. She has been a pioneer and a champion in the Senate, as she has been in her career as an educator. She knows whereof she speaks.

Once again, we are encountering the same old arguments from the other side of the aisle. Personally, I am tired of going back to 1993 or 1994 to try to explain or excuse what it is we are doing or not doing right now for education in this country. I want us to do what is right for now, to respond to the needs that exist now. I have said it in other debates on education funding, and I will say it again: If President Bush proposed more money than President Clinton, then President Bush deserves that credit, in my eyes. If the 108th and the 107th Congresses provided more money for education than previous Congresses, and more than President Bush has proposed at times, then this Congress deserves that credit, in my eyes.

But we are not doing this for ourselves. We are not trying to keep some scorecard. We are not trying to fiddle around with percentages or other things. We are doing this for America's children.

The important question we ought to all be asking ourselves is, Are we doing enough? Are we providing the money needed to do what we all said should be done to leave no child behind?

That is this President's proclamation. He set that standard for us and for the country. That is the law we passed. It is a great standard. It is an important standard, and we all seem to agree that should be the standard. So the question we need to ask ourselves is, Are we budgeting the money necessary to achieve that result?

When the Pentagon and Joint Chiefs of Staff have said they needed more money to win the wars in Afghanistan and Iraq, we have provided that money, with bipartisan support, overwhelmingly.

When the President and Secretary Ridge have said they needed more money to protect our homeland, to provide protection and safety for all our citizens, we have done so on a bipartisan basis. Some of us, including Senator MURRAY, has urged we do more.

We have set the objectives in the Congress along with the administration. We defined the standards of military victory and national security, and we have provided the money necessary to succeed, because that is what is important, that we succeed at these most important goals we set for our Nation.

Now, we have also increased the Federal deficit enormously to do so. We cut taxes very significantly, especially for the wealthiest people in this country. People whose annual income is greater than $1 million are receiving, this year, on average, a tax reduction of $113,000. It has not bothered the majority enough to make any of those adjustments.

When I hear these concerns expressed about these onerous tax burdens that are imposed on the superrich, the multimillionaires and billionaires of America, or the large corporations that Senator CONRAD pointed out are not paying their fair share of taxes, not paying the percentage of their taxes owed as our small business owners pay, then I must say, I think some of that is crocodile tears.

With all deference to the chairman of the Senate Finance Committee, whom I admire enormously and who has dealt with these matters, as somebody who comes from—or at least before I got mixed up in politics—the category of the wealthy, I would be glad to sit down with him and go through it to discover how easily we can find the money to pay for what he said he wants to do on taxes and what Senator MURRAY is proposing to do on education. It is not an either/or.

Nobody on this side wants to jeopardize the increase in the child tax credit which was passed with overwhelming bipartisan support. In fact, it was originally a recommendation from this side of the aisle, but it has bipartisan support. The same with eliminating the marriage penalty and expanding the 10-percent bracket. We are not going to do one thing to affect those extensions.

This is about education. Somehow that is treated differently by the other side. We can't close any of the tax loopholes. We can't allow the millionaires or billionaires to escape one penny of taxes they owe. We can't increase the deficit. Once again: Gee, we can't find the money we need for education.

We are also told there is extra, unused money in the Federal pipeline going to State and local governments for public schools. I have heard that in the years I have been here: Head Start has positions for kids that are unfilled because there isn't a need or demand. Special education has more money than they know what to do with. For No Child Left Behind, there is more than enough money being provided.

When I tell this to educators and school board members and others in Minnesota who are involved with education, they think I am joking. They think Congress must be seriously out of touch with reality. Where is this pipeline, they ask, and if some States have more money than they need or know what to do with, would they

please send it on to Minnesota. I doubt my State is alone because all the national organizations involved in these matters have said for years, Head Start is being funded about half for the kids who are eligible.

Again, Congress set these standards years ago. Congress defined what the eligibility was for these programs. We are not making these numbers up out of whole cloth. We are supposed to be setting the measure of what qualifies a child for Head Start, the kids who need it.

Almost 30 years ago the Federal Government promised to pay for 40 percent of the cost of special education. It is less than half of that today. President Bush has increased it. This Congress has increased it every year. Still it is less than half. So the question is not what is the percentage; the question is, are we keeping a promise we made almost 30 years ago. At least in Minnesota, when it is not being met, it has to be met, in most cases, with higher property taxes or cutbacks in the quality of education for all students.

Title I, again, is seriously underfunded and has been for years. In Minnesota's case, less than half the students are eligible by the Federal definition of what qualifies the child in poverty, with all those disadvantages, for title I funding, the additional funding that is supposed to give that child the chance he or she deserves and certainly is now entitled to by law under the President's initiative—less than half of those students in Minnesota, and we are going to lose money under the new formula.

In all these major areas of Federal Government responsibility for the education of our children, we have been providing far less than enough, far less than our own laws and our own statements of intent have called for. I don't know whose fault it is. I don't think that is relevant. I know whose responsibility it is today. That is what matters. It is our responsibility. It is our responsibility to provide the funds necessary to fulfill our part of the bargain with States and local governments and school boards and the schools and, most importantly, with the children of America. If we are not willing to do that, then let's change the law.

In Minnesota we have laws against consumer fraud. I would say if we don't address these funding shortfalls, to call this No Child Left Behind violates the spirit at least of that law. If we are not going to do more than we are doing now, let's at least have the honesty to tell the truth to the American people. We didn't mean it. It sounds good; great slogan, but, sorry, it is not enough of a priority for us.

Tell the States: You come up with the money for these unfunded mandates, for the additional part of special education, which in Minnesota costs our schools about $250 million a year, real money. No pipeline I am aware of can come up with that kind of money the schools in Minnesota need.

Let's tell school boards: Yes, you keep on raising local property taxes in order to make up for what the Federal Government has promised but isn't providing. Then let's have the honesty to tell the children, the future of America: Sorry, you are not important enough.

I can only speak for Minnesota, but in my State schools are cutting classes, opportunities. They are laying off teachers. Class sizes are increasing; sports and extra curricular activities are being cut back. You have to pay a special fee just to be a student. We know here in Washington that money is needed and should be spent and would be spent, but, sorry, we are not going to provide it. We have other, more important priorities.

That is what the Murray amendment is about. It is a moment of truth for this body, the Senate. Do we mean what we say, no child should be left behind? Do we mean it? Are we willing to fund that as we funded other important national priorities, or is it not important enough in the scheme of things to do what we promised to do?

Senator MURRAY has given this Senate, before the eyes of the Nation, this moment of truth. What are our priorities? Do we keep our promises? Do we do what we know should be done and say must be done, and what every child in America deserves to have done, which is provide the funding necessary for quality education to leave no child behind?

I thank the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank the Senator from Minnesota and all of our Democratic colleagues who have spoken. When the Senator from Minnesota was speaking, I couldn't help but think of someone he remembers well. During the whole debate of No Child Left Behind, Senator Paul Wellstone, who was on the floor during that debate saying: We are giving a promise I don't believe we are going to keep. Everyone assured him: No, no, we will put this accountability in place. We will fund this.

The Senator from Minnesota speaks from his heart, as I know Senator Wellstone would have admired him for, in reminding all of us what is happening to our children and to our schools because we haven't kept the promise all of us said we would keep when the debate took place several years ago.

How much time remains on both sides?

The PRESIDING OFFICER. The Senator from Washington has 8 minutes, and the Senator from New Hampshire has 8 minutes 33 seconds.

Mrs. MURRAY. Mr. President, let me ask my colleague from New Hampshire if he intends to use any more time on their side. I have a few more minutes I would like to speak.

The PRESIDING OFFICER. The Senator from New Hampshire has 8 minutes 33 seconds remaining.

Mrs. MURRAY. And our side has 8 minutes.

The PRESIDING OFFICER. Seven and a half minutes now.

Mrs. MURRAY. I was inquiring how much time the Senator from New Hampshire intended to use, or if he wanted to go now.

Mr. GREGG. How much time does the Senator need to close?

Mrs. MURRAY. I would like 5 minutes.

Mr. GREGG. I have no problem having the Senator close now and we can go to a vote.

I am sorry. I can't do that. I guess I will speak for about 8 minutes and then yield to the Senator.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, it has been a good debate. It certainly has outlined the issues involved. I want to reemphasize some points made by the chairman of the Finance Committee who spoke about how the $17.2 billion of tax increases in this amendment work. It is the only real part of this amendment.

The amendment represents it is going to take this tax increase and use it to fund No Child Left Behind at the fully authorized level. It can't do that for parliamentary reasons. It is unable to make that clear event within the amendment.

The only clear event within the amendment that does actually occur is there is a $17.2 billion increase in taxes. The point which the chairman of the Finance Committee made, and which I think needs to be reemphasized, is those dollars could easily, if they are raised in this manner, end up significantly impacting our ability to allow people who are now benefiting from no longer having to pay the marriage penalty; those folks could end up paying the marriage penalty because we won't be able to extend the relief from the marriage penalty tax.

If taxes are raised under this bill, those dollars could easily absorb the money intended to be used for the purpose of addressing the issue of the child tax credit, which is a $1,000 tax credit. The extension of that might well be impacted. Those dollars, if this tax is put in place, could potentially impact the ability of this committee to finance the continuation of the expansion of the 10-percent bracket for low-income Americans so they have to pay less burden. Why is that? He made the point, and I thought rather well, that that is because he intends to use the alleged loopholes recited here by my colleagues, which loopholes should legitimately be closed.

There is no reason people should be selling and leasing back the subway system of New York, and the President supports making sure that loophole is closed. He intends to use that revenue in order to fund the ability of people to get a child tax credit of $1,000, to avoid having to pay a penalty because they

get married, and to assist in expanding the 10-percent bracket.

As he makes the point, rather legitimately, if the dollars are siphoned off from those loophole closures that are planned under the budget, put in place, and are already in place and accepted as part of this budget, if those dollars are siphoned off and end up flowing pursuant to this amendment into a reserve account, he won't have the dollars available to him as chairman of the committee to accomplish those tax relief efforts.

We are playing with some serious fire here. Basically, the risk of this amendment is, No. 1, raising taxes $17.2 billion over what we need to do; but No. 2, it puts at risk the ability of the chairman to address the use of the taxes that have been put in place in this budget through loophole closings to jeopardize the use of those taxes for the purpose of addressing the marriage tax penalty, the child tax credit, and the 10-percent bracket. A very important point.

Secondly, this amendment represents the goal is to fully fund No Child Left Behind at the authorized level. I believe we have discussed this at some length, but I think it is worth emphasizing again. Authorization numbers are guideposts. Rarely, as a Congress, have we met authorization numbers. The proof is in the pudding.

The last time the Congress was controlled by the Democratic Party and there was a Democratic President, title I was not funded to the full authorization level. It was funded significantly below the authorized level. In fact, this President's commitment to funding education has dramatically outstripped the prior President's commitment or actions in this area. I am sure he had a commitment, but he wasn't able to find the dollars.

This President has made a huge commitment in the area of funding education, and the dollar increase has been a billion dollars a year every year—a billion, billion, billion, billion—cumulative billions for the special education accounts, and a billion and a half to a billion cumulatively for title I and for No Child Left Behind.

I see the chairman of the Finance Committee. I was trying to restate, probably nowhere near as well as the chairman can, the effect of this $17.2 billion credit on his ability to do the extenders, which are so important to low-income families and married people and people with children.

I yield the remainder of our time to the chairman.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 3 minutes.

Mr. GRASSLEY. I thank the Chair and I thank the Senator from New Hampshire for his great leadership in dealing with education.

I spoke about the necessity of the Finance Committee having the freedom to use revenue we can raise by closing these tax loopholes, and the necessity of getting a bipartisan bill out of committee to do it. I think the Senator from North Dakota spoke very well about some of the problems we have with corporations and schemers and scammers using the Tax Code to avoid taxation, by ridiculous things like leasing a subway for a city in the United States, where there is no risk or economic substance to the process. We want to close those loopholes.

I thought I ought to bring to the attention of the Senate one of the bipartisan bills out of committee that was using some of those loophole closings. They definitely have an impact upon some major industries and jobs in this country where they are going to be hurt, because the World Trade Organization has ruled contrary to our trade agreements, the foreign sales corporation, and the extraterritorial income provisions we have had to make to make our business competitive with European business. Since that is ruled out, a lot of jobs in major corporations—Microsoft and Boeing, to name a couple—are going to be hurt and be uncompetitive because of that.

We are taking some of the loophole closing money that is available to offset the revenue, to reduce corporate tax from 35 down to 32, so our businesses can be competitive. We can save jobs at Microsoft and Boeing which would otherwise be uncompetitive as a result of the foreign World Trade Organization ruling.

I don't want the Senate Finance Committee's hands to be tied by a scheme that thinks this money can be used four or five times and can be spent on domestic programs, when we have to have this money to offset very important tax provisions we want to get passed. Saving jobs through this JOBS bill that was before the Senate last week, and will be up again in 2 weeks, is an ideal place to use that revenue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I yield a minute to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 1 minute.

Mr. CONRAD. Mr. President, let me just say the amendment of the Senator from Washington does nothing to raise taxes on middle-class taxpayers, on wealthy taxpayers, on anybody but people who are engaged in tax scams and tax dodges, because her proposal is to close tax loopholes to the tune of $17 billion.

As we look in the budget, there is a relatively modest amount of money being raised to close tax loopholes. We know there are tens of billions of dollars, according to the administration, in potential tax loopholes that could be closed.

In addition, let me say to my colleagues I met with the revenue commissioner 2 weeks ago, who tells me the tax gap—the difference between what is owed and what is being paid—was $255 billion for 2001 alone. Let me repeat that. The tax gap—the difference between what is owed and what is being paid—is $255 billion for 2001 alone. There is plenty of money to be raised in tax loophole closings and the end of tax scams and the end of the tax gap to fully fund the amendment of the Senator from Washington and the middle-class tax relief all of us want to see continue.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I know we are going to have a vote in a few minutes. I will wrap up a few things. There has been a lot of stuff strewn across the floor about this. We need to remember what this amendment is all about. It is about keeping a commitment all of us made when we voted to pass No Child Left Behind.

We told our schools, essentially our children, our communities, our families across this Nation that we were going to put in place accountability; that we wanted our students to learn, we wanted them to achieve, and we wanted them to be able to go on and get the skills they needed to be out in the job market.

The Senator from Iowa talked about Microsoft and Boeing and making sure we can be competitive. The best thing for Microsoft and Boeing to be competitive is to have an educated workforce of young people who have the skills they need to come in and do the kinds of jobs to be competitive in an international marketplace.

When we passed the No Child Left Behind Act, we said we were going to put those standards out there, but that was a two-pronged promise, and the other promise was to fully fund No Child Left Behind.

I have been amazed, sitting on the floor all morning listening to the other side say: We never intended to fully fund No Child Left Behind. I am shocked. I thought during the debate we had an agreement that we would have accountability and that we would have funding. Now to come back 2 years later and say, We never intended to fully fund this act, what kind of promise is that to our children? We are going to make you take tests and meet standards, and every year we are going to increase those standards and we expect you to live up to it. But here in Congress we can get behind some kind of statement that we never intended to fully fund it? That doesn't fly in my home.

I think it is imperative that we face the American people and tell them that when we in the Senate make commitments, we mean it. When we make a promise to fund education, to make sure our students have the skills they need, and they can meet those accountability requirements, we keep it. That is what this amendment is about. It is as simple and as clear as that.

I heard those on the other side argue that this is not a real amendment. I

heard them say that it just sets up language. The language that I use in this amendment is the exact language that the other side has in the budget to set up a reserve fund for transportation, to set up a reserve fund for Iraq and Afghanistan funding, to set up a reserve fund for fire suppression. Are those not real, either? If those are not real, then I accept the argument that mine is not real. But if they want to stand out here and say we are fighting for fire suppression, that their budget covers Iraq and Afghanistan, that their budget covers transportation, then this amendment covers the No Child Left Behind funding.

This amendment is real. It is exactly real. No one can hide behind the fact it is not real. It is real to every child in every classroom across this country.

There is a revolt going on in this country. Any Senator who has been home and been in a school knows it. Any Senator who has talked with legislators at their homes—and I know there have been discussions in Virginia, Utah, and many other States across the country—knows they do not want this mandate anymore and to take off the handcuffs because we have not funded it.

We have not lived up to our obligation to our children, to our communities, to our families, to our States, and to everyone else in this world who cares about education because we have not funded this bill.

My amendment is basic and simple. It says we will follow up on a promise we made 2 years ago to fully fund No Child Left Behind. I am more than at ease to go home and tell my constituents that I am fighting to make sure their children get a good education and we follow up on a promise. That is the decision every Senator is going to have to make when they vote on this amendment. Whose side are you on, on the side of making sure we keep our promises, making sure our children have the ability to learn and we do not just tell them they have to live up to standards, or on the side of hiding behind smoke and mirrors?

I intend to go home and tell my families in every community across the State that I am going to fight every single day I am here to make sure their children have quality teachers, their children have quality classrooms, their children have the ability to have good curriculum, their children are able to learn the skills they need from highly qualified teachers because that is what we promised them in this bill.

This amendment is about keeping promises. I urge my colleagues to vote for the Murray-Kennedy amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. The time of the Senator has expired.

Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 2719. The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea.''

The PRESIDING OFFICER (Mr. SUNUNU). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 52, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—46

| | | |
|---|---|---|
| Akaka | Dorgan | Lieberman |
| Baucus | Durbin | Lincoln |
| Bayh | Edwards | Mikulski |
| Biden | Feingold | Murray |
| Bingaman | Feinstein | Nelson (FL) |
| Boxer | Graham (FL) | Nelson (NE) |
| Breaux | Harkin | Pryor |
| Byrd | Hollings | Reed |
| Cantwell | Inouye | Reid |
| Carper | Jeffords | Rockefeller |
| Clinton | Kennedy | Sarbanes |
| Conrad | Kohl | Schumer |
| Corzine | Landrieu | Stabenow |
| Daschle | Lautenberg | Wyden |
| Dayton | Leahy | |
| Dodd | Levin | |

NAYS—52

| | | |
|---|---|---|
| Alexander | Dole | Miller |
| Allard | Domenici | Murkowski |
| Allen | Ensign | Nickles |
| Bennett | Enzi | Roberts |
| Bond | Fitzgerald | Santorum |
| Brownback | Frist | Sessions |
| Bunning | Graham (SC) | Shelby |
| Burns | Grassley | Smith |
| Campbell | Gregg | Snowe |
| Chafee | Hagel | Specter |
| Chambliss | Hatch | Stevens |
| Cochran | Hutchison | Sununu |
| Coleman | Inhofe | Talent |
| Collins | Kyl | Thomas |
| Cornyn | Lott | Voinovich |
| Craig | Lugar | Warner |
| Crapo | McCain | |
| DeWine | McConnell | |

NOT VOTING—2

| | |
|---|---|
| Johnson | Kerry |

The amendment (No. 2719) was rejected.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. CONRAD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NICKLES. Mr. President, I thank our colleagues. We spent most of the morning on one amendment. I discussed this with my friend and colleague from North Dakota and said I know a lot of Members have education speeches they want to make. We were pretty generous with time allotments for those amendments. But I really want to tell our colleagues that generosity with time is coming to a close. We are going to start picking up the pace rather substantially. That means we are going to have a lot more votes. It means I am doing everything I can to avoid a vote-arama which Senator BYRD and I have discussed many times. We think it is demeaning to the Senate to have a large number of votes where Members are voting with almost no debate. We are making a great concession on our side. It is easy to debate and say now the time is up and have a vote-arama. I think that is demeaning to the Senate.

I have discussed this with my colleague, Senator CONRAD. We are willing to consider more amendments with time agreements, have a shorter debate time, and try to dispose of amendments so we can avoid the necessity of being here very late Wednesday, Thursday, Friday, and/or Saturday. We are going to complete the bill. But let us try to cooperate, Democrats and Republicans, proponents and opponents. We all have various issues on these amendments, but we are going to have to move quickly. That last rollcall vote was 25 or 26 minutes. The time limit is 15. I expect to be calling for regular order shortly after 15 minutes. We have three or four very significant amendments that will be coming up. Senator BYRD, I believe, is going to offer an amendment dealing with striking reconciliation. I believe Senator STEVENS and Senator WARNER may be offering an amendment on defense. Excuse me. Senator LINDSEY GRAHAM and Senator BUNNING have an amendment we hope to be able to accept. That shouldn't take too long. Senator BYRD has an amendment on reconciliation. We expect an amendment dealing with defense. We expect an amendment dealing with pay-go. Those are three or four major issues. We might stack the votes. I will consult with my colleague from North Dakota as far as the timing of the votes.

We have had a significant debate. It is time for us to dispose of these amendments so we can avoid the so-called vote-arama.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, might I add my voice to the voice of the chairman. We are rushing toward another vote-arama. We have 58 amendments noticed on this side already. Some of them are duplicative. On some of them, one Senator is offering many more than one amendment. I am asking our colleagues to please let us exercise discipline. Let us reduce the number of amendments. I propose to my colleague that we consider entering into a time agreement at least on these next few amendments. If we could agree, for example, on 30 minutes or 40 minutes equally divided on the next amendment, and then an hour equally divided on an amendment on reconciliation, then an hour on an amendment at the designation of the chairman, and then an hour equally divided on pay-go, and stack the votes, we could then have a series of three votes at about 5:45 which might accommodate some. I know there are plans for this evening by some. At least we could get a series of important votes concluded.

Mr. NICKLES. Mr. President, I appreciate my colleague's excellent suggestion. I am not ready to enter into a consent on all of those amendments. I think the Senator from South Carolina has indicated he wants 45 minutes on his amendment. I am willing to enter

into an agreement on Senator BYRD's amendment. I don't think I am ready to go yet on the Stevens-Warner amendment. I need to consult with them first. If we can enter into an agreement on those two amendments, I am happy to do that.

Mr. CONRAD. I am happy to enter into an agreement of 45 minutes equally divided on the Graham amendment and an hour equally divided on the Byrd amendment.

Mr. NICKLES. I have no objection.

Mr. BYRD. Mr. President, reserving the right to object, I am not yet ready to enter into an agreement on my amendment.

The PRESIDING OFFICER. Objection is heard.

Mr. NICKLES. Mr. President, our order would be then to consider the amendment offered by Senator GRAHAM and Senator BUNNING.

The PRESIDING OFFICER. Under the previous order, the next order of business is the amendment of the Senator from South Carolina, Senator GRAHAM.

The Senator is recognized.

AMENDMENT NO. 2731

Mr. GRAHAM of South Carolina. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for himself, Mr. DASCHLE, Mr. BUNNING, Mr. LEAHY, Mrs. CLINTON, and Mr. DEWINE proposes an amendment numbered 2731.

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To enhance military readiness by creating a reserve fund to provide TRICARE benefits for members of the Selected Reserve of the Ready Reserve, fully offset through reductions including unobligated balances from Iraqi reconstruction, and a reserve fund to provide Montgomery GI Bill benefits to members of the Selected Reserves)

On page 28, after line 7, insert the following:

**SEC. 304. RESERVE FUND FOR GUARD AND RESERVE HEALTH CARE.**

If the Committee on Armed Services or the Committee on Appropriations reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted that expands access to health care for members of the reserve component, the Chairman of the Committee on the Budget may revise allocations of new budget authority and outlays, the revenue aggregates, other appropriate aggregates, and the discretionary spending limits to reflect such legislation, providing that such legislation—

(1) would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009, or would offset such deficit increases through reduction of unobligated balances from Iraqi reconstruction; and

(2) does not exceed $5,600,000,000 for the period of fiscal years 2005 through 2009.

**SEC. 305. RESERVE FUND FOR MONTGOMERY GI BILL BENEFITS.**

If the Committee on Armed Services or the Committee on Appropriations reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that increases benefit levels under the Montgomery GI Bill for members of the Selected Reserves, the Chairman of the Committee on the Budget may revise allocations of new budget authority and outlays, the revenue aggregates, other appropriate aggregates, and the discretionary spending limits to reflect such legislation, providing that such legislation—

(1) would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009; and

(2) does not exceed $1,200,000,000 for the period of fiscal years 2005 through 2009.

Mr. CONRAD. Mr. President, with the indulgence of the Senator, might I repeat the request. I think we might have it worked out so we can enter into a time agreement on the next two amendments, if the chairman would be willing to repeat the request.

Mr. NICKLES. Mr. President, I ask unanimous consent that the amendment by Senator LINDSEY GRAHAM and Senator BUNNING be limited to 45 minutes without second-degree amendments, and I ask unanimous consent that the amendment to be offered by Senator BYRD be limited to 1 hour equally divided without second-degree amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that Senator CHAMBLISS and Senator ALLEN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2731, AS MODIFIED

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent to add the word ''and'' on page 2 to lines 4 and 16 of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

The amendment (No. 2731), as modified, is as follows:

On page 28, after line 7, insert the following:

**SEC. 304. RESERVE FUND FOR GUARD AND RESERVE HEALTH CARE.**

If the Committee on Armed Services or the Committee on Appropriations reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted that expands access to health care for members of the reserve component, the Chairman of the Committee on the Budget may revise allocations of new budget authority and outlays, the revenue aggregates, other appropriate aggregates, and the discretionary spending limits to reflect such legislation, providing that such legislation—

(1) would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009, or would offset such deficit increases through reduction of unobligated balances from Iraqi reconstruction; and

(2) does not exceed $5,600,000,000 for the period of fiscal years 2005 through 2009.

**SEC. 305. RESERVE FUND FOR MONTGOMERY GI BILL BENEFITS.**

If the Committee on Armed Services or the Committee on Appropriations reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that increases benefit levels under the Montgomery GI Bill for members of the Selected Reserves, the Chairman of the Committee on the Budget may revise allocations of new budget authority and outlays, the revenue aggregates, other appropriate aggregates, and the discretionary spending limits to reflect such legislation, providing that such legislation—

(1) would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009; and

(2) does not exceed $1,200,000,000 for the period of fiscal years 2005 through 2009.

Mr. GRAHAM of South Carolina. Mr. President, I will give a quick overview and yield to Senator BUNNING for as much time as he needs to explain his portion of the amendment. Then we will go to Senator DEWINE and Senator DASCHLE and myself to finish.

I compliment Senator NICKLES for helping us work this out. This is the amendment we have been talking about for almost a year now, setting aside some money in the budget to address the health care needs of the Guard and the Reserve.

If you are an activated member of the Guard or Reserve, you go into the military health care system called TRICARE. Your family has eligibility for that system. When you come off active duty, you will go back into your private plan, if you have one. If you are uninsured, there will no plan available for you.

We are trying to allow Guard and Reserve members, by paying a premium out of their pockets, to be full-time members of TRICARE so they will have continuity of health care.

Twenty-five percent of the people who were called to active duty for Guard and Reserve were unable to be deployed because of health care problems. Providing continuity of health care year round would be a good measure. I know this will help retention and recruiting.

There is another aspect of this amendment, thanks to Senator BUNNING. What is happening with our Guard and Reserve forces is they are becoming overutilized. There has been a 170-percent increase in Guard and Reserve utilization since 9/11.

The GI bill of rights applies to the Guard and Reserve in a limited fashion. Thanks to Senator BUNNING's efforts, that is about to change.

At this time, I would like to yield to Senator BUNNING to explain what he is trying to do for the Guard and Reserve members with an amendment in terms of the GI bill.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, my amendment provides funds to increase educational benefits for the National Guard and Reserve members under the GI bill. Currently, National Guard and Reserve members are eligible for only $282 per month under the GI bill. That is only 27 percent of the amount active-duty members can get.

In 1985, Congress set educational benefits for our Guard and Reserve members at 47 percent of the active-duty

benefit level. Since then, it has continued to slip to today's levels of 27 percent. My provision provides the funds needed to bring Guard and Reserve benefits back to that 40-percent mark.

Today, we are using our National Guard and Reserve, as Senator GRAHAM said, more than ever. They are being deployed away from their homes and families for longer periods of time and put in harm's way. We should provide them with educational benefits that reflect the contributions they make to our national security.

I urge Members to support the Graham amendment.

Mr. GRAHAM of South Carolina. Mr. President, I thank Senator BUNNING on behalf of all the Guard and Reserves. He has made a real difference in their lives. This is long overdue. I appreciate what the Senator has done to make this a better amendment.

I yield 3 minutes to Senator LEAHY.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I am glad to join my colleagues Senator DASCHLE of South Dakota and Senator GRAHAM of South Carolina in support of this critical budget amendment on the readiness of our National Guard and Reserves. This amendment will allocate resources in the country's long-term budget to implement a comprehensive health insurance program for the 800,000 citizen-soldiers who serve in the National Guard and Reserves.

Last year, the Senate recognized that 20 percent of the Nation's military reserve—over 150,000 citizens waiting to answer the call-to-duty—did not possess health insurance. During a vote here on the Senate floor, 85 senators collectively agreed that this was unwise, and more importantly, unconscionable that citizen soldiers ready to fight for their country would arrive for service in less than perfect health because they were uninsured.

As a response to this clear problem, we passed a stopgap health insurance program that allowed reservists to receive fully reimbursed health insurance through TRICARE as soon as they received their orders and maintain that insurance after they had been deactivated.

The centerpiece of the program passed in Congress last year was a provision to allow drilling members of the Guard and Reserve to buy into the TRICARE program on a cost-share basis if they were between jobs or did not have access to health insurance through their employers.

This program guarantees that every member of the Guard and Reserve is covered either through TRICARE or a civilian program. However, the final defense bill last year authorized the program only through the end of this calendar year. This amendment would expand funding for this program for the next 5 years.

More troubling, critical portions of our original proposal, embodied in S. 852, the Comprehensive Guard and Reserve Health Benefits Act, dropped out during the final negotiations.

Missing in the final package was eligibility for employed members of the Guard and Reserve to sign up for the cost-share TRICARE program. This took away health insurance options for our reservists and a necessary mechanism to make the mobilization process easier by eliminating the need for reservists to switch back and forth between health insurance plans when they are activated.

The final compromise also short-changed families of activated reservists who wanted to maintain their civilian health insurance while their loved ones were activated.

That provision would have substantially reduced some of the intense disturbances these long separations create. We crafted this provision to have only marginal costs compared to the size of the benefit for Guard members, reservists and their families.

This amendment will help fund the full program set forth in S. 852: Early health insurance, TRICARE access for all, reimbursements to families for keeping civilian health insurance, and maintaining full TRICARE after deployment. It truly is a comprehensive package. It is, I want to note, the exact same legislation that received an overwhelming 85 to 10 favorable vote during our debate on the defense bill.

The Department of Defense has slow-rolled implementation of the program turned into law last year. They are still not opening up the cost-share program to eligible service-members. Passing this amendment this year on the budget resolution sends a signal to DOD that they need to move ahead more aggressively. But, more importantly, this amendment assures the 130,000 men and women in the Guard and Reserve serving in Iraq, Afghanistan, or at home, and the entire Guard and Reserve force, that we are going to take significant steps to ensure that they are ready to meet the challenges ahead. We are not going to let our Guard down.

To reiterate, this amendment will allocate resources in the long-term budget to implement a comprehensive health insurance program for the 800,000 citizen soldiers who serve in the National Guard and Reserve.

We recognized in the Senate last year that 20 percent of the Nation's military reserve—over 150,000 citizens waiting to answer the call to duty—did not possess health insurance. Think of that, over 20 percent of the military reserve, 150,000 people, with no health insurance. That is unwise and it is also unconscionable these citizen soldiers do not have health insurance.

We passed a stopgap health insurance program that allowed reservists to receive fully reimbursed health insurance through TRICARE as soon as they receive their orders and maintain that insurance after they have been deactivated.

Missing in the final package was eligibility for members of the Guard and Reserve to sign up for the cost-share TRICARE program. We have crafted a provision at only marginal cost compared to the size for members of the Guard and Reserve, and this will help fully fund the program set forth—early health insurance, TRICARE access for all, reimbursements to families for keeping civilian health insurance, and maintaining full TRICARE after deployment.

We need to do this. We cannot continue to ask these men and women to go overseas to serve, basically full time, and have part-time benefits. They are full-time soldiers. They should be treated that way.

Mr. GRAHAM of South Carolina. I yield 10 minutes to the chief author of this legislation, Senator DEWINE.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I am proud to join this afternoon my colleague, Senator LINDSEY GRAHAM, in support of this very important amendment. I commend him for his great leadership and great work.

I have been a longstanding supporter of both initiatives: extending TRICARE coverage to members of the Guard and Reserve, and also increasing the level of benefits provided to the Selective Reserve under the Montgomery GI bill. I have introduced and cosponsored several bills to address existing inequities with these specific benefits.

Unfortunately, benefits for our Guard and Reserve simply have not kept pace with the increasing role that these individuals are expected to play today.

I commend Senator GRAHAM, Senator DASCHLE, and Senator BUNNING for their great leadership and their continued commitment to these initiatives. I look forward to working with them through the coming months to make these important initiatives a permanent reality.

This is important work. I know of nothing more important that this Senate will be doing in the months ahead. I look forward to making sure we get the job done.

I thank my colleague for the time this afternoon to talk about another important amendment that I have filed, but I am not calling up at this time. I take a moment to talk about this amendment that is cosponsored by Senator LEAHY and Senator COLEMAN, an amendment that I have sponsored.

We live in a world of 6 billion people, the majority of whom live in developing countries. Theirs is a world where, according to UNICEF, out of every 100 children born, 30 will most likely suffer from malnutrition in their first 5 years of life; 26 will not be immunized against the most basic of childhood diseases; and 19 will lack access to clean, safe drinking water.

This is certainly unconscionable. Yet we have seemingly come to expect and indeed accept this as a way of life in the developing world. The tragedy is

that all of this is avoidable. We can do something about it. We can do simple things, really simple things, basic things that can save millions of children's lives every year. The reality is we are not doing enough right now. Candidly, we are tolerating these deaths, and saving these lives simply has not been a priority. Our amendment would change that. And it is, indeed, a step in the right direction.

I take a few minutes this afternoon to share some important statistics about child and maternal mortality. I am often hesitant to come to the floor and talk about statistics. When we hear statistics, it is all too easy to become numb, all too easy to forget the human realities they, in fact, represent. It is important for all to listen to some of these statistics today because they are so unbelievable and so tragic. They represent so many lives, countless lives that could, in fact, be saved; lives that could be saved if we would make the appropriate amount of resources available to people who are in such dire need.

Let's look at the facts. Today, over 10 million children under the age of 5 die each year from preventable, avoidable, and treatable diseases and ailments, including such things as diarrhea, pneumonia, measles, and, yes, malnutrition. Over 10 million children under the age of 5 die from preventable and avoidable diseases. Of those 10 million deaths worldwide, 3.9 million occur in the first 28 days of life. These babies do not even have a shot at living their lives or even getting as old as 2, 3, 4 or 5. Yet two-thirds of these deaths could be prevented if available and affordable interventions had reached the children and mothers who needed them.

Malnutrition contributes to 54 percent of all childhood deaths, and as many as 3 million children die annually as a result of vitamin A deficiency. An estimated 400,000 cases of childhood blindness are reported each year, also, because of vitamin A deficiencies.

According to the World Health Organization estimates, at least 30 million infants still do not have access to basic immunization services, and over 4.4 million children died from vaccine-preventable diseases in the year 2001 alone—diseases such as hepatitis, polio, and tetanus. Of all the vaccine-preventable diseases, measles remains the leading childhood killer, claiming the lives of, it is estimated, 750,000 children—more than half of them in Africa alone. Yet vaccine-preventable deaths could actually be cut in half by the year 2005 if these children were receiving proper vaccinations.

Mr. President and my colleagues in the Senate, we can change the course of these developing nations. We can change this tragic human reality. We can start by providing additional money and support for our child survival and maternal health programs. The fact is, this is an emergency situation. There really is not any other way to describe it. Over 10 million children dying each year from preventable and treatable illnesses certainly qualifies as an emergency.

It is the equivalent of roughly 55 fully loaded 747 airplanes crashing every day for a year. Think of that. If that were happening, if that many airplanes were going down each day in this country, or anywhere in the world, we know what our reaction would be. It would be all over the news, all over CNN. We would declare a worldwide tragedy, and we would do something about it.

But these problems facing the developing world cannot be resolved through short-term, temporary, piecemeal assistance. If we are to make any real headway in improving the health of women and children in the long term, we need to take some bold and radical steps, and we also need to be committed to supporting, in the long run, maternal and child health programs, and not just now but next year and the year after and the year after that. Our funding simply cannot be administered in a single dose.

If we could look into the future 10, 20, 30, 40 years from now, we would see what is possible with sustained investments in primary health care and public health systems.

An article recently published in the journal, The Lancet, suggests that providing, for example, vitamin A as a preventing measure could avert as many as 225,000 deaths, and providing oral rehydration therapy could prevent as many as 1,477,000 deaths. Simple interventions and treatment are not expensive. Oral rehydration salt packets cost about 8 cents apiece—8 cents.

For 4 cents per child, two vitamin A capsules could be given every year to children around the world, saving over 650,000 of them from blindness and death. For 30 cents worth of basic antibiotics given to every child with pneumonia, we could prevent 577,000 deaths. I think you get the idea.

Here is another example: Iodine regulates growth and the metabolism. A deficiency in iodine is the primary cause of preventable learning disabilities and brain damage. Iodine can be introduced into the diet by something as simple as fortified salt—iodized salt—something that is in all our kitchens at home. This simple measure would cost only 5 cents per person annually.

Furthermore, our amendment would allocate additional money to help avert maternal and neonatal death and improve maternal health, including the prevention of obstetric fistulas and other types of injuries and disabilities resulting from childbirth in unsafe circumstances.

The fact is, all pregnant women are at risk for injuries and childbirth complications, which is why it is so important to have skilled attendants—midwives, doctors, or nurses—present at birth. Yet only about half of the world's women give birth with a skilled attendant available.

The child survival and maternal health funding provides resources so that USAID can provide training and technical assistance in infection prevention and quality of care, as well as needed equipment and supplies to bring health facilities up to a level where they can provide safe and effective emergency pre- and postnatal care. Clearly, child survival interventions do, in fact, work, and they are the most cost-effective tools we have in the struggle for better global health.

We can and we should invest in these programs as they increase developing countries' access to basic health services—services such as vaccinations, immunizations, micronutrient programs, and vitamin supplements.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DEWINE. Mr. President, I ask for an additional 1 minute.

Mr. GRAHAM of South Carolina. Absolutely.

The PRESIDING OFFICER. The Senator is recognized for an additional minute.

Mr. DEWINE. If we can make these investments and work toward equal access to health care, we can help ensure that mothers receive proper prenatal care, that children and families receive nutritional counseling and vitamin supplements, and that children receive the necessary immunizations and vaccinations to live healthy lives.

But tragically, if we fail to make a sufficient and sustained investment in the development of public health systems that provide primary care, mothers will continue to die prematurely during childbirth, children will continue to die from preventable diseases and causes, and life expectancies in these developing nations will stagnate or perhaps even decrease. This is not acceptable.

Mr. President, adoption of this amendment—as I said, it has been filed but not yet called up—will go a long way to save so many children's lives around the world. Therefore, I would ask my colleagues, when this amendment is called up, to join my colleagues in voting in favor of it.

Again, I thank my colleague for his great work to help our Guard and Reserves in relation to what we talked about earlier today. I thank him for his good work in this area.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, we are all in a thanking mode, and I think it is appropriate that we try to do as much as we can, in a bipartisan fashion, when it comes to the military.

We will have our differences and funding and our differences about priorities in terms of what helps the economy and what helps to control the deficit. But I want to acknowledge the work of Chairman NICKLES' staff and him personally for allowing this amendment to be accepted as part of the budget because working together, in a bipartisan fashion, we are going to

carve out about $5.6 billion to be utilized to help alleviate the Guard and Reserve health care problems that currently exist. And Senator BUNNING's measured, upgraded GI bill benefits will also be part of the budget. To me, that is a good priority to have made. We have promised to pay for this. I think that is a good statement to have made, too.

Once the authorizing committee gets to work with Senator WARNER, and then, hopefully, Senator STEVENS, who has been a big champion of this cause, they will appropriate what we do on the authorizing committee, that it will be paid for, and that we can bring this program in under the $5.6 billion amount. Senator MCCAIN and others have ideas of how the employer community can contribute.

But I would like to inform those maybe listening in the Guard and Reserve community that your needs are well understood by this body, and there is a real bipartisan effort to meet those needs.

To those in the Active Forces, I think we have tried to upgrade your benefit package, tried to increase your pay. You have earned every penny of it, and then some. We are trying to improve the quality of life of those people stationed overseas and their families.

This is a team effort. Nothing about the Guard and Reserve takes away from the Active Forces. Forty percent of the people in Iraq, by the end of the year, will be Guard and Reserve members. When a guardsman or reservist is called to active duty, it has its own unique stress. God knows their is stress on our active-duty families who are serving in the military and have their family members in harm's way.

More times than not, when you are called to active duty, your pay goes down. There are provisions in our Federal law that will allow some renegotiating of loans but, at the end of the day, it is a very stressful event financially for families.

This one aspect, health care, is a huge problem that needs to be addressed. As I stated before, about one in four people called from the Reserve and Guard community to active duty are not able to be deployed immediately because of health care problems. The No. 1 disqualifying event is dental problems.

When you think about it, a lot of private plans do not have a dental component to it. So by allowing Guard and Reserve members to be part of the military health care system year round, whether they are deployed or not, I think readiness goes up dramatically.

When we look at writing this bill, that would be one of the selling points. I was in Iraq last summer with a delegation of Senators. The Presiding Officer was with us. It was a wonderful opportunity to understand how difficult service overseas can be and how stressful it is being in harm's way. You come away with a great sense of pride about all those serving our country. As the Presiding Officer will recall, we had nine C–130 flights in Afghanistan and Iraq. Eight of the nine crews were Guard crews. The last was a Reserve crew. All the 130 crews were from the Guard and Reserve community. That duplicates itself in many other areas—MPs, civil affairs. There is a heavy reliance on Guard and Reserves.

I remember on one of the flights the pilot and the copilot were going to be first-time dads. One person worked for Southwestern Bell. Southwestern Bell voluntarily extended health care coverage for the family, even though he was called back to duty, so that person's wife did not have to change doctors or hospitals. The copilot was a realtor and he didn't have such an opportunity. So his wife had to change doctors and hospitals late in the pregnancy, and it was a very stressful event.

One thing about providing full-time TRICARE eligibility to those who want to pay the premium, we are asking guardsmen and reservists to contribute to the cost. That is only fair, and it is a very good deal. They will be contributing out of their pocket, like their active-duty counterparts. One of the benefits is, your family doesn't have to bounce around from one health care provider to another, even when you change plans. Some people have been deployed already three times. The likelihood of their utilization in the future is greater, not less. Adopting this amendment as part of the budget allows us to take some money to meet those needs.

I need to say this about Senators DASCHLE and LEAHY and CLINTON, and our other Democratic sponsors: We wouldn't be here without Senator DASCHLE. I don't know how to say it any clearer. We would not have made it this far if he had not taken on this cause and pushed as hard as he could push. He has been around here a lot longer than I have. It really did matter. He and I may vote differently for the rest of the week, but I have great admiration for him as a person and we will vote together today. At the end of the week he may have a different view about what the budget does for the country, but we will have agreement on this, that the Guard and Reserve community is one step closer to getting the help they deserve. I publicly acknowledge that and thank him. It has been a very pleasurable, enjoyable experience. We are not there yet, but we are closer than when we began.

I am the only Member of the Senate who is in the Reserves. I recently got promoted and made a joke about that, showing how stressed out we are in the military if I am promoted. I am proud of my service. I have never been in harm's way.

The one thing I got from that experience, having been on Active Duty for 6½ years, serving overseas—I was in the Guard as a support person in Alaska, doing legal work for families and military members being deployed—I know how stressful it is for families left behind and how stressful it is for the pilots and their crews.

Here we are 10 years later plus, involved in another major operation to fight the enemies of this country who, if they had their way, little girls wouldn't to go school and there would be only one way to worship God. It would be their way. And if you differed, you would die.

This is a huge event we are undertaking, the war on terrorism. The Guard and Reserve community is playing a bigger role than ever.

The cold war dynamic with the Guard and Reserve has changed with the war on terrorism. They are indispensable. That will not change anytime soon. The stress on the forces is as great as it has ever been in my military career, and the benefit package has not been changed substantially in 30 years. Now is the time to come together, Republicans and Democrats, and put on the table new benefits for those serving their country in a very patriotic and unselfish way.

With that, I yield to the minority leader and my colleague on this effort, Senator DASCHLE.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. I thank the Senator for his kind words. I have to say, this has been an equal joy for me. The Senator from South Carolina has been an extraordinary partner in this effort. I applaud him for the extraordinary efforts he has made to get us to this point and the leadership he has provided. As he has noted, we may disagree on other issues, but on this there is very strong bipartisan support. I cite his leadership as one of the reasons why.

I can speak for all of those on this side of the aisle who have worked to try to pass this legislation. Senator GRAHAM's efforts, his persistence, and the extraordinary effort he brings to ensuring we succeed is a big reason why we are going to be successful today.

We have actually voted on this three times in the Senate. We have done so with overwhelming margins. It is not often on an amendment that you can generate 80-plus votes. But 87 Senators have already said this ought to be law. Because they have said it ought to be law, we are confident it will become law sooner or later.

The legislation we are offering today very simply recognizes, first, that there are differences between members of the Reserves and the Active Duty. The Active Duty don't have to pay for their health care. We believe that is the way it should be. If you are on active duty and you are defending your country, that ought to be one of the prerequisites of Active-Duty service. We are suggesting that if you serve your country alongside that member of the Active Duty, you ought to have access to that health care, and maybe you ought to pay a little premium.

Our guardsmen and reservists are determined and are accepting of that difference. They just want access to the care. They are willing to pay a premium, unlike our Active-Duty personnel who get it as part of their job, but they do want access. So that is the first big difference.

Clearly, what most people don't understand is this premium is a very significant differentiation between Active-Duty personnel and the Guard.

The second is, this will not be taken out of the Pentagon budget. What we are proposing with this amendment is we add $5.6 billion. We recognize there are some very important needs within our defense budget that have to be met. We don't want to see this compete with other needs, and that is why we are adding on. But we are also not adding to the deficit. There is a significant unobligated balance in the Iraq reconstruction fund, money that would go to Iraq normally, that is not going to be required in this fiscal year from which this money is taken.

So first, we are not exacerbating the deficit. Secondly, we are not competing with any other programs in the Defense Department. And third, we recognize the difference between members of the Reserve and Active-Duty personnel. So for all those reasons, we think this amendment is very carefully drawn.

Obviously, there is no question about the importance of what it does. It extends coverage to all reservists who are willing to pay the premium. You pay the premium; you have access to the health insurance. Secondly, we provide offsetting coverage when people are called up and they have private coverage that they want to maintain. We are saying, if you are called to service by your country and you are fighting in a faraway land, we are going to ensure that if you have private coverage that you think is important and you want to keep for your family, you ought to have a right to do that.

Finally, we make it permanent. We ought to take out the guessing game. There shouldn't be any question as to whether it is going to be here this year, gone the next, whether some people are going to have to sign up, worrying whether they can sign up in subsequent years.

What Senator GRAHAM suggests with our amendment is, No. 1, it ought to be permanent. We have seen, as the Senator from South Carolina so aptly noted, the biggest callup of members of the Guard and Reserves since World War II. Our dependence upon the Guard and Reserves continues to grow. Forty percent is now the number that is widely recognized; 40 percent of those serving in Iraq are members of the Guard and Reserves. So there is no question this integration of forces is a fact of life.

If we are going to see this integration of forces in the future, we have to recognize that we are going to have to change our benefits and pay structure to meet the demand and to put some element of fairness back into the system.

This amendment is needed for two reasons. One, it is the right thing to do. When you have 30 percent of those members of the Guard and Reserves who are called up today who have no health insurance, many of whom can't even get the kind of health care they need to be compliant physically with the demands of their job, you need this amendment.

Secondly, when you look down the road and you talk to Governors and the Guard and Reserve decisionmakers, what they will tell you privately, and for good reason, is they are understandably concerned about retention, understandably concerned about meeting the needs.

You will not find more patriotic Americans anywhere than those who serve through the Reserve and the Guard. Nobody is more committed. They give up their jobs, time with their families, and they go to faraway places and sacrifice salary in order to defend their country.

All we are saying is, for all of that, we want you to stay in the Guard and continue to serve your country, so we are going to be a little more fair regarding your access to health insurance. That would be one less problem for them. This amendment does that permanently, and it deserves to be passed overwhelmingly.

We are not going to ask for a rollcall vote because we have had three of them. We think the Senate is on record adequately regarding this legislation. We will be back. This only authorizes it in the budget. We are going to come back with Defense Appropriations to make sure it is also a part of the law as we consider the important aspects of public policy relating to defense in the future.

Again, let me end where I started. Senator GRAHAM deserves great credit for the effort he made to bring us to this point. I am pleased that, on a bipartisan basis, we can pass this with an exclamation point this afternoon. This deserves to be law. This year is the year to do it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM of South Carolina. Mr. President, I yield to the Senator from Louisiana.

Ms. LANDRIEU. Mr. President, is there 5 minutes available to speak for the amendment?

The PRESIDING OFFICER. The sponsor controls 1 additional minute. The minority manager of the bill controls 20 minutes.

Mr. CONRAD. How much time does the Senator need?

Ms. LANDRIEU. Five minutes.

Mr. CONRAD. Mr. President, does Senator GRAHAM wish to retain a minute of his time?

Mr. GRAHAM of South Carolina. Yes. I will try to yield part of it back.

Mr. CONRAD. I yield 5 minutes to the Senator from Louisiana off of our time.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I thank those managing the bill, and I thank the Senator from South Carolina for bringing this amendment to the floor. I would like to cosponsor this amendment because it helps our veterans and Guard and Reserve in two very important ways. The Senator's portion of this helps to extend the TRICARE piece and extends also in this amendment the GI benefits for the Guard and Reserve.

As I have said many times, the Guard and Reserve that is protecting us today, that is serving as the core in many instances of our Armed Forces, is not the Guard and Reserve of our fathers' or grandfathers' generations. They are citizen soldiers. They are professional soldiers. Because of policy changes we put into place, the Guard and Reserve now are picking up about 40 percent of the battlefield burdens, and they deserve a greater portion of the overall budget to support them.

Do our active troops deserve support? Absolutely. But our Guard and Reserve, because they are picking up an ever-increasing responsibility regarding this war against terrorism, the war in Afghanistan and the war in Iraq, and even right here on the homefront, deserve more help and support.

I am proud to be a cosponsor of this amendment. I believe it will pass with great support on both sides.

I wanted to take a minute to also talk about something I hope we can find a way in this debate to fix. I want to see if we can find a way to fix the survivor benefit plan, which was enacted in 1972. This survivor benefit plan was a pension benefit for military spouses, after the retirees passed away. We said if the retired veterans wanted to basically pay into a certain account, when the retiree died, their wives would receive 55 percent of the veterans retirement pay.

We created this fund. However, after it was established, budget policies were put into place that basically cut out that benefit. So we now have the unbelievable and untenable situation where spouses—most of them women; I would say 85 to 90 percent are female—who, by the request of our military, move themselves and their families every 2 years, which makes it extremely difficult for anyone to develop any consistency in a career outside the home, even if they were able and willing. Moving every 2 years doesn't give them the opportunity to expand their earning capacity. That was a sacrifice many spouses and their families made to support the men in this case—in most cases—serving in our military and to support the country.

Yet for all that great commitment and service and dedication, we tell them, thank you very much, but we are going to cut your benefits from 55 percent of what you and your spouse put

in, in some instances, down to 32 percent. It is not fair.

There are Senators on the floor—I see the chairman of the Budget Committee—who say we cannot afford to cut back the tax cut to provide for this. They say the tax cut is too important and we cannot even modify it or change it or postpone it or adjust it even in the slightest amount to pay for that.

I disagree. I think we can find a way to adjust the tax cut to pay for the widows who moved every 2 years, paid their own money into the fund, and now they get shortchanged. When we talk about supporting our military families, let's remember the soldier on the battlefield, and let's also remember the soldiers who are at home, both the spouses and children who bear a tremendous burden, who do it willingly and with great patriotism. Let's not ask them to sacrifice when others in this country are not willing to make that same sacrifice.

I will be offering this amendment later, supporting the amendment that is on the floor. Hopefully, we can convince some of the leadership to make adjustments in their tax cut plans to do some things we need to do for our men and women in uniform and their families.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that Senators LINCOLN, DAYTON, MURRAY, MURKOWSKI, and MIKULSKI be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM of South Carolina. Mr. President, as Senator DASCHLE has described, this will be offset. This will be budget-friendly, and it will be a huge deal to military Reserve and Guard families who are sacrificing much for their country. It will help build a better support network. If you are called to active duty for the Guard and Reserve, there is no daycare center on base because there is no base in which to go. There is no counseling service because you are sometimes in a rural community far away from military bases.

This continuity of health care would help dramatically. I urge its adoption.

I thank Senator NICKLES for making this possible. I look forward to writing good legislation to help the Guard and Reserve families.

I ask unanimous consent that all time be yielded back on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM of South Carolina. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I compliment my colleague from South Carolina and the Senator from Kentucky, Mr. BUNNING, as well as Senator DASCHLE and Senator CONRAD. We have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2731) was agreed to.

Mr. NICKLES. Mr. President, again, I compliment our colleagues. I urge other colleagues, if they have ideas on amendments, to share them with us and maybe we can work some of them out and eliminate the need for rollcall votes. Rollcall votes take a lot of time and they also don't count on the time for the budget resolution.

I have a unanimous consent agreement on two additional amendments. We have unanimous consent on an amendment by Senator BYRD, dealing with striking the reconciliation instruction, dealing with taxes on the resolution. That is limited to 1 hour. That will begin in a moment.

Following that, I ask unanimous consent that an amendment to be offered by Senators WARNER and STEVENS pertaining to the Department of Defense be limited to 1 hour; an amendment by Senator FEINGOLD dealing with pay-go also be limited to 1 hour, with no second-degree amendments in order.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding, listening to my friend from Oklahoma, the votes will be stacked; is that right?

Mr. NICKLES. That is my intention. I think we can do all these amendments and probably start the votes shortly before 6. These are three important issues, so Members should be advised—I know Members on the Finance Committee wish to speak on a couple of these issues—to be prepared to debate, and Members should expect three rollcall votes shortly before 6 o'clock.

Mr. REID. Will my friend also agree to have 1 minute on each side prior to each vote?

Mr. NICKLES. I have no objection to that request. I modify my request so that the first vote be on Senator BYRD's amendment and then the following two votes, and the managers be allowed to have 1 minute each.

The PRESIDING OFFICER. Is there objection to the request as modified? Without objection, it is so ordered.

Mr. NICKLES. Mr. President, now we will begin consideration of an amendment Senator BYRD will lay down momentarily to strike the reconciliation provision.

Mr. President, I suggest the absence of a quorum.

Mr. CONRAD. Will the Senator withhold?

The PRESIDING OFFICER. Will the Senator withhold his request for a quorum call?

Mr. NICKLES. Yes.

Mr. CONRAD. Mr. President, Senator BYRD is now in the Chamber. While he is going to his desk to present his amendment, I wish to take this moment to urge our colleagues to get their amendments to us so we can review them, so we can eliminate duplication, so we can schedule them efficiently.

If Senators have an amendment they kind of like but really would not need to offer, please withhold. We already have 58 amendments noticed. That is 19 hours of voting. It is going to take discipline if we want to conclude the business on the budget resolution by Friday, which is our common goal. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized to offer an amendment. The Senator from West Virginia.

AMENDMENT NO. 2735

(Purpose: To provide for consideration of tax cuts outside of reconciliation)

Mr. BYRD. I thank the Chair. I call up my amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2735.

Strike Section 201(a) of the committee-reported resolution, on page 24 line 21 through page 25 line 3.

Mr. BYRD. Mr. President, for many years, I have been growing increasingly concerned about the Senate as a forum for debate. Senators at every turn seem bent upon undermining this institution and the vision of our constitutional framers embodied in this upper body of the Congress.

The Senate is the only forum in our Government where the perfection of laws may be unhurried and where controversial decisions may be hammered out on the anvil of lengthy debate. It may be slow; it may be unwieldy; it may be frustrating to some; but it is the best means to achieving compromise, to ensuring an informed citizenry, to protecting the rights of the minority. To shut out the minority by limiting the right to debate is to needlessly and detrimentally infuse partisanship into the legislative process. That is exactly what we are seeing in this budget resolution.

Included in the Budget chairman's resolution are reconciliation instructions to the Finance Committee to report $81 billion in tax cuts to extend the child credit, marriage penalty, and 10-percent bracket expansion that are scheduled to expire this year. If misused, there is no procedural mechanism in the Senate more contemptuous of debate than the budget reconciliation process, and it is being misused. It is a process that has morphed into an annual exercise where the majority party takes advantage of the limitations on amendment and debate allowed by the

Budget Act to shield controversial legislation from public discussion.

This budget resolution would use reconciliation to circumvent a debate in the Senate about the wisdom of allowing additional tax cuts to deepen the deficit.

I helped to craft the Budget Act in 1974, and I can tell Senators we never in that day contemplated reconciliation would be used to shield from debate legislation that spends the Social Security surplus and increases deficits. We, in that day, never one time envisioned these abuses of the process.

Senators regularly express their desire for less partisanship, longing for the days—the days almost beyond recall—when the Senate accomplished its business without the political acrimony that has marked recent debates.

One reason the Senate avoided such partisanship is because the leaders of the Senate respected the rights of the minority and allowed the Senate to work its will through open and vigorous debate.

In 1981, Republican leader Howard Baker of Tennessee had the opportunity to use reconciliation to pass President Reagan's tax-cut package. Did he use it to do so? No. He chose instead to allow the tax cut to be brought before the Senate as a free-standing bill and fully debated. He said at the time, and I quote Howard Baker:

> Aside from its salutary impact on the budget, reconciliation also has implications for the Senate as an institution . . .
>
> I believe that including such extraneous provisions in a reconciliation bill would be harmful to the character of the Senate. It would cause such material to be considered under time and germaneness provisions that impede the full exercise of minority rights.

Now, that was an extraordinary statement of extraordinary vision by an extraordinary Senator, Howard Baker of Tennessee. Let me read it again, and I quote him:

> Aside from its salutary impact on the budget, reconciliation also has implications for the Senate as an institution . . . I believe that including such extraneous provisions in a reconciliation bill would be harmful to the character of the Senate. It would cause such material to be considered under time and germaneness provisions that impede the full exercise of minority rights.

That was a statement by a statesman. For almost 20 years, the Senate exercised restraint with regard to the reconciliation process, and until 1995 the reconciliation process served as a helpful mechanism for deficit reduction. Since then, the process has been twisted and contorted by those who find its limitations on debate and amendment too enticing to resist, using it to advance a partisan agenda.

The country is the worse for that legislative opportunism. Would that Howard Baker could again speak from these desks.

Today, the White House is projecting deficits at an alarming $521 billion for the fiscal year 2004. To pay for its tax cuts, the Bush administration is spending every dime of the Social Security surplus, money that the President and both parties pledged to set aside to save our retirement and disability system. According to the White House's own numbers, the gross debt just passed the $7 trillion mark on its way to $11 trillion in 2009, and there is no credible plan from this administration or this Congress to do anything about it.

In response to mounting budget deficit projections, President Ronald Reagan signed into law 12 bills to increase taxes, including legislation to repeal part of his 1981 tax cut. Similarly, in response to alarming deficit projections in 1990, President Bush's father made the courageous decision to break his no new taxes pledge.

State legislatures and Governors have been making similar decisions over the past 3 years in Alaska, Alabama, Connecticut, Idaho, Nebraska, Nevada, and Ohio. It is what is being debated right now in Richmond, VA.

Senator WARNER recently and courageously declared: Politics be damned. Let's consider what is best for the men and women and their families and children.

The debate about budget deficits is taking place all across this country. Ironically, the one place where debate is discouraged on this matter is right here in this so-called greatest deliberative body in the world today. The tax cut reconciliation instructions in this budget resolution would stifle a debate when it is most needed.

After 3 years of tax cuts and promises of job growth, the country has not reaped the benefits of those promises. We can tout higher economic growth rates. We can tout higher productivity. But none of these statistics mean anything to an unemployed worker. So far there seems to be no robust connection between these particular tax cuts and job creation.

Since January 2001, 2.2 million jobs have been lost. The manufacturing sector has endured 43 straight months of job loss. Discouraged workers are dropping out of the labor pool at a rate of 100,000 per week. One million jobs have been lost overseas. Countless workers, white-collar workers and blue-collar workers, are worried that their own jobs may be next.

The only thing we know for sure at this point is that tax cuts over the past 3 years have contributed to an explosion in debt. Just look at page 189 in the historical tables of the President's budget. After dropping to a low of $5.6 trillion in the fiscal year 2000, the gross Federal debt has increased to $5.8 trillion in the fiscal year 2001 to $6.2 trillion in the fiscal year 2002 to $6.8 trillion in the fiscal year 2003, and it will continue to increase to an estimated $10.6 trillion in the fiscal year 2009. These figures are beyond all comprehension.

It is not just election year rhetoric. The IMF, the GAO, and the Federal Reserve are all in agreement that deficits do matter, and they are threatening to derail the economy of the United States.

That is not all. The deficits also are threatening our ability to save Social Security. I understand why some would prefer not to engage in a lengthy debate about the explosion in the gross debt. The American public already is having trouble understanding why the Congress should enact the $1.2 trillion in new tax cuts included in the President's budget before we have even figured out how we are going to pay for the cost of the ongoing operations in Iraq.

The budget resolution includes $30 billion in funds for ongoing operations in Iraq. And that figure is only in here because of the thoughtfulness of the distinguished chairman, only because of his thoughtfulness and foresight in putting the figures in here. The administration downtown didn't put a penny in, not one thin dime.

But that $30 billion is even less than what was included in the House budget, $20 billion less than what the administration intends to ask from the Congress, and only enough to finance the first 6 months of the 5-year span in the budget resolution.

The deficits embraced by this budget resolution will prevent the Congress from allocating any money to address the threat to the Social Security system, even though the Social Security actuaries estimate $1 trillion will be needed to finance the transition costs under the options proposed by the President's Social Security Commission.

Reconciliation protects additional tax cuts from public discussion about the size of the financial burden that will be passed on to our children and our grandchildren, and it leaves hanging questions about deficit and debt and balanced budgets that are clearly on the minds of the American people.

We have hard choices to make that may bring to bear enormous change in our Nation. We should not do so silently. This is no time to sweep problems under the rug. At the very least, we have a duty to the future to discuss and debate so that the public, the people out there looking at us through those electronic eyes behind that Presiding Officer's chair will know our reasoning and hold us responsible, hold us accountable. We should lay down a record so that, if in the end our choices are right, they may have in our example a good and steady guide and they may then say, ''Well done, thou good and faithful servant. . . .'' and so on. But, also so if destiny so transpires that our choices were wrong, others will not repeat our mistakes.

If we have learned nothing else from the events of the past year, we certainly should have learned the absolute necessity of debate in our democratic Republic. We should have learned the folly of failing to ask questions, of failing to probe and to delve, failing to do our duty as the elected representatives of the people of this great Republic. I

would think by now we should have learned the dire consequences of our failure to insist on debate. The Senate must not shirk its responsibility to engage in debate about these issues.

With the American public, according to recent polls, in such stark disagreement with the current course of our Nation's economic and budget policies, it is time for the Senate at long last to finally engage in an honest debate about the fiscal course laid out by this administration.

In recent weeks the chairman of the Budget Committee has expressed his desire to address the expiring child credit, the marriage penalty, and the 10-percent bracket tax cuts through the regular legislative process. The chairman of the Finance Committee has indicated his belief that including those tax cuts in the reconciliation bill would create a needlessly partisan debate.

The Senate needs time to explore these views. While these reconciliation instructions are viewed by some as only a backup plan if both the House and Senate pass a budget resolution with tax reconciliation instructions, the decision about whether to use reconciliation may be taken out of our hands. The House can force us to take up a reconciliation bill in the Senate containing tax cuts.

The American public deserves the opportunity to better understand how these tax cuts will affect our mounting budget deficits, and to probe whether these tax cuts should be offset. We should allow the Senate to have its debate, not stifle it.

That is the issue on which we will vote. A vote to strike the reconciliation instructions is a vote to allow the Senate to engage in an informed debate. That is what I want. I want an informed debate. That is why I am suggesting we strike these instructions, so we may engage in an informed debate about how to prevent the further deepening of the deficit, and a further worsening of the bitter atmosphere that has, regrettably, engulfed this body.

I urge Senators to vote to strike the tax cut reconciliation instructions.

I ask unanimous consent to add Senators CONRAD and BAUCUS as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask unanimous consent to reserve the remainder of my time. How much time do I have?

The PRESIDING OFFICER. The sponsor of the amendment controls an additional 8 minutes. The majority bill manager controls 30 minutes.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment my friend and colleague from West Virginia. He is my friend. He is a valued member of the Budget Committee. He has been on the committee for a couple of years, and I very much enjoyed his participation with us on the Budget Committee.

As a matter of fact, one of my fondest moments, I will tell my friend from West Virginia, in my tenure as Budget chairman, occurred last year. We were in the process of marking up the budget. My first grandson was born. That happens to be day after tomorrow I celebrate his birth. You acknowledged it with a very nice poem, and I want to thank you for that.

Mr. BYRD. Will the Senator yield?

Mr. NICKLES. I will be happy to yield.

Mr. BYRD. You know, my wife and I are the proud possessors of two great-grandchildren, just within the last month. The distinguished chairman's grandson, and Erma's and my great-grandchildren, each of them owes, as of this past Monday, $24,253.36 on the national debt of the United States. My amendment is for the purpose of keeping down this debt and not increasing the deficit.

Mr. NICKLES. I appreciate my colleague's comment. I appreciate the earnestness with which he says it and makes his case very forcefully, but I am going to urge the opposite side.

Let me say, I don't totally disagree with my friend and colleague from West Virginia. I regret it appears we probably need reconciliation at times to get things done in the Senate. My colleague from West Virginia opined about the great days years past when Howard Baker was majority leader. I remember that very well. I remember passing great tax bills. We actually passed a tax bill in 1981, and in 1986—by 1988 the maximum tax bracket went from 70 percent to 28 percent. The Senator from West Virginia is right, it wasn't done under reconciliation.

But I also say the climate was much better in the Senate. There was a lot more cooperation in the Senate. The Senate was more civil and I wish the Senate would return to those days. I hope we don't need reconciliation to pass the bills we are advocating or encouraging the Finance Committee to do. I think it should be able to be done without reconciliation, if the Senate would work the way it should work.

The Senator from West Virginia knows, though, things have changed. Unfortunately things have changed a lot in the Senate. We used to not have filibusters on judges, never had them in the history of the Senate. Now we have six individuals we can't confirm because they happen to be nominated to an appellate court.

We have a situation today where we can't even get bills, in some cases that have been approved by the entire Senate unanimously—we can't even get conferees appointed. Senator ENZI from Wyoming sponsored a bill that has strong bipartisan support. The Workforce Reinvestment Act passed the Senate unanimously, and we can't get conferees appointed.

I am troubled by how difficult it is or how partisan it is to do a lot of work in the Senate.

Last year, yes, we used reconciliation to pass a tax bill and the tax bill was a jobs growth bill. To help the economy we did it, and frankly it worked. If we hadn't used reconciliation last year, it wouldn't have passed. The only reason I was advocating, reluctantly, that we use the reconciliation process to pass it was because I thought it was the only way we could pass it. In days of old, you could pass legislation in the Senate with a majority vote, but a lot of times people think we need to have 60 votes to pass everything. I think that is a serious mistake. The tax bill we did pass last year did cut taxes on dividends.

We used to tax corporate dividends higher than any other country in the world. We slashed that tax by half—in some cases more than half—and it worked. We cut the capital gains rate from 20 percent to 15 percent, and it worked. We set the maximum rate for individuals as the same rate for corporations—35 percent—and it has worked. The economy really did start to move. The reconciliation process and expedited procedure helped us to do things that, frankly, in the past we couldn't have done under normal procedures. The only way to make sure there is not a tax increase on my daughter and, frankly, on my grandson is to make sure we have reconciliation.

I appreciate Senator BYRD saying the amount of debt per child born today is very significant. I want to reduce that. We have a budget that is the most significant deficit reduction package before this Senate in years—maybe decades, maybe ever. We take a $477 billion deficit and reduce it in half in a couple or three years. That is not easily done. I don't think we should raise taxes on American families by not having this reconciliation process. I am afraid that is what will happen.

Some people say you want to give additional tax cuts. The truth is, we want to keep the tax cuts that are now in law. We don't want to have tax increases on American families. If we don't have this reconciliation process, that may well happen. It may be that some Members, for partisan reasons or whatever, would say: I just do not want that to happen. I know President Bush really wants it, and, therefore, they might work hard to see that it doesn't happen. What happens if that is the case? If the tax bill, which is current law, is not extended, there will be a tax increase on American families.

To give you an example, a couple that has taxable income of $58,100—that is not a particularly wealthy family; I think most of us would say that is a middle-income family—this year, under present law, will pay $6,000. If we don't keep present law, their taxes will increase to $7,600; that is for a family of four.

I will outline it. With the provisions that we are assuming in reconciliation, the Finance Committee can reconcile anything. If we give them $80 billion and say, reconcile the tax reduction, we are assuming—presuming maybe—they would extend present law. We are

not trying to cut taxes further than they are in the year 2000. We are just trying to keep the present tax law from increasing. If we don't do it, they will find with the tax credit we have now that the $1,000 a child goes to $700. That is a $300 tax increase on that family. If they have two kids, that is $600. If they have four kids, that is $1,200.

Last year we also did something that a lot of people do not understand but it is very significant in the Tax Code. We have the most significant reduction in the marriage penalty—the imposition of taxes on people and penalizing them because of the fact they are married. It is a higher income tax on couples as compared to individuals. We have the most significant reduction of that tax in history. We basically said for at least the couple they should pay the 15-percent bracket. Basically they should have to double the amount of income that an individual has on the 15-percent bracket. It should be doubled for couples. Individuals who have taxable income pay at the 15-percent bracket—taxable income up to $29,000. We say that should be $58,100 for a couple.

If we don't extend present law, they will have a tax increase of $900. They will be paying 25 percent, not on income above $58,100. They will be paying 25 percent above any income above $42,000. That is a $900 tax increase, if we don't extend present law for a married couple.

My father-in-law and mother-in-law are both retired. Their income is in this category. I don't want them to have a $900 tax increase. I don't want my son and my son-in-law and my daughter to have a $900 increase. I want them to be able to get a $1,000 tax credit. It costs a lot of money nowadays to raise children and to educate children.

We also have an expansion of the 10-percent bracket as well. More people pay more who have a greater amount of income. They pay a 10-percent tax instead of 15 percent. That tax rate used to be 15 percent and was reduced to 10 percent, and we expanded the amount of income covered under that.

To make sure people understand, we are trying to extend present law to make sure that a couple with a taxable income of $58,100 will not have a $1,600 tax increase if they have two kids. If they have four kids, it would be a $2,200 tax increase. I didn't want that to happen to American families.

One way of making sure it doesn't happen is to have reconciliation protection so we can pass a bill. If we get bogged down politically and Senator GRASSLEY and Senator BAUCUS can't get it worked out, if there are endless amendments and people will say we are going to keep amending this thing forever, you will never get an agreement to finish it. It is nice to have at least in the arsenal to get things done a reconciliation process where it can guarantee that we don't increase taxes on American families. That is why this reconciliation provision is in there. It is not a lot of money.

We are assuming, according to the Congressional Budget Office, almost $12 trillion of revenues to be generated to the Federal Government under present law over the next 5 years—$12 trillion. I will tell my colleague from West Virginia that we are only reconciling $81 billion out of $12 trillion.

Again, I don't consider that new taxes. That is extending present law for American families—for low-income and middle-income American families primarily. They will be the big beneficiaries of this.

I have the greatest respect for my colleague and friend from West Virginia. But I urge our colleagues to vote no on the amendment to strike reconciliation because this is our resource if people are obstructing passing bills. It seems to be more prevalent all the time in the Senate today. Let us maintain some protection for the American taxpayer by using reconciliation, if we have to. We can make sure these tax increases of $1,600 or $2,200 for a family of four do not happen. Let us not saddle American couples with a $900 tax increase. Let us make sure we protect taxpayers and American families. I am afraid, unfortunately, we need reconciliation as an option to make sure they aren't faced with a big tax increase.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, may I get 3 minutes?

Mr. BYRD. I yield 3 minutes.

Mr. CONRAD. Mr. President, let me say we don't need the reconciliation process to extend the middle-class tax cut the chairman has referenced. I support and I will work to get votes to extend the $1,000 childcare credit, to extend the marriage penalty relief, and to extend the 10-percent bracket. I am absolutely confident that we can get the votes to do that outside of reconciliation.

What is wrong here is to use reconciliation for tax cuts. Reconciliation, which is a fast-track process in the Senate that limits our right to debate, that limits our right to amend, is used for something other than deficit reduction. The only reason Senators agreed to give up their basic rights was because we were in a crisis that required deficit reduction. This is adding to the deficit—not reducing it. The chairman said this budget before us has a record amount of deficit reduction. This budget before us has a record amount of debt increase. This budget before us will increase the debt of the United States by $2.86 trillion over the next 5 years.

The former Budget Committee chairman, Senator DOMENICI, said this about reconciliation:

> Frankly, as chairman of the Budget Committee, I am aware of how beneficial reconciliation can be to deficit reduction. But I am also totally aware of what can happen when we choose to use this kind of process to basically get around the Rules of the Senate as to limiting debate. Clearly, unlimited debate is the prerogative of the Senate. That is greatly modified under this process. I have grown to understand that this institution, while it has a lot of shortcomings, has some qualities that are rather exceptional. One of those is the fact that it is an extremely free institution, that we are free to offer amendments, that we are free to take as much time as this U.S. Senate will let us to debate and have those issues thoroughly understood both here and across the country.

Finally, the simple fact is, the reconciliation instruction in this budget resolution doesn't assure that those tax cuts—the middle-class tax cuts—will be the ones that are, in fact, brought back to us by the Finance Committee. We all know the budget resolution does not make the specific decisions of how the revenue is raised by the Finance Committee.

The chairman of the committee has said over and over in the Senate, we do not control the specifics of what the Finance Committee does. All this reconciliation instruction does is give $80 billion to the Finance Committee. They can use it for any tax-cutting purpose.

Again, we can have an extension of the middle-class tax cuts, $1,000 child credit, and 10-percent bracket, the marriage penalty relief without the blunderbuss of reconciliation.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I will be brief with a couple of comments.

According to the Department of the Treasury, if Senator CONRAD is correct, we give the Finance Committee an instruction and they can do whatever they want, but these three provisions I mention are the only ones that expire at the end of this year that have a lot of popular support because they affect millions of people.

The Treasury Department says if these are not extended, 94 million taxpayers would receive an average tax increase of $538 if we do not extend these three. Seventy million women would see their taxes increase on average $662. Forty-six million married couples, including my son-in-law and daughter, including my father-in-law and mother-in-law, 46 million married couples would pay on average an additional $906 in taxes. Thirty-eight million families with children would incur an average tax increase of $902. Eight million single women with children will see their taxes increase on average by $368. Eleven million elderly taxpayers would pay on average an additional $383. I could go on.

This is important to protect these families, these citizens, these women, these children from a tax increase. I am afraid that reconciliation is the only tool we can have to almost assure them they will not be straddled with a big tax increase for next year.

I reserve the remainder of my time.

Mr. BYRD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from West Virginia controls an additional 5 minutes.

Mr. BYRD. I thank the Chair.

The distinguished chairman has alluded to the sometimes ill will that exists increasingly within our own premises. That ill will is often engendered by the meddling of the White House. The White House should not meddle in the business of the Congress. Congress should pass bills and the President can decide whether to sign or to veto them.

Last year, the President stepped in late in the debate on the Omnibus appropriations bill and forced the conferees to drop protection for workers to earn overtime. He forced us to change the media ownership rules in order to protect large corporate interests. We should not allow the President to force the Congress to consider legislation through reconciliation.

Moreover, I say to my friend from Oklahoma, this amendment is not about tax cuts. It is about paying for tax cuts. This budget resolution assumes that our gross debt will grow to $10.6 trillion by 2009. This resolution does nothing to address the staggering debt. In fact, it assumes $144 billion of additional tax cuts with $81 billion of tax cuts cloaked within the protection of reconciliation. We should insist on a full debate on whether these tax cuts should be paid for.

We do not need reconciliation to get things done. In 1981, we passed President Reagan's tax cuts without reconciliation. Reconciliation was designed to pass difficult legislation that would help to reduce the deficit. It was not designed to pass tax cuts. We are facing huge deficits. We should have an opportunity to actually debate whether additional tax cuts should be paid for.

May I say to my chairman, I respect him greatly. I am sorry he has voluntarily elected to leave the Senate and not chair the committee. I have tremendous admiration for him. I have always enjoyed his friendship and my associations with him, and I shall long miss him.

I hope, on the note on which we have been playing, Senators will support my amendment.

Does my chairman wish any further time?

Mr. CONRAD. How much time?

The PRESIDING OFFICER. The Senator from West Virginia controls 1½ minutes.

Mr. BYRD. I yield that time to my chairman.

Mr. CONRAD. I thank the Senator.

I yield 5½ minutes off the resolution and the minute and a half that we have in addition for a total of 7 minutes to the Senator from Montana, the ranking member of the Senate Finance Committee.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, all Members ought to think and reflect upon this amendment and how important this amendment is. First of all, let me explain what this amendment does and what it does not do.

What does it not do? It does not prevent any of the middle-income tax cuts we all want to extend. It does not do that. It does not prevent those tax cuts. It does not prevent Congress from enacting an extension of those tax cuts that we all want to extend. This amendment has no effect on that.

What does it do? It says we should not use the regular Senate rules in deciding whether to extend and how to extend the middle-income tax cuts; that is, the child tax credit, the marriage penalty, and the 10-percent bracket. It says no, create a special rule. Do not use the regular order, the regular standing rules of the Senate in determining how and in what way we extend those middle-income tax credits. This amendment does say do not do that. And Congress will extend those middle-income tax cuts. That is not the issue. We are going to do that.

The issue is twofold. One is, should we pay for them or not? That is the issue. And there are lots of ways we could pay for it, lots of ways that are virtually painless. What are those virtually painless ways? Closing a lot of tax loopholes. There are countless tax loopholes that we can pass very quickly, shelters that are ripping off American taxpayers, post-Enron provisions. There are a host of them. We talk about SILOs, for example. We know we are about to find in the Finance Committee other shelters being used that are not widely known.

That is why we are saying this is a two-for. We are saying to extend the middle-income tax credits, tax provisions, child tax cut, and the 10-percent bracket, and at the same time we are going to clamp down on some tax loopholes. I am not being facetious or joking about this. This is real. There are immense loopholes we can and should close down. I know the Presiding Officer agrees, as most Members would agree. This is a two-for.

We are saying, let's get that two-for, get both of those passed. And we have to pass the amendment of the Senator from West Virginia to do that; otherwise, we are saying change the Senate rules, extend these tax cuts but do not pay for them, do not enact those shelters.

I also add, we have a moral obligation.

We have a moral obligation, I believe, as Senators, as representatives of our people, to leave this place in as good a shape or better shape than we found it. That pertains to the environment. That pertains to the budgets. That pertains to all we do. We are entrusted with such responsibility as U.S. Senators.

And, my Lord, it seems to me, right off the top, at the very least, we could cut back on the irresponsible, large deficits and debts we are going to be leaving our children and our grandchildren. That is a moral obligation you have, I have, and each Member of this body has.

By adopting the amendment of the Senator from West Virginia, we can make good on that moral responsibility, that moral obligation, by saying, sure, we are going to extend the tax cuts, as well we should, but we are going to do it in a responsible way; we are not going to add to the budget deficit; we are not going to add to the debt. It is the only right thing to do. I urge my colleagues, therefore, to pay very close attention to the Senator's amendment and to adopt it.

I might add, there are other issues. I do not think these have been thought through very much. Let me just explain.

The budget resolution instructs the Finance Committee to decrease revenues by $80.6 billion. This is intended to cover the extension, as I mentioned, of expiring middle-class tax cuts—the 10-percent bracket, the marriage penalty, and the child tax credit. The instruction for this tax bill does not, however, include any instructions to increase outlays.

Why is that important? It is very important. It is an instruction for tax cuts. Why am I saying we need to also increase outlays? It is not called for in the budget reconciliation provision. I say so because these specific tax cuts also require outlays. That is because there is a refundable part of these tax cuts. Let me explain it.

The child tax credit provides a $1,000 per child tax credit for low- and middle-income families. There are some working, low-income families that do not have income tax liability that this credit can be used to offset. Even so, they are out there working every day paying a good chunk of their paycheck in payroll taxes. For these families whose income does not qualify, we provide, in the law today, as you know, a refundable child tax credit. They do not have the income liability to offset, so they get a refund from the Treasury, and this scores for budget purposes as an outlay.

These reconciliation instructions tell us to extend the child tax credit. But we know that if we extended the child tax credit for all the families that currently receive it, it would take about $20 billion in outlays. But the reconciliation instruction fails to include this. It does not even mention it. In fact, by definition, therefore, we cannot increase outlays.

So what does this mean? The best I can figure it, it means we should extend the tax cuts for all families—except for the working poor. If middle-income families deserve to get the $1,000 child tax credit next year, then why not low-income families?

We have heard many times this week: Families should not see their taxes increase next year. We should extend the current tax relief. So why does this budget leave the working poor families behind?

There are about 26 million families that receive the child tax credit. About 8 million of these families receive some refundable credit. That is almost one-quarter of all child tax credit recipients, families making between $10,500

and $26,000. Three-quarters of families deserve an extension of the full child credit but not the remaining one-quarter? This does not make sense. Give me a break.

Who are the families that will be left behind? Let's think about that a second. A single mother of one, making $17,000 a year is left behind. A couple, both working full time at minimum wage is left behind. What other type of family is going to be left behind? Military families. There are a couple reasons for this.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAUCUS. Mr. President, I ask unanimous consent for 2 additional minutes.

Mr. CONRAD. Mr. President, I give the Senator 2 minutes off the resolution.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator is recognized.

Mr. BAUCUS. Why are military families left behind under this reconciliation instruction?

First, there are many military families that have incomes between $10,000 and $26,000 a year. Roughly, 200,000 military personnel fall within this income range. They all get the refundable child tax credit. But under the reconciliation provisions, which the Senator from West Virginia wishes to delete, they would be left behind. They do not get any help.

Second, there are many military personnel with higher incomes who receive the refundable child tax credit. But why do the higher income people receive the refundable child tax credit? That is because they have been called to serve in combat zones. Why is that relevant? Well, the income military personnel receive when they are in a combat zone does not count for income tax purposes. That means it also does not count for purposes of determining the child tax credit. How many are those? At least 40,000. So even though these families make more than the $26,000, they are receiving the refundable child tax credit because they are in a combat zone.

So roughly a quarter of a million military families are being cut out by the Budget Committee's reconciliation instructions. Families that receive the refundable credit simply because they are serving in a combat zone or simply because they are serving in the military—all these families will be left behind.

We all agree, extending the child tax credit is critical. So why are so many families being excluded?

This reconciliation instruction will not work the way it should. It is not right to cut so many low-income people off and out of the child tax credit. That is wrong. So let's work together. Let's use the regular order and the Senate rules so we can fix some of these discrepancies that exist in the current budget resolution.

I urge my colleagues to support the amendment of the Senator from West Virginia. It is the right thing to do.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. GRASSLEY. Mr. President, I yield myself up to 15 minutes of our 17 minutes for remarks I will have on the subject.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, first of all, I think, based upon my close working relationship with the Senator from Montana and our work on guiding the Finance Committee, from what he said, I have just one disagreement with his position. I think the difference between what he said and the position I am taking is that I, myself, as leader of the committee, want to do things through regular order. I think we can do things through regular order.

But just in case we cannot, since this tax policy is so important to working men and women—not increasing their taxes next year is so important—I want the insurance policy a reconciliation package gives us, just in case there is something unpredictable out there.

Now, I do not think I would have said that same thing in 2001, I would not have said that same thing in 2003, where I believed we needed to absolutely pass something that was going to be so controversial that it would not pass maybe except by reconciliation.

In this particular case, I believe we are going to have the spirit, the bipartisanship to get this stuff done without going through reconciliation. So I think that is the only place I disagree with my colleague. In other words, I am speaking for the budget resolution as it came out of the Budget Committee.

But what we are setting the stage for is a debate on whether the Finance Committee will have an opportunity to reduce taxes for families and children or, in this particular case where we already have these tax reductions in place, to keep them from automatically, without a vote of the Congress, going up next year.

I want to underscore the word ''opportunity,'' because that is what this debate is all about today on the budget resolution, an opportunity—with some assurance because of reconciliation as a shotgun behind the door—for tax reduction.

This vote is not about the tax reduction itself. That debate and vote will come later, on the product of our committee, the Finance Committee, when we mark up tax reduction legislation. This vote today is about whether we will consider the tax reduction under reconciliation or the possibility of using reconciliation because reconciliation, just plain and simple, as we sit here today, is the only way that we can guarantee tax relief to the American people in a timely fashion.

Now, there have been some very strong statements made by some on the other side of the aisle about tax relief and about reconciliation. Let me say to those who are worried about this instruction, I, as chairman of the Senate Finance Committee, plan to use this as a backstop, not as my primary tool.

My hope is that we deliver family tax relief through regular order. I will not use this instruction, should it survive this vote in conference, unless we have to. We have reconciled tax cuts on several occasions—1995, 1997, 1999, 2001, and we did it last year.

The opposition is not based on precedent. The precedent is very clear. The measures we are talking about are supported on both sides of the aisle. I am talking about the child tax credit, the marriage penalty relief, and expansion of the 10-percent bracket.

Let's be clear. If the Congress does not act, we are talking about a tax increase for nearly every American who pays taxes. It will also help out a lot of low-income families with a refundable child tax credit, if we can deliver this relief. That is another thing I would suggest to people on the other side. If they want a refundable child credit and we get into a hassle where it cannot be done through regular order, it would seem to me they would want to have a process of reconciliation because it guarantees finality. You never get anything until you get to the finality of votes.

A bigger tax credit is a better tax credit. A tax benefit under refundability of $300 per child means a lot to hard-working men and women in my State, and every State. Keep in mind the opposition has no problem with raising taxes in reconciliation. Somehow that is OK. It has been done many times. If the 1993 Clinton tax increase were repealed today, it would score over $1 trillion over 10 years. Who is to say that a $1 trillion tax increase is appropriate in reconciliation, that somehow you can use the process of reconciliation guaranteeing finality, cutting off debate after 20 hours, OK, if you want to raise taxes. That would be for a $1 trillion tax increase. But somehow it is wrong to do it for a $90 billion tax reduction. Democrats, in 1993, used reconciliation—within their rights from our view—to further their President's program, a partisanly designed major tax increase. Eleven years later, we are faced with a different situation, though I am hopeful more than one Member on the other side will support the final product. Republicans, by a razor-thin edge, control the Congress and have a President of our party in the White House.

I want to make another point that, for those of us on this side of the aisle, is very compelling, especially in the context of our side's concessions in the power-sharing agreement. We believe the Byrd amendment should not be necessary. Reconciliation affords us a backstop to ensure that tax relief stays in place. I hope the Finance Committee will not need reconciliation. Hopefully,

one way or the other, we will get this tax relief.

A vote against the Byrd amendment is a vote for an insurance policy that tax relief will get to American families.

In closing, I point out this would be a hypothetical family, but presently for the year 2004, this family would be paying $6,000 a year in taxes. If we don't do anything before this year is out, then automatically certain provisions are going to expire. This family, starting January 1, 2005, is going to be hit with a 26-percent tax increase. You can see it would go up $600 because the $1,000-per-child tax credit would expire. When the marriage penalty relief expires, that family is going to pay $911 more. Why? Just because they are married. If they weren't married, they wouldn't be stuck with this, if they were filing separately. Then because they are going to have expiration of the 10-percent bracket expansion, they will pay $100 more. That is $1,611 more in taxes because of inaction by this Congress.

That is wrong. We have a chance to do something about it. We ought to do something about it. I think we can do something about it in a bipartisan way through regular order. But in case we cannot, because this body gets locked up too often—call it a filibuster, it is locked up, no finality. It takes a 60-vote supermajority to overcome it; sometimes you can't overcome it. Then for this family, they ought to be entitled to a reconciliation, shotgun, behind-the-door process so we can guarantee them no tax increase.

It is one thing for us to vote a tax increase: it is another thing to have a tax increase because of inaction by this Congress. That could happen. I don't want that to happen. It doesn't have to happen this way. We can use regular order. But we ought to provide some assurance to this family that they don't get a 26-percent increase in taxes.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma is advised he has 7 minutes remaining.

Mr. NICKLES. I compliment my friend and colleague, the chairman of the Finance Committee. He and I were elected to the Senate together in 1980. We have been friends ever since. I absolutely love a person who has intensity on issues. I love a person who likes to get things done. I love it when we actually do something that makes American families better.

The tax bill we passed last year helps American families. It helps this family with a taxable income of $58,000. I don't know how many times I have heard that the tax cut is a tax cut for the wealthy and the rich. That is hogwash. This proves it. A married couple making $58,000 in taxable income, if they have two kids, saves $1,600. That is real. That is significant. Frankly, it happened in large part because of the chairman of the Finance Committee, Senator GRASSLEY. I compliment him for his work and his speech. He is exactly right.

I want to help American families. That is the reason we want to preserve this option. I compliment Senator GRASSLEY. I urge our colleagues to vote no on the Byrd amendment when we vote.

For the information of our colleagues, I expect we will have three rollcall votes probably at 6 o'clock.

I yield back the remainder of our time on this amendment.

Mr. CONRAD. Might I just take 30 seconds off the resolution?

Mr. NICKLES. I will withhold.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. May I say to my colleagues, I have not heard a single Senator who is opposed to extending the middle-class tax cuts. I have not heard a single Senator who is opposed. There is no need for this reconciliation instruction for the purposes of tax reduction. The fact is, this budget resolution does not assure the money will be used for that purpose. We all know the Senate budget resolution cannot compel the Finance Committee to make any specific decision. Again, I would just say to my colleagues, I don't know of a single Senator who is opposed to extending the middle-class tax cuts.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish that was the case. But I would like to say that there has been a lot of politics. Maybe this is more a political year because of the election. We can't even get conferees for the Workforce Reinforcement Act, a bill that passed unanimously in the Senate. Yes, you might say everybody is in favor of it, but people might find a reason not to give consent to pass it or they might say: I will pass it, but I want to offer amendments. And maybe those amendments would continue to be offered, more and more amendments.

Tax codes are interesting. The Senator from North Dakota and I both serve on the Finance Committee with Senator GRASSLEY. When you get a tax bill on the floor, you could have an unlimited number of amendments. There are 100 Senators and probably every one of us has different ideas on the Tax Code. We might start debating ethanol subsidies because the Senator from New Hampshire and others believe we have overdone it on ethanol. Before you know it, we might not finish this bill.

The chairman said he wants to make sure we can get it finished one way or another, to make assurances to those families who have kids, or those married couples, that they are going to continue to keep the same taxes so they don't have a tax increase.

This is not about tax cuts. This is making sure they don't have a tax increase. The only way we can make sure they don't have tax increases is to defeat the Byrd amendment.

Mr. President, I yield back the remainder of our time on the underlying amendment.

Mr. NICKLES. Mr. President, I believe the regular order would be to recognize Senator WARNER for his amendment.

The PRESIDING OFFICER (Mr. SMITH). Under the previous order, the Senator from Virginia is recognized to offer an amendment.

Mr. WARNER. I thank the Chair.

Mr. NICKLES. If the Senator will yield for a moment, 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. CONRAD. 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. CONRAD. Momentarily, we will be considering an amendment with respect to the defense budget for the year. That is being worked out now, and Senator WARNER will be here momentarily. Perhaps he is almost ready.

I wish to express the opinion that I do not think it is wise to cut the Commander in Chief's defense request when we are at war. I don't think that is the right policy. I don't think it sends the right signal. I personally believe the increase ought to be paid for. But I think we ought to increase the defense request to what the Commander in Chief has recommended when we are at war.

With that, I see Senator WARNER, so I will stop until he has made his presentation, and then we will have a further opportunity to discuss the pending amendment.

Mr. WARNER. Mr. President, I thank the distinguished Senator from North Dakota. Momentarily, he is quite correct, we will address that.

This amendment raises the caps and we do not have an offset in it. We believe at this point in time the urgency of the matter dictates that we do just what I hope the Senate will do by virtue of adoption of this amendment.

Momentarily, the Senator from Oklahoma will return to the floor and perhaps the Senator will ask if we may proceed.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, parliamentary inquiry: How is the time being charged?

The PRESIDING OFFICER. Time is being charged against the resolution. The quorum calls are being equally divided.

Mr. CONRAD. We are not charging time against the amendment then.

The PRESIDING OFFICER. That is correct.

Mr. CONRAD. I do not want to take action without consulting the other side, and the chairman is not in the Chamber at the moment. So I will not make a request at this point. Maybe if we can ask the floor staff to check if we want to be charging time to the amendment on an equal basis. I asked that question because we have tried to carefully calibrate this so we would have a voting window starting at 6 o'clock. Maybe if people can check, and while that is being done, I will add a few thoughts on this question.

I agree with Senator WARNER we ought to increase the defense allocation to the request of the Commander in Chief when our troops are engaged in combat. I think that should be done.

I also believe we ought to pay for it. As I understand it, under Senator WARNER's amendment, the increase will be made to increase the budget allocation to the request by the President—I agree with that—but it will not be paid for. With that I do not agree. When presented with a choice, I will vote to increase the spending to the request by the Commander in Chief because I do not think it is appropriate policy not to fully fund the Commander in Chief's request when our troops are engaged in combat half a world away. Our troops right now are engaged in direct combat in Iraq and Afghanistan and, of course, in addition to that, we are engaged globally in the war on terror. That does not mean we should not pay for these additional expenditures. Already we see record budget deficits.

We see in this budget resolution the debt of the country being increased by $2.86 trillion over the next 5 years. That is a stunning amount of money. The assertion by some that the deficit is being reduced really pales in consideration and in comparison to what is happening to the debt.

The increases in the debt under this budget are simply staggering—$2.86 trillion over the next 5 years. That is before the baby boomers retire, that is before the full cost of the President's tax cuts explode because they increase geometrically right beyond the budget window.

I would hope we would increase what is in the budget for our national defense to the amount requested by the President, but we do it in a way that is paid for. I think that would be the right approach. Unfortunately, Senator WARNER's amendment has half of that formula. He will have the increase in funding but will not have the appropriate offsets.

We will have a vote later on the question of paying for this increase. I hope my colleagues are on notice on what this amendment will involve, and hopefully we will be on this amendment soon.

I will withhold my request if the Senator from Missouri wants to take some time. Can we go on to the amendment then? The Senator from Missouri will speak with the understanding that the time will, at a later moment, be taken off the time of the amendment so we can try and stay on schedule.

I thank the Chair. I thank my colleague.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Mr. President, I thank my friend from North Dakota for accommodating me and allowing me to speak for a few minutes about the amendment we all know is going to be offered in a few minutes by our friend and colleague, Mr. WARNER from Virginia.

I do thank and congratulate Chairman WARNER and also Chairman STEVENS, not just for producing this amendment I think is so important, but also for their work over the years in sustaining America and keeping faith with the men and women who keep faith with us every day and serve us on the front lines and on the back lines and throughout the world to keep our country safe.

I want to suggest to the Senate there is no more serious amendment we will consider in this debate on the budget than the one Senator WARNER is about to offer.

America is deeply engaged in the world in all respects, and it should be, it needs to be. It is a difficult task, but it is one we bear every day as a nation in a lot of different ways.

Yet despite all our other efforts, despite our diplomatic efforts, despite our participation in international organizations, despite the coalitions we have built around the world, despite our foreign aid, despite our exhortations based on our philosophy, despite the power of our ideas, as important as all of that is, America's security and the security of our allies and our friends around the world depends and continues to depend on the reality and the perception of our military power.

That is what is at stake in this amendment today. The President of the United States has submitted a defense budget which states a requirement of $421 billion for the national defense. In my judgment, that is quite probably too low. I have argued for 10 years, first in the House and now in the Senate, that we are not adequately funding our defense establishment.

I simply offer very briefly as evidence of that the fact the Joint Chiefs of Staff recently submitted, in response to a question from Congressman IKE SKELTON, my old and dear friend from the other body, about what their unfunded requirements were. In other words, what are their requirements they were not able to get into the President's budget.

They submitted $12 billion in unfunded requirements, and that is just their top priorities: $6 billion for the Army; $2.5 billion, roughly, for the Navy; $2.5 billion for the Air Force. I think it is more than that, based on my years of experience. I believe we could add $15 billion to $20 billion to the budget for procurement alone without overfunding America's military. I will explain in a minute why we are in this position.

The Army needs to be bigger. I supported an amendment that was offered by the Senator from Rhode Island, Mr. REED, last year to increase the size of the Army. I think it needs to be another 30,000 to 40,000 men and women. I am pleased to say the administration is moving in that direction now, at least on a temporary basis, but that requirement was not included in the President's budget. Half of military housing is inadequate. That was not provided for in the President's budget. There are other quality-of-life needs we would like to meet.

Many of us here would like to resolve the issue of concurrent receipt, for example, so we can allow our military retirees who also have a military disability pension to keep both their retirement they earned and the disability benefits they deserve. That is not included in the budget. I could go on on behalf of my belief that the $421 billion the President has asked for is probably too low.

Now, I am sure it will be said by some in the debate on this amendment that the President's budget increases defense from last year by 7 percent and that is too great. That is above the rate of inflation.

Our spending on defense as a percentage of gross domestic product is less than it was prior to World War II. We spent 47 percent of our discretionary funds on defense in 2002 compared to 60 percent in 1990, and we are at war. It is time for us to get as serious as the men and women in America's military are about winning this war.

I went into the Congress in 1993. It was just after the outgoing first Bush administration had, in response to the cold war, cut the size of America's military establishment by about a quarter to establish what they called the Bush base force, which, by the way, is probably about what we need today, in my judgment.

The incoming Clinton administration then cut the size of the force an additional 25 percent, to about a third, depending on which branch of the service we are talking about. I argued all throughout the 1990s that we were not funding even that undersized force adequately.

All throughout those years, we were tacitly engaging in the assumption in this Congress that there was not any real threat to the United States; that with the end of the cold war in some sense history had ended as well.

Well, history had not ended. It had not ended all those years. It was just frozen and it thawed out with a vengeance on September 11. All the ethnic and regional rivalries of the world—fanaticism, nationalism, extremism—have risen up now to threaten us and once again we rediscover we do, indeed, need America's military and we do, indeed, need to fund it.

The question today is whether we are going to be serious on behalf of that responsibility. The force is too old. The reason it is too old is that all throughout the 1990s we were not buying enough new, what they call in the military, platforms, trucks, and planes.

When the capital stock is not replenished, it gets old. The average age of an aircraft in the U.S. Air Force is 22 years; the bombers, over 40 years; Navy and Marine aircraft, 18 years. We do not have enough ships in the Navy. We have 294 ships in the Navy. The Chief of Naval Operations, the Chief of Staff of the Navy, says we need 20 more today. His vision for the future is 375 ships, and we are not buying enough to get us there. We are not buying enough to maintain a 300-ship Navy.

I could go on. I have done it before, at least when I served in the other body. Some evening I will probably have occasion to spend 45 minutes or an hour discussing this.

To his credit, and in the face of the threat presented by the terrorist war, President Bush has regularly submitted substantial increases in the defense budget to this Congress. To its credit, this Congress has supported those increases. Along with the tremendous dedication of America's military and the vision and leadership of those who are running it, it is helping. We need to stay at least on that course.

It would be almost a historical abdication of our responsibilities were we not to provide for at least the amount of money the President of the United States has asked for America's military while America's military is fighting a war for us.

The only argument against it is that the deficit is a problem. Well, yes, the deficit is a problem. We are in a war. Members who do not believe that should read about it. It is in the papers every day. We are in a war. We are also in a recession.

I have not gone back and checked the Almanacs but I cannot imagine a time when the United States has been in a war and a recession and has not run a deficit. If my colleagues are worried about the deficit, let me suggest what will increase the deficit: If we lose the war, I guarantee that will increase the deficit. We do not have to lose it; we just have to suffer another significant attack on our homeland, and it can happen. That will increase the deficit. In fact, all we have to do is encourage America's enemies—and we have enemies around the world—to believe that we will not see this through, that we will retreat. I guarantee that will increase the deficit a lot more than the amendment of the Senator from Virginia proposes to do.

Let's not be shortsighted. I have confidence that this Senate will not be. I do not want to sound like a scold; I really do not. I am proud of what the Congress has done the last few years in supporting our military.

I serve on the Armed Services Committee. I am proud to be on that committee. An hour ago I left a hearing, which I had the honor of chairing, of the Seapower Subcommittee, where Senator KENNEDY is the ranking member. We had several hours in which we considered the capacity of our military to move goods around the world. One of the areas of jurisdiction of the subcommittee is on airlift and the capacity of our marine resources, civilian and military, to move goods around the world. I was astounded, amazed, and encouraged by how much we have improved the efficiency of that part of the service. We are all in debt to the men and women who work there and who run that, both civilian and military. I am pleased this Congress has sustained their efforts, and I know we will sustain the efforts of our men and women in America's military today.

They are doing their job. The question is whether we are going to do ours. They are watching. Our enemies are watching to see what the Senate does today. I am not sure exactly the form in which the Warner amendment will be offered. I do know it will restore the approximately $7 billion that the committee reduced and cut from the President's submission. We need to pass that amendment. We need to do our job in winning this war and protecting the American people.

I yield the floor.

Mr. CONRAD. 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. NICKLES. 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. NICKLES. I believe, under the consent request that we had entered into previously, we have had debate on the reconciliation amendment by Senator BYRD. I believe next in order would be Senator WARNER to offer an amendment, and then Feingold on the pay-go amendment. It is our intention to vote on all three of these back to back hopefully as close to 6 as possible. We have had a little break, and I apologize for that, but it would be our intention to try to have debate on both amendments and vote as close to 6 as possible.

I now yield to my friend and colleague Senator WARNER to manage our time on this amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, it is my understanding that there is an hour equally divided. Am I correct on that?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Mr. President, I thank both managers of the bill for their cooperation.

Mr. CONRAD. Will the Senator yield for just a moment?

Mr. WARNER. Yes.

Mr. CONRAD. One of the things we discussed, if I can say, is there was a slight amount of time used here in discussion on the amendment. One of the things that was discussed was the possibility, perhaps, of charging that time to the amendment once we got on the amendment so we could hold to the schedule of being as close to 6 o'clock as we could be. Would that be agreeable?

Mr. WARNER. No objection.

Mr. NICKLES. Mr. President, how much time had both sides used?

The PRESIDING OFFICER. The Senator from Missouri used 11 minutes, and the other side has not used any.

Mr. CONRAD. We did, actually. I spoke.

The PRESIDING OFFICER. Five minutes?

Mr. CONRAD. Yes.

Mr. NICKLES. Mr. President, I ask unanimous consent there be 40 minutes on the amendment to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2742

Mr. WARNER. 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 Virginia [Mr. WARNER] for himself and Mr. STEVENS, Mr. MCCAIN, Mr. INHOFE, Mr. ROBERTS, Ms. COLLINS, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, and Mr. TALENT, proposes an amendment numbered 2742.

Mr. WARNER. 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 increase the amounts provided for national defense (050) for fiscal year 2005 for new budget authority and for outlays)

On page 4, line 4 increase the amount by $6,997,000,000.

On page 4, line 5, increase the amount by $262,000,000.

On page 4, line 6, increase the amount by $358,000,000.

On page 4, line 7, increase the amount by $405,000,000.

On page 4, line 8, increase the amount by $432,000,000.

On page 4, line 12, increase the amount by $5,506,000,000.

On page 4, line 13, increase the amount by $1,855,000,000.

On page 4, line 14, increase the amount by $799,000,000.

On page 4, line 15, increase the amount by $550,000,000.

On page 4, line 16, increase the amount by $480,000,000.

On page 4, line 20, decrease the amount by $5,506,000,000.

On page 4, line 21, decrease the amount by $1,855,000,000.

On page 4, line 22, decrease the amount by $799,000,000.

On page 4, line 23, decrease the amount by $550,000,000.

On page 4, line 24, decrease the amount by $480,000,000.

On page 5, line 3, increase the amount by $5,506,000,000.

On page 5, line 4, increase the amount by $7,362,000,000.
On page 5, line 5, increase the amount by $8,161,000,000.
On page 5, line 6, increase the amount by $8,711,000,000.
On page 5, line 7, increase the amount by $9,191,000,000.
On page 5, line 11, increase the amount by $5,506,000,000.
On page 5, line 12, increase the amount by $7,362,000,000.
On page 5, line 13, increase the amount by $8,161,000,000.
On page 5, line 14, increase the amount by $8,711,000,000.
On page 5, line 15, increase the amount by $9,191,000,000.
On page 7, line 25, increase the amount by $6,900,000,000.
On page 8, line 1, increase the amount by $5,409,000,000.
On page 8, line 5, increase the amount by $1,594,000,000.
On page 8, line 9, increase the amount by $442,000,000.
On page 8, line 13, increase the amount by $145,000,000.
On page 8, line 17, increase the amount by $48,000,000.
On page 22, line 9, increase the amount by $97,000,000.
On page 22, line 10, increase the amount by $97,000,000.
On page 22, line 13, increase the amount by $262,000,000.
On page 22, line 14, increase the amount by $262,000,000.
On page 22, line 17, increase the amount by $358,000,000.
On page 22, line 18, increase the amount by $358,000,000.
On page 22, line 21, increase the amount by $405,000,000.
On page 22, line 22, increase the amount by $405,000,000.
On page 22, line 25, increase the amount by $432,000,000.
On page 23, line 1, increase the amount by $432,000,000.
On page 39, line 18, increase the amount by $6,900,000,000.
On page 39, line 19, increase the amount by $5,409,000,000.
On page 40, line 2, increase the amount by $1,594,000,000.

Mr. WARNER. Mr. President, in this amendment, I am joined by Senator STEVENS, Senator MCCAIN, Senator INHOFE, Senator ROBERTS, Senator COLLINS, Senator CHAMBLISS, Senator GRAHAM, Senator CRAIG, and Senator TALENT.

The amendment is very simple. It restores funding for the Department of Defense to the level requested by the President for fiscal year 2005. Specifically, this amendment will add $6.9 billion to the level contained in the pending budget resolution for the national defense 050 budget function.

As we review our budget priorities for the coming year, it is clear many important programs must compete for limited resources. Hard choices must be made. As we individually wrestle with the hard choices we must make, I remind my colleagues we have no more solemn responsibility than that imposed by the Constitution of the United States and that is to provide for the common defense of this great Nation, the United States. This is the most important function of the Federal Government.

The President requested $420.7 billion for defense-related activities for fiscal year 2005. That request includes funding for the Department of Defense, the defense activities of the Department of Energy—that's roughly two-thirds of the total Department of Energy budget—and a significant amount for the intelligence community.

Our military service chiefs—the Chief of Naval Operations, Chief of Staff of the Army, the Commandant of the Marine Corps, Chief of Staff of the Air Force—all four service chiefs came before the committee and asked that we authorize and obtain the full amount requested by the President.

As you well know, having spent a considerable portion of my career in the Department of Defense, each year the President goes to the Department for their recommendations, a budget is made up and it is submitted and it finally is submitted to the Office of Management and Budget on behalf of the President and Congress.

Recognition must be given that we are a nation at war. Those are the very words used by our distinguished colleague, the manager of this bill, moments ago. Terrorists brought this war to our shores on September 11, 2001. President Bush, together with a coalition of nations, responded forcefully and effectively. This Chamber provided a resolution expressing support for the President to bring the war on terrorism to the terrorists.

Hundreds of thousands of our servicemen and women are now deployed around the world defending our Nation in Operation Enduring Freedom, Operation Iraqi Freedom, and other military operations in the ongoing war on terrorism. Hundreds of thousands more are forward deployed in Korea, the Balkans, at sea and elsewhere, protecting American interests and deterring aggression.

I wonder if our Nation realizes that well over half of the United States Army today, some 320,000 men and women, proud to wear the uniform of the United States Army, are deployed overseas, over half of the total standing Army—leaving their families behind, going into harm's way to protect us. Others stand vigilant at our borders and at our ports and in our skies here at home. We have an obligation, in my judgment, to live up to the President's budget request, which budget request was carefully prepared in consultation with the Chiefs and other senior members of the defense force.

What have our Armed Forces accomplished in the last few years? The simple answer is, everything we have asked of them and more. They have confronted brutal regimes in Afghanistan, and Iraq and given the people of those regions hope, and an opportunity to experience freedom and democracy. In Iraq, together with a coalition of nations, they liberated a repressed nation—a country larger than Germany and Italy combined—in roughly 3 weeks. The Armed Forces accomplished this with unprecedented precision, and with casualties far below estimates. This level of professionalism is what we have come to expect of our military.

Such expectations must be tempered by the realization that the magnificent professionalism of our Armed Forces is a product of strong leadership, patriotic young men and women, supportive families, great American technology, and strong, consistent resources. All of these things require the long term support of the Congress in the form of funding, guidance and support.

At a time of unprecedented demands on our military, it is critical that we provide our men and women in uniform—active, reserve, and National Guard—the funding they need to continue to successfully accomplish their missions. To meet the challenges we now face around the world, and to prepare for the future, the President has proposed a budget that includes $420.7 billion for national defense. It is a prudent request that maintains the readiness of our current force and makes the investments necessary to develop and field the capabilities that will keep our Nation safe from the uncertain threats of the future.

We are blessed with a military that has responded to the demands of a post-September 11 world with extraordinary commitment, but even the best military has its limits. The pace of recent operations is putting increased demands on our forces around the world, increased demands on our Reserve and National Guard units, and increased demands on military families. Our military has dedicated personnel—active duty, reserve, guard and retirees—and families who must be fairly compensated with competitive pay and a good quality of life. Our military has equipment that has been heavily used in recent operations that must be repaired or replaced, and new capabilities that must be developed and procured to meet future threats. And finally, our military has an aging infrastructure that must be modernized.

In my opinion, the President's budget request for defense has struck the proper balance to accomplish these goals. At this critical time in the war against terror, when we are asking so much of our uniformed personnel and their families, and when we are seeking the continued cooperation of our allies, what message do we want to send? We must send a message of continued commitment and resolve by supporting the level of funding for defense requested by the President. Our military deserves no less.

At this time, Mr. President, I yield the floor and grant such time as the distinguished Senator from Alaska may desire

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, in a time of war, and we are at war—we are at war against terrorism; that's the leading war we are still involved in; we

have activities in Haiti; we have them in Afghanistan and they are persisting in Iraq—it is my feeling the request of the Commander in Chief should be met in full, and that's what this amendment does. It meets in full the request of the President, submitted in his budget for the activities of the Department of Defense not directly connected with Iraq and Afghanistan. We are going to see that in a supplemental, I assume, sometime after the first of the year.

But as a practical matter, this budget is a very thin budget for a military stretched as thin as it is right now around the world. As the Senator from Virginia says, more than half of our men and women in uniform are outside the United States at this time. It is a matter of just simple justice, as far as I am concerned. The Commander in Chief's request should be honored. I hope the Senate will support this request.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I support the amendment by the Senator from Virginia, the distinguished chairman of the Armed Services Committee. He has been a member of the committee for many years. He understands our defense and national security needs.

I believe the fundamental message is we are in a war. We are in a war. We are in a war. The fact is this money is needed in order to prosecute the conflicts in Afghanistan, in Iraq, and around the world, as we fight the war on terrorism and attempt to thwart the possibility of a terrorist attack on the United States of America and our citizens.

Clearly, we are going through a period of transition in the military, and one that is going to be somewhat expensive, but there is no doubt we have to adjust our military in order to meet the needs of an ever-changing and, in some respects, larger threat to our security than we have faced in the past few years.

Also, I have the greatest respect for our colleagues here in the Senate and the distinguished chairman of the Budget Committee and the ranking member. But I did note, with some interest, that the chairman of the Budget Committee in the House suggested a moratorium on earmarks for 1 year. Why would he do that?

Well, I show my colleagues a very interesting Congressional Research Service chart which shows that in 1994, there were 4,126 earmarks; in 1996, it went down to 3,023 earmarks; and it has gone steadily up geometrically; and in 2004, there were 14,040 earmarks—amounting to a grand total of $47.9 billion—$47.9 billion.

Rather than cut $7 billion out of defense, why don't we cut $7 billion out of $47.9 billion of pork-barrel projects, such as the $3 million to study the DNA of bears in Montana, the Cowgirls and Cowboys Hall of Fame, and the elves up in North Pole, AK, that got some more money this time?

Why don't we cut $7 billion out of $47.9 billion in earmarked funds? That comes from the Congressional Research Service, up from $23.7 billion in 1996. Why don't we show some courage, make some choices, and cut this, rather than cutting $7 billion out of defense?

I would hope my colleagues on the Budget Committee at some point would seriously consider a moratorium on earmarks—just for 1 year. It might be a nice thing to see.

Mr. President, I support the amendment from the Senator from Virginia and I hope the choices we make are not to cut into our Nation's security but to cut into the pork-barrel spending which has absolutely run amok in this body. It is a disgrace, and there is no excuse for it. I hope we will start attacking the wasteful and pork-barrel spending rather than the men and women in the military.

I support the amendment.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment my colleagues, Senators STEVENS and WARNER. I intend to support this request.

Senator STEVENS, when I first brought to his attention that we needed to stay with the cap of 814, brought to my attention very strongly, repeatedly, that he wanted to have the President's full request in. This amendment does that.

The reason we brought a resolution out at 814 was to make sure a budget point of order wouldn't lie against the entire resolution and frankly kill the resolution. We would have to have 60 votes. The amendment Senator STEVENS and Senator WARNER are introducing fully funds the President's request and frankly it increases the caps to do so. It takes 60 votes to pass the amendment. It increases the deficit by $7 billion. It means we are going to have increases in defense spending by $27 billion, 7.1 percent. It is a big increase, but frankly we have big challenges with our defense.

I happen to agree with Senators WARNER and STEVENS, when we have troops in the field who have their lives in jeopardy day by day, being fired upon, we need to give them support as requested by their Commander in Chief.

I hope our colleagues will support this amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, can the Chair advise me what the time situation is on both sides?

The PRESIDING OFFICER. There are 12 minutes 50 seconds remaining on the Republican side, 20 minutes on the Democratic side.

Mr. CONRAD. Mr. President, speaking for our side, I again want to indicate I intend to fully support the amendment of the Senator from Virginia, joined in by the Senator from Alaska. Is this a Stevens-Warner amendment at this point?

I just think we need to send a very clear message. When we are at war, when our troops are in jeopardy, when they are in combat zones, when the Commander in Chief makes a request, we need to honor that request.

Look, I believe we ought to pay for this increase. I believe we ought to offset it with either additional revenues or spending cuts in other areas because the deficit is at record levels now and this just increases it. We are seeing dramatic increases in the debt.

We had a right to offer second-degree amendments to this amendment to provide a pay-for. We basically did not exercise that right, in an agreement to get a number of amendments up and voted on before 7 o'clock tonight. But it is our intention, with a later amendment, to offer a means of paying for this increase.

Without that before us at the moment, the choice becomes do we increase the defense expenditure to meet the request of the Commander in Chief or do we not?

I believe the imperative is clear. I believe we must raise the defense expenditure level to meet the request of the Commander in Chief when we have troops in combat half a world away fighting day and night for this country.

It is my intention to ask our colleagues to support the Warner-Stevens amendment. At a later time, it will then be my intention to ask our colleagues on both sides to find a way to pay for it and to suggest specific ways we might do that. I hope colleagues will keep an open mind on that subsequent amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I very much appreciate the support of Senator CONRAD on this amendment. We have worked together now on two or three amendments. We have agreed to some amendments. That is good progress.

I also want to correct the RECORD. I said it was my understanding that this increases the defense amount by 7.1 percent. That is the OMB figure. The Congressional Budget Office figure is 6.8 percent. I was accurate by saying it would increase defense spending by $27 billion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. BOXER. Mr. President, this budget resolution is $6.9 billion below the President's request for defense spending for fiscal year 2005. I am voting for the Warner amendment to restore this cut.

I am doing so because I believe we should pay for our activities in Iraq

and Afghanistan within the budget. I do not believe we should pretend those costs do not exist and then have the President come back to Congress saying we did not give him enough money and he needs more.

We must have truth in budgeting. The costs of our operations in Iraq and Afghanistan should be included in the budget; the costs should be paid for with regularly budgeted funds. The alternative is further escalating debt.

I am extremely concerned about the runaway debt. If we do not include in the budget the costs of our operations in Iraq and Afghanistan, the President will come back with a request for emergency supplemental funds. Those funds do not have to be offset, thereby adding billions of dollars to our national debt.

Therefore, I will vote for the Warner amendment to restore the cut in defense spending.

Mr. WARNER. Mr. President, I presume the managers desire to have this amendment laid aside for the present time, unless there are other speakers.

I yield such time as the Senator from Oklahoma desires.

Mr. President, would you advise the Senator from Virginia the amount of time we have left?

The PRESIDING OFFICER. Eleven minutes forty seconds.

Mr. WARNER. Mr. President, the Senator from South Carolina desires a couple of minutes following the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I will be very brief. I think everything I would have said has been said by our chairman, Senator WARNER.

We have 325,000 troops scattered around 120 different countries. I chaired the Subcommittee on Readiness for a number of years. That was during the 1990s when we were making cuts in our defense across the board in terms of end strength, in terms of numbers of divisions and numbers of tactical air wings, in terms of the numbers of ships, in terms of modernization, and in terms of readiness. It was very disturbing during that time. I was outspoken at that time that we might be going too far.

Recently we went through this thing of not having adequate body armor. Of course, the Army, in this case, responded with our help and we are able to say now they are taken care of adequately.

In modernization, we are going into the future combat system. We were delayed in the 1990s. Now things are getting back on track. However, we often say we want our troops, our men and women in uniform, to have the very best of equipment and the best support.

Quite frankly, we don't have as good equipment as some of our potential adversaries in the case of our artillery. We are still dealing with World War II technologies when there are five countries that have made a better case than we have. I don't think the American people want our young people going into combat with anything except the best. That is what this is about. We are in a rebuilding mode right now. We are talking about transforming all branches. We are talking about changing the way our troops are stationed around the world. This is going to be expensive. We are in the middle of a war. I strongly support the increases recommended by the chairman, Senator WARNER.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, I rise in support of the amendment offered by our chairman. I thank the chairman, Senator WARNER, for doing something that is not easy. We pride ourselves on trying to be fiscal conservatives and taking care of the country's needs and the President's budget request for the military. I applaud our chairman, Senator WARNER, for offering this amendment to make sure we can get the money the President thinks we need to defend the Nation.

One thing I have learned about this whole process is I would not want Senator NICKLES' job. It is very hard to put a budget together which does what we need to do for the economy and for defense of the Nation and other domestic priorities.

But I know where this debate is going. It won't be long before we will have an amendment to counter this amendment saying, all right, we will agree that the military needs more money. I am glad we agree with that, because they do. But then they will start arguing, let us pay for it; let us be fiscally responsible, and let us take money from this group to pay for it. We are going to get into a partisan fight in the name of fiscal responsibility that probably doesn't have a whole lot to do with fiscal responsibility. I think that is sad but we know it is coming.

Let me say this: The No. 1 job of being a Senator, in my opinion, is to make sure we can defend America. We can have all the fights about how you create jobs, and I would argue to my friend—I will be glad to speak on this proposal—if you are worried about losing jobs in America, then you need to be more friendly to people who are trying to create jobs in America. You are not a very friendly crowd to job creation with your proposals. But we will talk about that down the road. I know it is coming.

Let me say this: It is good news for the men and women in uniform at this point in time because we have bipartisan support to make sure there is budget authority to defend America. I thank the chairman on their behalf. I look forward to the debate to come about this issue in terms of domestic politics. But I hope we don't get unnecessarily off script for the men and women who depend on us making sure they have the equipment when we ask them to fight the war. They probably don't appreciate a lot of the fussing and fighting.

Mr. WARNER. Mr. President, I thank my distinguished colleague.

Mr. President, how much time remains under the control of the Senator from Virginia?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. WARNER. Mr. President, we will yield our time if the other side will yield their time and go on to the next matter.

Mr. CONRAD. Mr. President, we are prepared to yield back time on this side. I yield all but 5 minutes of our time reserved for Senator LEVIN. We can proceed with Senator FEINGOLD.

Mr. NICKLES. Mr. President, I thank our colleague, Senator WARNER, chairman of the Armed Services Committee, and also Chairman STEVENS of the Appropriations Committee for their cooperation on this amendment. I am sure the Commander in Chief is grateful for this amendment. I am sure the Chiefs of Staff of the Armed Forces are grateful for this amendment.

For the information of our colleagues, this amendment, in addition to Senator BYRD's amendment and I believe Senator FEINGOLD's amendment, will be voted on probably a little before 6 o'clock. Also, for the information of our colleagues, I know there are other amendments out there. Senator CONRAD and I already realize we are running short on time and the number of days. We are going to finish this bill by Friday. I encourage our colleagues to either not offer amendments or at least work with us so we can accept or dispose of some amendments in one way or another. But if they have amendments, please bring those to our attention tonight. It is our intention to work very late tonight. I hate to do that because our very good friend, Chairman STEVENS, is having a nice event that I would love to attend, but I think our business is to complete the budget this week.

For the information of our colleagues, we expect three rollcall votes shortly before 6 o'clock. I believe the regular order of business now would be for Senator FEINGOLD to offer his amendment.

Mr. CONRAD. Mr. President, we have just now tallied all the amendments that have been noticed. I know the chairman will be interested to know there are 98 amendments pending. Let me say those are amendments that have been noticed to us. They are not necessarily pending before the Senate, but Senators have given notice they intend to offer 98 amendments. It takes 1 hour to handle three amendments. That would be 33 hours of straight voting. We have to get serious. We cannot have a circumstance in which we spend 33 straight hours voting on amendments to the budget resolution. That is an unreasonable proposition. It is an

unreasonable proposition for the Members, and an unreasonable proposition for the administrative staff.

I am sending the message to our colleagues, let's eliminate the duplication. Let's ask Senators to refrain from offering amendments that can be offered later to appropriations bills or to other legislative vehicles. We cannot have 98 amendments voted on this budget resolution. There is no way we would finish by Friday. We have agreed on a common goal of finishing the budget resolution by Friday. We have worked in good faith together. Please, colleagues, let's show some restraint.

We will turn it over to our Senator from Wisconsin, Mr. FEINGOLD.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 2748

Mr. FEINGOLD. Mr. President, I thank the managers for making it possible for me to offer this amendment at this time. 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 Wisconsin [Mr. FEINGOLD], for himself, Mr. CHAFEE, Mr. BAUCUS, Ms. CANTWELL, Mr. CARPER, and Mr. GRAHAM of Florida, proposes an amendment numbered 2748.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To fully reinstate the pay-as-you-go requirement)

On page 46, between lines 2 and 3, insert the following:

**SEC. 408. PAY-AS-YOU-GO POINT OF ORDER IN THE SENATE.**

(a) POINT OF ORDER.—

(1) IN GENERAL.—It shall not be in order in the Senate to consider any direct spending or revenue legislation that would increase the on-budget deficit or cause an on-budget deficit for any one of the three applicable time periods as measured in paragraphs (5) and (6).

(2) APPLICABLE TIME PERIODS.—For purposes of this subsection, the term ''applicable time period'' means any 1 of the 3 following periods:

(A) The first year covered by the most recently adopted concurrent resolution on the budget.

(B) The period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget.

(C) The period of the 5 fiscal years following the first 5 fiscal years covered in the most recently adopted concurrent resolution on the budget.

(3) DIRECT-SPENDING LEGISLATION.—For purposes of this subsection and except as provided in paragraph (4), the term ''direct-spending legislation'' means any bill, joint resolution, amendment, motion, or conference report that affects direct spending as that term is defined by, and interpreted for purposes of, the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) EXCLUSION.—For purposes of this subsection, the terms ''direct-spending legislation'' and ''revenue legislation'' do not include—

(A) any concurrent resolution on the budget; or

(B) any provision of legislation that affects the full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990.

(5) BASELINE.—Estimates prepared pursuant to this section shall—

(A) use the baseline surplus or deficit used for the most recently adopted concurrent resolution on the budget; and

(B) be calculated under the requirements of subsections (b) through (d) of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal years beyond those covered by that concurrent resolution on the budget.

(6) PRIOR SURPLUS.—If direct spending or revenue legislation increases the on-budget deficit or causes an on-budget deficit when taken individually, it must also increase the on-budget deficit or cause an on-budget deficit when taken together with all direct spending and revenue legislation enacted since the beginning of the calendar year not accounted for in the baseline under paragraph (5)(A), except that direct spending or revenue effects resulting in net deficit reduction enacted pursuant to reconciliation instructions since the beginning of that same calendar year shall not be available.

(b) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(e) SUNSET.—This section shall expire on September 30, 2009.

Mr. FEINGOLD. Mr. President, I am very pleased to offer this amendment with Senators CHAFEE, BAUCUS, CANTWELL, CARPER, and GRAHAM.

This amendment is very straightforward. It would simply reinstate the pay-as-you-go rule that has been such an effective restraint on the fiscal appetites of Congress and the White House.

The last 3 years have seen a dramatic deterioration in the Government's ability to perform one of its most fundamental jobs, and that is balancing the Nation's fiscal boxes. We are all familiar with the history. In January of 2001, the Congressional Budget Office actually projected in the 10 years thereafter, Government would run a unified budget surplus of more than $5 trillion. A little more than 3 years later, we are now, unfortunately, staring at almost a mirror image of that 10-year, $5 trillion surplus. Instead of healthy surpluses, under any reasonable set of assumptions, we are now facing immense deficits.

We must stop running deficits because they cause the Government to use the surpluses of the Social Security trust fund for other Government purposes rather than to pay down the debt and help our Nation prepare for the coming retirement of the baby boom generation.

We have to stop running deficits because every dollar we add to the Federal debt is another dollar we are forcing our children to pay back in higher taxes or fewer Government benefits.

When the Government in this generation chooses to spend on current consumption and to accumulate debt for our children's generation to pay, it does nothing less than rob our children of their own choices. We make our choices to spend on our wants, but we saddle them with debts they must pay from their tax dollars and their hard work. That is not right.

This is also why I am offering this amendment to fully reinstate the pay-as-you-go rule. We need a strong budget process. We need to exert fiscal discipline. This amendment would simply return us to the rules by which Congress played for the decade of the 1990s. It would eliminate the exceptions to pay-as-you-go included in last year's resolution that exempt new tax cuts and new mandatory spending included in a budget resolution. The reason we have to get rid of these exceptions is these exceptions facilitate more damage to the Federal bottom line.

I recognize there are some who prefer to provide some exemptions for certain tax and spending policies. In particular, the argument has been made that we ought to exempt the extension of the 10-percent bracket, the child care tax credit, and the marriage penalty provisions. The argument is that these, and possibly other policies, are so worthy that they should not be subjected to pay as you go.

Let me offer what I think are two valid responses to this. First, while there are certainly worthy tax provisions included in the assumptions underlying this resolution, including those I just listed, as the chairman of the committee has pointed out very effectively in the Senate, no budget resolution can actually specify which taxes must be cut and which must be raised. The resolution can set forth levels of tax cuts, but it cannot specify which taxes are cut. It follows that the resolution cannot specify which tax cuts should be exempt from budget enforcement. It can exempt some level of tax cuts from that enforcement, as indeed this resolution does.

But a budget resolution cannot specify which specific tax cuts are to be exempt from budget enforcement. So we have no guarantee at all that these popular and worthy tax cuts I just mentioned, those three, would end up being the ones that would benefit from this exemption that exempts tax cuts from the normal pay-as-you-go requirement on which we have to get the 60 votes to waive the rule.

The second reason, for the specific tax cuts I mentioned earlier—the 10-

percent bracket, the child tax credit, and the marriage penalty provision—I am absolutely sure there will be far more than 60 votes to waive any point of order against those provisions. I even wonder if anyone will propose to put us in a position where we have to waive a point of order. Someone will have to actually raise a point of order. These three sorts of tax cuts have such strong support that it is not, in my view, a serious or genuine objection that the pay-as-you-go rule will prevent them from being extended and continuing.

Reinstating the pay-as-you-go rule makes it harder for this body to make the deficit worse. It does not prohibit these tax cuts. It does not make it impossible to have a tax cut. It just makes it a little harder. That is as it should be. Given our current budget position, we ought to make it harder to make the deficit worse. If new tax cuts or new mandatory spending is not to be offset, then they ought to be only the most worthy of policies, not just anything that can get a majority vote. They ought to be policies that can achieve the 60 votes needed to waive a point of order.

It is very simple. That is what this amendment would do. It is the least we should do to ensure fiscal responsibility and sound budgeting. We must stop using Social Security surpluses to fund other Government programs. We must stop piling up debt for our children to pay off. We must continue the discipline of the budget process.

This is one of those situations where after you have been here a while, you can actually speak from experience. I can speak from experience of having watched in this body. As I came in 1993, we had the largest deficit in American history. Were it not for these budget rules, if it were not for the pay-as-you-go rules, I am certain the parties would not have come together as we did over those years to achieve what almost no one thought was possible—a very solid surplus. Without these rules, the discipline goes away. Without these rules, we are back to the behavior of the 1980s, which my constituents so thoroughly condemn: Unlimited tax cuts on unlimited spending, the blank checks that were written that put this Nation in its worst deficit to date.

We now have a much worse deficit. We now have the largest deficit in American history. It is incumbent upon this body to go back to what we know worked, to what we know put the parties in a healthy competition, to see which party could be more fiscally responsible. We desperately need to return to that discipline now.

That is why I urge my colleagues to accept this amendment that will return the pay-as-you-go rules in full.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from North Dakota.

Mr. CONRAD. Mr. President, look, now we are starting to talk about amendments that are just critically important if we are going to start to do something about the skyrocketing deficits and the accumulation of debt.

The pay-go provisions are budget disciplines to make it harder to add to deficits. We have used these provisions in the past successfully to move from record deficits to record surpluses.

In just a few moments, this body is going to vote on whether it is going to renew those disciplines or we are just going to abandon the ship and keep right on running up an ocean of red ink.

This year, we are poised to run a deficit in record terms of over $470 billion—$100 billion more than last year. And last year's deficit was almost $100 billion more than the previous record.

This is an opportunity for Senators to stand and be counted and be held accountable. Are we going to go back to the budget disciplines that have worked in the past or are we going to let them lapse? They lapsed in 2002, they have not been reinstituted, and the deficit has skyrocketed.

What this amendment does is to put back in place the fundamental disciplines that say simply this: If you want new mandatory spending, if you want new tax cuts, you can have them, but you have to pay for them. It is that simple.

Some will say, Well, this does not discipline discretionary spending, which is a third of Federal spending. That is true. We discipline discretionary spending by spending caps. We have a spending cap in place.

The question before us is, Are we going to reenact the budget disciplines on mandatory spending, which is two-thirds of Federal spending? Are we going to replace the budget disciplines on the revenue side of the equation, which have been allowed to lapse?

Let me just put up a statement by the chairman of the Federal Reserve on this question. Federal Reserve Chairman Greenspan, on restoring pay-go, said:

> I would, first, Mr. Chairman, restore pay-go and discretionary caps. Without a process for evaluating various trade-offs, I see no way that any group such as a Congress can come to a set of priorities which will be effectively reflecting the will of the American people.

Mr. President, this is the test: this vote. This is going to answer who stands for budget discipline, who stands for getting these deficits and debt under control, and who is going to sit on the sidelines and allow these deficits and debt to continue to skyrocket out of control.

For those who say they are fiscally responsible, here is the test. Here is the test. All the talk is going to be measured in this vote. Do you stand for restoring the budget disciplines that have worked in the past or do you not? That is the question.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FEINGOLD. Mr. President, does the Senator from North Dakota want more time off the amendment?

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague from Wisconsin for his amendment. He offered the same amendment in the Budget Committee. I have great respect for him as a friend and a colleague, but I would urge our colleagues to vote no on the amendment.

We have pay-go in the existing bill. We have pay-go basically for anything that is not in the assumption of the budget resolution. We assume $144 billion on the tax side. It may sound like a lot of money, but over that 5-year period of time, we are talking about $12 trillion of revenue. The amount of money that we are saving is a very small percentage.

Now, why do we try to say, Well, you should not have to pay for that? Because almost all of that, with the exception of a little AMT, is present law.

We don't have pay-go if you have a lot of spending bills that sunset. When those are reauthorized, you do not say, Oh, now you have to have pay-go. You have to raise taxes or cut spending to reauthorize the farm bill, for example.

As a matter of fact, I have found about $1 trillion worth of entitlements over the next several years that are sunset or due to sunset, but they don't have pay-go when they are extended. We have a lot of tax cuts that are sunset that, when they are extended, would have to be paid for. So it really discriminates against taxes, makes it much more difficult to keep tax levels where they are today.

Some people say: Additional tax cuts. I say, no, keep taxes where they are today. This is a much higher hurdle if you want to keep tax levels where they are today. Adoption of this amendment is going to make it a lot harder. It is going to make it a lot harder to continue to have the marriage penalty relief we are now assuming in our budget. That is $900 for my in-laws, $900 for my kids, $900 for any couple in America that makes $58,000. We are assuming we are going to continue present law.

People say: We want pay-go. We want it to apply to spending and to entitlements. But when you look at the amendment, it doesn't apply to appropriated accounts. It doesn't apply to increases in appropriations for a lot of different activities.

Someone might say: That is handled in the caps. Only if you pass a budget. The idea is to pass pay-go that is going to extend for the next several years, I believe through 2009, regardless of whether you have a budget. We may or may not have a budget. A lot of people predicted last year we wouldn't have a budget. They predicted this year we wouldn't have a budget. We proved them wrong last year, and I hope and expect we will prove them wrong this year.

Spending is not covered. Discretionary appropriations are not covered. What is appropriated is not covered. Next year 820-some billion will not be covered. You could have any kind of increase. As a matter of fact, it almost is an incentive for increases in appropriations because that doesn't have to be paid for. But anything else has to be paid for.

The tax cuts that expire or that have an expiration date—and we have had to do that in the past for a variety of reasons—would have to be paid for. Spending programs don't have to be paid for.

I didn't hear our colleague saying we needed pay-go when we were doing concurrent receipts for retired military personnel. That was about $40 billion. I didn't hear people say, when we were doing the Medicare expansion, we need pay-go for that. That was $395 billion, as scored by CBO, and that is permanent. So the Medicare bill, which is going to grow dramatically over the next several years, can continue growing almost unchecked unless a future Congress curtails it in some way. And no pay-go, even if it is $300 billion the first 10 and maybe $1 trillion the next 10 or more, no pay-go for that.

So spending can increase rather dramatically. But if you want to continue having a 25-percent tax rate—and by the year 2010 it expires—if you don't pay for it, that rate goes to 28 percent in the year 2011. The difference between 28 and 25 doesn't sound like much. That is 3 percent. That is over 10 percent. That is about a 15-percent increase in an individual's tax rate. That means the marriage penalty relief we just gave would disappear. That is $1,000. By that time, it will be $1,000. Right now it is $911. We are trying to continue that.

Some people say: You want more tax cuts. That is not more tax cuts. That is keeping present law. If we don't keep present law, extend present law, it is going to be a tax increase on families.

What did we assume under our resolution? We assumed present law is extended. Above that, you have pay-go. That is what our resolution says.

I urge our colleagues, think about this a little bit. Frankly, if you are going to have it, it really should apply to any entitlement program that is sunset. That is not in this amendment. What we did in our bill is very similar to my colleague's amendment with the exception of we say we should exempt those things that are covered in the budget. Primarily that includes extending present law on the child credit, on the 10-percent bracket, and on marriage penalty relief. We also included $23 billion for AMT relief, and we included $15 billion on the energy bill. That is the bulk of what we have extended or what we assumed. Anything above that has to be paid for, entitlementwise or taxwise.

Again, I congratulate my colleague from Wisconsin, but I urge our colleagues, if they want to protect families and make sure the tax cuts happen, to vote no on the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I appreciate not only the comments of the Senator from Oklahoma but his leadership on the Budget Committee. I enjoy very much serving with him on the committee. I also appreciate the sort of change of tone from the opposition on this amendment. Everything we have heard about this amendment recently is how we need to have a weaker rule than the pay-go rule. Somehow we have to justify these exceptions that were put in the Budget Committee resolution. Finally the chairman is talking about what we really should be talking about, that we need a strong rule.

What he has done is lay out some things our pay-go doesn't do. That is true. There may be some additional things we should do in this area. But what I am proposing, with the cosponsors, is let's at least go back to the rules we know worked, the rules that brought this country a balanced budget in the 1990s. They were proven to work. That is all this amendment does.

If the Senator from Oklahoma wants to talk about additional steps, I am all for it. Senator GREGG and I, in the Budget Committee in the past, tried for 5-year caps on spending. We were defeated by a largely party-line vote except for Senator GREGG. That didn't work so we tried a 2-year cap, working with Senator CONRAD. That was rejected. We tried 1 year. That is one of the three legs of the stool, the discretionary spending. If the Senator wants to work with me and Senator GREGG and others to propose legislation to deal with that, I am ready to go. In fact, Senator GREGG and I proposed such a bill.

But the chairman knows very well we can't change that on the budget resolution. We have to pass a statutory item in order to accomplish that. So I am eager to do it.

Let's pass this pay-go amendment and let's immediately move on to finish the job by passing the kind of statute that will achieve what the Senator from Oklahoma is talking about.

I can't allow a complete changing of the subject because the truth is the pay-go rules in the proposal before us are not pay-go. They are pay-go minus. It is sort of as though you draft up a budget and after you figure out what you want, then you draft up the rules by which you will draft up the budget. That is the game we are playing here. We don't go into the process saying: Look, we have played by these rules. They have worked. We say: What do we need; what tax cuts do we want; what mandatory spending do we want. And after that, everything else that hasn't gone through the barn door, then we make the rules apply after that.

I suggest that doesn't work. I suggest it is a formula for more fiscal disaster. I suggest it means next year in the Budget Committee the same thing is going to happen. There is going to be a whole list of tax cuts and other things—mandatory spending—people wanted to get in there. And they will say: We exempt this, and now we will make the pay-go rule apply.

That is making a sham out of the pay-go rules. The ranking member, for whom I have enormous admiration on this subject, hit it right on the head. The people of this country are beginning to realize it has all happened again, that they have been taken. We had rules in place that the American people were thrilled to see work, leading to a balanced budget and a surplus. Those rules are no longer there. Those rules were allowed to expire at a time when this country was undergoing enormous anxiety. But they are catching on. They caught on in 1992, and they sent to Washington people who would deal with the deficit. They are catching on again now. The Senator is right, this vote is ''the vote'' about whether you are for balancing this Nation's budget or whether you want deficits as far as the eye can see.

Mr. President, I yield to the Senator from Delaware who has been a terrific advocate on this issue.

Mr. CARPER. I thank my colleague for yielding. I thank Senator FEINGOLD and others on our side and the other side of the aisle for their work.

This is an important amendment. He is right. I don't know whether it is the most important amendment offered on this resolution, but it may well be. I would like to take a couple of minutes and look back a few years to some of the things that have been said by folks in our country and actually outside of our country.

I would like for us to go back to 2001, the first year George Bush was President. What he said was:

> We can proceed with tax relief without fear of budget deficits.

We found out he was wrong.

A year or so later, he said:

> Our budget will run a deficit that will be small and short term.

I am sorry to say he was wrong again.

In 2003, he said:

> Our current deficit is not large by historical standards and is manageable.

That, too, is wrong.

This year, he is saying to us:

> The deficit will be cut in half over the next 5 years.

Unfortunately, if we look more closely at what is going to happen over the next 5 years and beyond, the deficit may be trimmed a little bit, but it is going to begin to explode when my generation of baby boomers starts to retire in 5 or 6 years.

I want to share with my colleagues another quotation that occurred several years before these. It was not by an American but a fellow from Great Britain, Dennis Healy. In the late 1970s, he was Chancellor of the Exchequer. There was something he called the ''theory of holes.'' The theory of holes

goes something like this: When you find yourself in a hole, stop digging.

We are in a hole. We are in a huge hole. The hole of debt is almost $7 trillion, up from about $1 trillion in 1982. It is actually pretty modest compared to the hole we are going to be in in 2014. This red line represents money that we owe somebody. Those somebodies are going to want to be repaid. Do some of the people lending money to Uncle Sam live in this country? A lot of them don't. A lot of them live around the world. As they see this red ink accumulate, and as they see a nation not only living beyond its means financially through our Federal deficits but a nation that buys a lot more from overseas than we certainly sell to other countries, my fear is that what may well happen is those other countries will lend us so much money, but in order to continue to loan us more money, they are going to want a little higher interest rate—maybe significantly higher—as our creditors. If we begin to pay higher interest, we know what kind of adverse effect that can have on the economy of this country.

Look at one other chart. This is about the year 1999, 2000, when the budget deficits turned into surpluses. Now we are back in the soup. This is what the deficit looks like. In 2004, it is about $600 billion. The reason this looks higher than some of us are used to is because this is the real operating deficit, when you take away the mask that is provided by Social Security. Social Security is going into the surplus, and it makes the operating deficit look smaller because we operate under a unified budget. After dropping down, it picks up to about three-quarters of a trillion dollars. That is 1 year. It will be over a quarter of a trillion dollars in 2014.

A week or so ago Alan Greenspan was before the Banking Committee. He was testifying. During the course of his testimony, and following his testimony, we had the opportunity to ask him questions. I asked him questions about the potential of interest rates rising and what that might do to the economy. He expressed that could happen and, in fact, it would be a chilling one for the American economy.

We also talked about the proposal before us today that Senator FEINGOLD is offering, this pay-as-you-go notion; the idea that if I wanted to raise spending further above the baseline of spending already built into our budget, I would have to come up with an offset. The idea is that if I wanted to lower revenues, cut taxes in some area, I would come up with an offset to equal out that effect.

I asked Chairman Greenspan—there are different approaches to pay-go. One, I call it pay-go ''lite,'' where it would only affect the spending side. If I had a spending increase I wanted to make, I would have to come up with the offset. I said, How about the other side of a pay-as-you-go, on the revenue side? I was trying to get him on the record to say that the pay-as-you-go should be applied both on the spending side and the revenue side.

This is what he said: What worked in the past is what we ought to do now. That is what he said. What worked in the past is what you, the Congress, ought to do now. What worked in the past? It was a pay-as-you-go approach that applied to both spending and revenues. Frankly, it worked real well in the past. It is not the only thing that worked well, but it was helpful. We have the opportunity to put it back into place. We ought to do it.

My dad, when I was a kid growing up, would say to my sister and me when we would do some foolish stunt and not show any forethought: Just use some common sense. My guess is, if we were on the floor today and I asked Senator FEINGOLD, or Senator CONRAD, or the Presiding Officer, to go back to your childhood and think about things your parents used to say to you, you could all think of something they would say to you to try to drum into your heads. My dad would say more times than I would care to remember: Just use some common sense.

When we have an annual budget deficit that is approaching $600 billion, when we have a national debt that is now at about $7 trillion, I think a good test of common sense is, when any Senator wants to raise spending to make this situation worse, or any Senator wants to cut the revenue base to make this situation worse, we ought to say: How are you going to pay for it? If I don't have a good answer, we should not do what I want to do—either raising spending or cutting revenues. In my dad's words, that would be using common sense. We need some common sense. This amendment will provide that.

Mr. FEINGOLD. Mr. President, how much time remains?

The PRESIDING OFFICER. Four minutes remain.

Mr. FEINGOLD. Mr. President, I yield to the Senator from North Dakota.

Mr. CONRAD. I thank the Senator. I will take 2 minutes off the resolution so the Senator will retain his time.

My colleagues, this amendment matters. We have a lot of amendments that are important but that, frankly, are not going to do much about our long-term fiscal condition. This amendment could make a real contribution to getting these skyrocketing deficits under control. Why? Because it says simply this: No new spending on the mandatory side, and that is two-thirds of Federal spending; no new tax cuts that are not paid for, unless you can get a supermajority vote.

This is one of the key budget disciplines we had through the 1990s that helped us save hundreds of billions of dollars on the deficit. This is what helped us move from record deficits to record surpluses. This budget discipline was allowed to lapse in 2002, despite our best efforts.

Senator FEINGOLD and I made a last-ditch attempt to save these budget disciplines and we got 59 votes. We needed 60. Look what has happened since. Deficits have taken off like a scalded cat.

My colleagues, I think this vote is going to be evidence of whether somebody is serious about fiscal discipline and restoring fiscal sanity or whether they just want red ink as far as the eye can see. Make no mistake, that is where we are headed. That is where we are headed under the President's plan.

The President's plan adds $3 trillion to the national debt in the next 5 years. The budget resolution is a little bit better; it adds $2.86 trillion to the national debt in the next 5 years. All of this is right before the baby boomers retire.

My colleagues, you cannot leave this Chamber calling yourself a fiscal conservative unless you vote for this amendment. I urge my colleagues to support the amendment of the Senator from Wisconsin.

Mr. MCCAIN. Mr. President, I strongly support the amendment offered by my good friend from Wisconsin.

We are facing a dire financial situation. The projected deficit for the current fiscal year is $521 billion—that's over half of a trillion dollars—the largest ever. That is why the Congress and the administration must begin taking action this year, despite the fact that it is an election year, to address this crisis. Our failure to start making some of the tough decisions will land squarely on the backs of our children and grandchildren, and their financial future will be strapped with digging out of the holes that have been created by our actions and inactions.

The Federal Reserve Chairman Alan Greenspan testified recently before the House Budget Committee about the seriousness of our rising budget deficit and, more specifically, the impact the deficit is going to have on our future economic stability. He very clearly warned about the consequences of a lack of fiscal discipline, and called for new steps to restrain spending. The Chairman firmly supports reinstatement of the pay-go rules as one such step.

According to a joint statement issued by the Committee for Economic Development, the Concord Coalition, and the Center on Budget and Policy Priorities, ''without a change in current (fiscal) policies, the federal government can expect to run a cumulative deficit of $5 trillion over the next 10 years.''

These figures are shameful and frightening. Another astonishing part of this report states that, ''after the baby boom generation starts to retire in 2008, the combination of demographic pressures and rising health care costs will result in the costs of Medicare, Medicaid and Social Security growing faster than the economy. We project that by the time today's newborns reach 40 years of age, the cost of these three programs as a percentage of the economy will more than

double—from 8.5 percent of the GDP to over 17 percent.''

The Congressional Budget Office, CBO, also has issued warnings about the dangers that lie ahead if we continue to spend in this manner. According to a recent CBO report, due to rising health care costs and an aging population, ''spending on entitlement programs—especially Medicare, Medicaid and Social Security—will claim a sharply increasing share of the nation's economic output over the coming decades.'' The report went onto say that, ''unless taxation reaches levels that are unprecedented in the United States, current spending policies will probably be financially unsustainable over the next 50 years. An ever-growing burden of federal debt held by the public would have a corrosive . . . effect on the economy.'' Additionally, CBO has projected a 10-year deficit of $4.4 trillion.

These are alarming figures. It is critical we take action to curtail further deficit spending.

In the 1990s, when we faced what we thought to be the worst fiscal situation possible, we passed the Budget Enforcement Act of 1990, which instituted a number of statutory deficit control rules, including the pay-as-you-go, pay-go, requirements. The statutory pay-go rules were largely responsible for imposing true financial discipline on the Congress when it came to mandatory spending programs and taxes. Unfortunately, those rules expired in 2002.

We have an opportunity today to show the American public that we are serious about digging out of the fiscal hole that faces our country by adopting this amendment to strengthen the Senate pay-go point of order. Although I wish we could reestablish the statutory pay-go rules, we can't do that in the budget resolution since it is not a law. We can, however, tighten up our own Senate rules to make it more difficult to pass legislation that increases the deficit.

I would like to bring my colleagues' attention one of today's editorials in the Washington Post, urging reinstatement of the pay-go rules. I ask unanimous consent that a copy of the editorial be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MCCAIN. Mr. President, I want to clarify that I firmly support the three proposed tax extensions in the pending budget resolution. I fully expect that when tax legislation is considered by the Chamber in the weeks ahead, it will include extensions of the marriage penalty tax elimination, the $1,000 child tax credit, and expanding the 10 percent income tax bracket as called for in this resolution, and I will support such legislation. This amendment is not an amendment in opposition to those provisions, but rather, an amendment to promote fiscal responsibility and protect us from ourselves.

I urges my colleagues to support the amendment.

[From the Washington Post, Mar. 10, 2004]

RIGGING THE BUDGET RULES

When it comes to matters of taxes and spending, members of Congress are like would-be dieters who can't stop raiding the refrigerator. Recognizing this weakness, lawmakers have resorted in the past to budget rules that act much like a lock on the fridge. During the 1990s, these rules set ceilings on discretionary spending and required that any tax cuts or spending increases in entitlement programs be matched by offsetting spending cuts or tax increases. As with the dieter who knows where the key is hidden, the rules didn't work perfectly—they could be avoided with a 60-vote majority—but they did help curb lawmakers' natural tendencies.

The rules expired at the end of 2002, and everyone from President Bush to Federal Reserve Chairman Alan Greenspan to Clinton Treasury Secretary Robert E. Rubin has called for their renewal. ''Perhaps the single most important act Congress and the Administration could take at this point to rein in the budget over the next decade would be to re-establish the budget rules that existed in the 1990s,'' Mr. Rubin wrote in a recent paper co-authored with the Brookings Institution's Peter R. Orszag and Allen Sinai of Decision Economics Inc.

But the Bush administration, and some of its allies in Congress, would rig the rules to apply discipline in a dangerously lopsided fashion. The administration proposes strict controls on spending but no restraints at all on cutting taxes, an approach influenced by the administration's inflated view of the beneficial effect of tax cuts. But even for those who fully subscribe to the administration's position on the relative merits of taxes and spending, it's clear that such a rule would simply skew budgetary choices, resulting in spending programs recast in the guise of tax breaks. Mr. Greenspan reiterated last month that the rule ought to apply to both spending increases and tax cuts.

Meanwhile, the budget resolution before the Senate would leave in place the sham version of pay-as-you-go adopted last year, in which the rule applies only to tax cuts or spending increases in excess of what the budget resolution provides. This year's model would permit $122 billion more in tax cuts not offset by savings elsewhere. Under this meaningless form of pay-as-you-go, senators promise every year to show spending discipline—the next time around.

An effort to add an evenhanded pay-as-you-go rule failed on a party-line vote in the Senate Budget Committee last week. The Senate should fix that omission before it approves another irresponsible budget. And lawmakers should show discipline by requiring themselves to pay for all their tax cuts—not carving our popular middle-class breaks like the child tax credit, and certainly not speeding up repeal of the estate tax, for special budgetary treatment.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I cannot tell you how pleased I am to have the support of these two Senators. They are two Senators who are consistently devoted to protecting the taxpayers in their State and in the country. I find, more than anything else, people looking for representatives who truly come out here and take the tough votes to protect the interests of the taxpayers.

As I indicated before, they are figuring out that despite all the troubles of the last couple of years, we have irresponsibly driven up this country's deficit and debt to a point that is unprecedented in the history of the country.

I am grateful to these two Senators. I remind everybody, this is a bipartisan amendment. We have a Republican cosponsor, and there will be other Republican votes for it. This is not your typical partisan amendment or vote on a budget resolution. This is about what used to be a consensus in this body. We ought to have some rules that are consistent that will apply to all parts of the budget so that we can work together on behalf of the American people to do something about our very serious fiscal problems.

Mr. President, I reserve the remainder of my time.

Mr. NICKLES. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Oklahoma has 24 minutes. The Senator from Wisconsin has 3 minutes.

Mr. NICKLES. Mr. President, to notify our colleagues, it will be my intention to yield some time back and to vote, unless my colleague from Iowa wishes to speak, at quarter to 6. We have three rollcall votes. The first one will be on Senator BYRD's amendment to strike the reconciliation provisions.

I notify my colleagues that rollcall votes will probably begin in the next 10 minutes.

I have great respect for the authors of the amendment. I support pay-go, but I think it should be pay-go with the present law tax cuts being extended. If we do not, we are going to have tax increases. We ought to let people keep the same tax rates they have today. I do not want to lose the marriage penalty relief. That is what we are assuming in our budget. This boils down to, we have pay-go on everything except these child-friendly, marriage-friendly tax cuts. We want those to continue, maybe not under pay-go.

Some people say let's raise somebody else's taxes to pay for them. That is a recipe for getting nothing done. We want to continue present law on the taxes. It is very interesting that present law on spending does not have to be paid for. We have a lot of spending programs that also have sunset provisions, but they do not have pay-go when they are reauthorized, when they are extended.

If you extend the farm bill—I have a whole list of programs—Temporary Assistance for Needy Families, food stamps, Commodity Credit Corporation, veterans compensation, child care entitlements, and State Children's Health Insurance Program. All these, and many more, are temporary. They sunset. When they are extended, they are assumed to be extended. They do not have to be paid for. But any tax cuts—when I say tax cuts, marriage penalty relief, child credit taxes, the rates that we now have, 35 percent maximum, 10 percent—that 10 percent

is now going to revert to 15 percent unless we pay for it? Oh, that rate that is 25 percent today is going to go to 28 percent unless we pay for it, but we do not make the appropriators pay for incremental expense. They can increase appropriations by any amount. They do not have to pay for it.

My point is we have basically identical pay-go under our resolution as this amendment provides, except we assume present law, I stated a while ago, with exception of AMT. AMT is basically an extension of present law.

The resolution we have before us was well thought out. It says let's keep present law intact, basically. Let's not have tax increases on families. Let's not make it more difficult for people to keep present law. Let's not tax them more next year under some rule, the present law.

I know most of my colleagues do not want to increase taxes on those families, so we put it in the budget. Anything above that has to be paid for. So we have pay-go. If somebody says it does not work, they did not look at the Senate last year. I happened to be chairman of the Budget Committee. I requested somebody to make 60-some budget points of order, almost all of which we prevailed on. If anybody thinks I am not willing to use pay-go or any other budget rule to try and constrain spending, I think the facts will show quite differently.

We will enforce the budget. The question is whether we are going to allow people to keep the same rates they have today or assume they are going to have a tax increase unless we find some other tax increase to pay for it.

I urge our colleagues to vote against this amendment. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I wish I could say what is in the budget resolution before us is pay-go, but it is not pay-go. It is pay-go without an absolutely critical component, and that is making it apply to the tax cuts. It is almost like saying I want pay-go as long as it does not apply to what I want, and that is not the pay-go that worked in the 1990s. That is not the pay-go that brought us a balanced budget.

I have to reiterate, this does not stop the tax cuts the Senator from Oklahoma is talking about—child care credit, 10-percent bracket, marriage penalty. Not only can all of these survive under pay-go, they will. They just need to get 60 votes. I predict in each case, they will probably get 35 to 40 extra votes on top of that, if anyone even raises the point of order. So it is simply false to say somehow this stops the tax cuts from being extended.

Let's be honest about it. The only reason this exemption is needed is those tax cuts were not made permanent. Had they been made permanent, the Senator from Oklahoma would not have to be worrying about extending them. Why weren't they made permanent? They weren't made permanent so we could have this phony idea the deficit isn't as bad as it really is out in the future years. It is a gimmick. It is a game to make them temporary so you can say it is not going to cost more in the outyears. Then when it comes time to face the music, what do we do? We say the normal rules do not apply. We do not require ourselves to pay for it, or we do not require the 60 votes that are normally needed.

Without the adoption of this amendment, we have done serious damage to the integrity of the pay-go rules going into the future. A system of rules such as this depends on the integrity of the rules, that they be applied fairly and across the board. Allowing these exemptions, even well-intentioned, with regard to certain tax cuts, undermines the integrity of a system we all relied on to work in the 1990s.

Mr. President, I reserve the remainder of my time.

Mr. NICKLES. Mr. President how much time remains?

The PRESIDING OFFICER. The Senator from Oklahoma has 20 minutes.

Mr. NICKLES. I yield my colleague from Iowa such time as he desires.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am going to oppose this amendment because this amendment is not about paying for tax cuts; it is about avoiding a tax increase. Although I understand the desire to impose pay-go, it should not apply to current law, and that is a very important distinction.

Under current law, we have a number of tax provisions, including the expanded 10-percent tax bracket, the $1,000-per-child tax credit, and marriage penalty relief that will expire at the end of this year. If we do not extend these provisions, taxes will go up, and taxes will go up automatically.

As I have said before in several other points I have been making on other amendments, it is one thing for Congress to have guts enough to vote a tax increase, but it is quite another to let taxes go up automatically without a vote of the people. I think that is wrong.

In order to extend the existing tax law, we need to pass legislation yet this year if we are going to have a seamless continuation of present tax law into the year 2005 and beyond. That is what this amendment is all about. We are going to either extend current law or we are going to let taxes go up.

Requiring the Senate to pay for this tax relief we already have in the law, that would not be in the law if we do not take some action this year, could lead to disastrous results. We are talking about disastrous results for families, such as if one is married and they get hit with the marriage penalty, that is a major concern to those families who have to pay more. If they have children and they benefit from the $1,000 child credit and that credit goes down, that is going to hit those families to a greater extent.

All families, low income or otherwise, but particularly this 10-percent bracket was put in the law to help low-income Americans pay less taxes. So it is a disastrous result on families, and we should not have to go to the extra extreme of maintaining existing law. If for some reason we could not agree on the necessary offsets that would be required under Senator FEINGOLD's amendment, or if we could not get 60 votes, then current law would expire and taxes would automatically go up, without even any consideration by any of us. There would be 535 people just standing by and letting taxes go up.

Some people may be willing to take that risk, but I do not believe that is the right approach. Consequently, we need to reject this amendment. We need to support working families of America by extending the tax reductions that have already been provided for under current law. We need that to be seamless. We do not want to take any chance somehow somebody is going to say next October, just before we adjourn for the election, well, we will worry about this next year. That is a bad situation to leave the families of America. They ought to know what tax policy is for the long haul.

Certainty of tax policy is the best tax policy. Even if it might not be exactly the right tax policy, certainty of tax policy is better than the uncertain situation we have facing American working men and women today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I will be shortly yielding back the remainder of our time. I believe our agreement was we would go to the Byrd amendment first. I think we agreed to have 1 minute on each side to recap the debate.

The PRESIDING OFFICER. That is correct.

Mr. NICKLES. I have already asked Senator BYRD to come in. Has the Senator from Wisconsin concluded?

Mr. FEINGOLD. Mr. President, I want to know, do I have 30 seconds remaining?

The PRESIDING OFFICER. That is correct.

Mr. FEINGOLD. Let me point out to the Senator from Iowa, for whom I also have enormous regard and really enjoy working with, he indicated he wanted to make sure this pay-go goes through the way they have it in the budget resolution in order to make sure tax cuts that are current law continue. The fact is they are not in current law. The current law says they shall expire. That is the law. The law is they are going to expire.

In order to continue these tax cuts, a new law must be passed. All I am saying is the pay-go rule should apply to that new law, to those new tax cuts, because otherwise we are not applying the rules that are applied to everything

else. I think it is an important distinction.

It is not by accident these were set up to expire.

They would have been in violation of the budget because they caused deficits in the outgoing years.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, my colleague from Wisconsin is correct, these tax changes we made last year expire at the end of this year. Actually, I think they have been in effect for 2 years. If we do not extend them, it is going to be a tax increase on American families. We are trying to protect American families.

I heard my colleague from Wisconsin say we want to protect taxpayers. That is exactly what we are trying to do. We are basically saying over $13 trillion in spending and about $12 trillion in revenues. The only thing we are trying to protect over the next 5 years is $144 billion. That is basically extending present law to make sure people do not have a tax increase from what their tax rates are today. Above that, we have pay-go. That is basically what our resolution says, with the exception of the energy bill, and perhaps one other minor provision; AMT is an extension of present law.

We do not want the families who are paying taxes today to have a big tax increase, if they have 4 kids, of $2,200 next year. So we said everything else, yes, is pay-go. We do not have pay-go for the farm bill. We do not have pay-go for all of these multitude of entitlement programs I mentioned. They all sunset. They all expire at a certain period of time. There are some real inequities, almost a bias, for more spending. We do not have pay-go for incremental increases in discretionary spending, but we say, oh, if you want to keep your present tax level, you have to pay for it.

What some people mean by that is we want to have higher taxes on somebody else. The net result could be, especially in a political year, one where the partisan feelings are so strong you would end up with no tax bill, which ends up increasing taxes on American families. I do not want that to happen.

If we look at the total amount of money spent, the difference is $144 billion. We are saying we want to apply pay-go above everything else. When talking about $13 trillion, it is not that significant. I think it is important to protect the $144 billion, so we protect American families so they do not have a tax increase next year.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. On our side, it is my understanding Senator LEVIN has 5 minutes remaining.

Mr. NICKLES. That is correct.

Mr. REID. I ask Senator FEINGOLD have 1 minute of that 5 minutes.

Mr. NICKLES. We could go back and forth all day. I would like to start the rollcall vote very quickly. If Senator LEVIN is in the Chamber, this would be the time for him to speak.

Mr. REID. He is not going to use his time.

Mr. NICKLES. If Senator FEINGOLD wants an additional minute, that will be fine. I will take an additional minute.

Mr. REID. I will yield back the 4 minutes when he finishes his time.

Mr. NICKLES. I would be happy to grant Senator FEINGOLD an additional minute. I will take an additional minute and then we will hear from Senator BYRD and we will vote.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I appreciate the opportunity to debate the Senator from Oklahoma. I join with him on the issue when it comes to the taxpayers. The lesson we learned in the 1990s is the worst thing that can be done to the taxpayers of this country is to run record deficits and destroy the fiscal integrity of this country.

The only question is: Are we going to have across-the-board, tough budget rules to protect the taxpayer dollars, or are we going to have holes in those rules that will make sure the taxpayers get in a deeper hole with the deficits?

Those tax cuts will not be denied because of these rules this year. The taxpayers of this country will get the 10 percent. They will get the continued elimination of the marriage penalty. They will get the child care credit. If we go with my amendment, they will get that and also get the fiscal discipline rules that brought them a balanced budget at the end of the 1990s.

I yield the floor.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, would the distinguished manager of the bill entertain having the second 2 votes 10-minute votes rather than 15-minute votes?

Mr. NICKLES. I was going to make that request.

Mr. President, I yield the remainder of my time. What we agreed to do previously was to stack the three votes. Senator BYRD would be first. We agreed to have the proponents and opponents each have a minute before each vote. I ask unanimous consent that we vote on Senator BYRD's amendment and that the following two votes be limited to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I wanted to inquire if I might find a way to speak for not to exceed 2 minutes in opposition to the amendment that is offered by Senators WARNER and STEVENS.

Mr. REID. I have no problem with that.

Mr. NICKLES. I modify my request so that there be 2 minutes on each side prior to the vote on the amendment of Senator WARNER and Senator STEVENS.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. REID. I ask for the yeas and nays for the Byrd amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I believe our regular order would be we would revert to the Byrd amendment with 1 minute debate on each side.

The PRESIDING OFFICER. That is correct. Is the Senator yielding back his time on the Feingold amendment?

Mr. FEINGOLD. I ask for the yeas and nays.

Mr. NICKLES. I yield the remainder of my time on the Feingold amendment.

Mr. REID. I yield Senator LEVIN's time.

The PRESIDING OFFICER. Is there an objection to the request of the Senator that the yeas and nays be ordered?

Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

Mr. FEINGOLD. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

AMENDMENT NO. 2735

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 1 minute.

Mr. BYRD. Mr. President, the debate about budget deficits is taking place all across this country. Ironically, the one place where debate is discouraged on this matter is right here in the world's greatest deliberative body. My amendment would strike the tax reconciliation instructions to the Finance Committee that would shield tax cut legislation that worsens the deficit from a thorough debate in the Senate.

To use reconciliation to increase the deficit is an abuse of the budget process. It doesn't matter whether it is an $81 billion tax cut, a $350 billion tax cut, or a $1.35 trillion tax cut, the Budget Act framers—and I was one of them—did not contemplate all this difficulty, did not contemplate reconciliation would ever be used to worsen the deficit. Not until 1999, after 25 years of restraint, was this abuse of the process first perpetrated.

If this budget resolution passes with these reconciliation instructions included, the Senate will be denied the opportunity to forge a consensus that would allow it to extend these tax cuts and pay for them.

That is the issue on which we vote today. A vote to strike the reconciliation instructions is a vote to allow the Senate to work its will and to permit the further worsening of the deficit. I urge my colleagues to support the amendment, and I thank the Chair.

Mr. NICKLES. I alert my colleagues we are going to start 3 rollcall votes momentarily.

The only way to make sure there is not a tax increase on American families is to pass reconciliation. Maybe we don't need it. I hope we don't need it. Maybe we will have some good bipartisan cooperation and we can extend present law to make sure these families don't have a tax increase, but this is a pretty partisan time. We can't even get conferees appointed to the Workforce Reinvestment Act, which would help people to get jobs. Some people are just playing games. I don't want to play games with the American family. We only reconcile $81 billion out of $12 trillion.

I want families to have a tax cut. I want them to keep the same tax law they have today. That is a savings of $1,600 for a family of four that has taxable income of $58,000. The only way we can really assure that is going to happen, or increase the likelihood that will happen, will be to have reconciliation. I wish that wasn't necessary, but unfortunately it is. You can have a lot of people play games with the tax bill if it comes through and it has unlimited amendments.

Maybe we won't need reconciliation. Chairman GRASSLEY asked me to make sure we have it as an option, and I think it is important to do so. If we don't, you may well see the $1,000 tax credit per child go to $700, you may well see the marriage penalty relief disappear and increase taxes on couples $900. I urge our colleagues to vote no on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

The PRESIDING OFFICER (Mr. ALEXANDER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—47

| | | |
|---|---|---|
| Akaka | Dodd | Leahy |
| Baucus | Dorgan | Levin |
| Bayh | Durbin | Lieberman |
| Biden | Edwards | Lincoln |
| Bingaman | Feingold | Mikulski |
| Boxer | Feinstein | Murray |
| Breaux | Graham (FL) | Nelson (FL) |
| Byrd | Harkin | Pryor |
| Cantwell | Hollings | Reed |
| Carper | Inouye | Reid |
| Chafee | Jeffords | Rockefeller |
| Clinton | Kennedy | Sarbanes |
| Conrad | Kerry | Schumer |
| Corzine | Kohl | Stabenow |
| Daschle | Landrieu | Wyden |
| Dayton | Lautenberg | |

NAYS—52

| | | |
|---|---|---|
| Alexander | Coleman | Frist |
| Allard | Collins | Graham (SC) |
| Allen | Cornyn | Grassley |
| Bennett | Craig | Gregg |
| Bond | Crapo | Hagel |
| Brownback | DeWine | Hatch |
| Bunning | Dole | Hutchison |
| Burns | Domenici | Inhofe |
| Campbell | Ensign | Kyl |
| Chambliss | Enzi | Lott |
| Cochran | Fitzgerald | Lugar |
| McCain | Santorum | Sununu |
| McConnell | Sessions | Talent |
| Miller | Shelby | Thomas |
| Murkowski | Smith | Voinovich |
| Nelson (NE) | Snowe | Warner |
| Nickles | Specter | |
| Roberts | Stevens | |

NOT VOTING—1

Johnson

The amendment (No. 2735) was rejected.

Mr. NICKLES. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2742

The PRESIDING OFFICER. There are now 4 minutes evenly divided prior to a vote on the Warner amendment.

The Senator from Virginia.

Mr. WARNER. Mr. President, of the 2 minutes under my control, I would like to give a minute to my distinguished colleague, Senator STEVENS.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the amendment I have cosponsored with Senator WARNER will restore the President's request for the Department of Defense. I understand the reasons why the Budget Committee did not bring this full number out of the committee, but we wish to restore the President's request in full.

We are engaged in a global war against terrorism. We have troops in Afghanistan, Iraq, and Haiti. More than half of our forces are overseas at the present time. I do not think it is time for us to cut the President's request for the Department of Defense.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I will be happy to follow with the remainder of my time, if the other side wishes to address this issue.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, on this side we urge our colleagues to support this amendment. We think when our forces are in the field, when they are in combat half a world away, we ought to meet the Commander in Chief's request for funding.

We will offer an amendment at a later point in the queue to fully pay for this amendment. We think that is an appropriate way to handle this matter. But for the moment, on this amendment, we think the right vote is to support the request of the Commander in Chief while our forces are in combat.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. Two minutes in opposition.

The Senator from Virginia.

Mr. BYRD. Mr. President, I have the utmost respect for the two authors of this amendment. They know that.

The Defense Department is plagued with accounting problems so severe that the Secretary of Defense cannot account for billions of taxpayer dollars. The General Accounting Office estimates the very earliest the Defense Department could possibly pass an audit would be 2007, and that is optimistic. The administration does not even know how much time and how much money it will take to fix the accounting problems.

It is absurd that the administration is proposing to cut vital domestic investments while billions and billions of dollars are lost every year in the Pentagon's broken accounting system. Such waste would not be tolerated from any other Department.

I suggest the Pentagon would be more careful with its money if it had less of it to waste. The Defense Department's budget is already bloated at $414 billion. I cannot support this amendment to add another $6.9 billion to the budget resolution for the Pentagon when it cannot explain to the American taxpayers how their hard-earned money is being spent.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I say to my distinguished colleague in reply that you have brought this to the attention of the Senate year after year, as you should.

Mr. BYRD. Yes.

Mr. WARNER. We are endeavoring, through oversight and otherwise, to correct it. But those problems in no way are owing to the valor of the men and women in uniform and their families.

Mr. BYRD. Right.

Mr. WARNER. That is what this vote is for.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I want to remind our colleagues, this is a 10-minute rollcall vote. We will have one other vote immediately following that. For the information of our colleagues, it is our expectation to have more rollcall votes, probably to begin at around 8:45.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2742.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

Mr. WARNER. Mr. President, the yeas and nays have already been ordered.

The PRESIDING OFFICER. The yeas and nays were ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 4, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—95

| | | |
|---|---|---|
| Akaka | Dole | Lugar |
| Alexander | Domenici | McCain |
| Allard | Dorgan | McConnell |
| Allen | Durbin | Mikulski |
| Baucus | Edwards | Miller |
| Bayh | Ensign | Murkowski |
| Bennett | Enzi | Murray |
| Biden | Feingold | Nelson (FL) |
| Bingaman | Feinstein | Nelson (NE) |
| Bond | Fitzgerald | Nickles |
| Boxer | Frist | Pryor |
| Breaux | Graham (FL) | Reed |
| Brownback | Graham (SC) | Reid |
| Bunning | Grassley | Roberts |
| Burns | Hagel | Rockefeller |
| Campbell | Harkin | Santorum |
| Cantwell | Hatch | Sarbanes |
| Chafee | Hollings | Schumer |
| Chambliss | Hutchison | Sessions |
| Clinton | Inhofe | Shelby |
| Cochran | Inouye | Smith |
| Coleman | Kennedy | Snowe |
| Collins | Kerry | Specter |
| Conrad | Kohl | Stabenow |
| Cornyn | Kyl | Stevens |
| Corzine | Landrieu | Sununu |
| Craig | Lautenberg | Talent |
| Crapo | Leahy | Thomas |
| Daschle | Levin | Voinovich |
| Dayton | Lieberman | Warner |
| DeWine | Lincoln | Wyden |
| Dodd | Lott | |

NAYS—4

| | |
|---|---|
| Byrd | Gregg |
| Carper | Jeffords |

NOT VOTING—1

Johnson

The amendment (No. 2742) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. CONRAD. I move to lay that on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2748

The PRESIDING OFFICER. There will now be 2 minutes of debate, evenly divided, prior to a vote on the Feingold amendment.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, this amendment will simply return us to the rules by which Congress played in the decade of the 1990s. We eliminate the exceptions to pay-go included in last year's resolution that exempt new tax cuts and new mandatory spending included in the budget resolution, an exception that facilitates more damage to the Federal bottom line.

This amendment will not—I repeat, will not—prevent the extension of the expiring 10-percent bracket or the child tax credit or the marriage penalty. This body will vote to extend those tax cuts by a huge margin, and I will be part of that huge margin. But this amendment will return some of the budget discipline that helped us balance the budget.

Deficits matter. Debt matters. Let's not leave our children and grandchildren with an even bigger tab than we have already stuck them with.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I urge our colleagues to vote no on this amendment. These are the tax cuts we are trying to protect. Everything, basically other than that with a minor couple other things, is pay-go. We have pay-go on everything that is not assumed in the budget. This chart shows most of it. That is tax relief for American families.

We should protect taxpayers. We do not have pay-go for expansion of entitlements that sunset, but we do for tax cuts that are sunset. That is not fair to the taxpayers. Let us protect taxpayers.

We have pay-go in the underlying resolution. Last year, I and others made 62 points of order to cut spending. We used pay-go. We will use it again this year. We have it in this budget resolution. I urge my colleagues to vote no on the Feingold amendment.

For the information of colleagues, we expect to have about a 2-hour window, and we expect to have more rollcall votes probably beginning about 8:45 or 9 p.m.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. BYRD. How much time was consumed on the last rollcall?

The PRESIDING OFFICER. Nineteen minutes.

Mr. BYRD. Nineteen minutes. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2748. The yeas and nays have been ordered. The clerk will call the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

The PRESIDING OFFICER (Mr. COLEMAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—51

| | | |
|---|---|---|
| Akaka | Dodd | Levin |
| Baucus | Dorgan | Lieberman |
| Bayh | Durbin | Lincoln |
| Biden | Edwards | McCain |
| Bingaman | Feingold | Mikulski |
| Boxer | Feinstein | Murray |
| Breaux | Graham (FL) | Nelson (FL) |
| Byrd | Harkin | Nelson (NE) |
| Cantwell | Hollings | Pryor |
| Carper | Inouye | Reed |
| Chafee | Jeffords | Reid |
| Clinton | Kennedy | Rockefeller |
| Collins | Kerry | Sarbanes |
| Conrad | Kohl | Schumer |
| Corzine | Landrieu | Snowe |
| Daschle | Lautenberg | Stabenow |
| Dayton | Leahy | Wyden |

NAYS—48

| | | |
|---|---|---|
| Alexander | DeWine | Lott |
| Allard | Dole | Lugar |
| Allen | Domenici | McConnell |
| Bennett | Ensign | Miller |
| Bond | Enzi | Murkowski |
| Brownback | Fitzgerald | Nickles |
| Bunning | Frist | Roberts |
| Burns | Graham (SC) | Santorum |
| Campbell | Grassley | Sessions |
| Chambliss | Gregg | Shelby |
| Cochran | Hagel | Smith |
| Coleman | Hatch | Specter |
| Cornyn | Hutchison | Stevens |
| Craig | Inhofe | Sununu |
| Crapo | Kyl | Talent |
| | | Thomas |
| | | Voinovich |
| | | Warner |

NOT VOTING—1

Johnson

The amendment (No. 2748) was agreed to.

Mr. CONRAD. Mr. President, I move to reconsider the vote.

Mrs. CLINTON. 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 Oklahoma.

Mr. NICKLES. Mr. President, for the information of our colleagues, Senator CONRAD and I are trying to work out an agreement on which amendments will be going next. I believe we have an understanding that Senator BAUCUS will offer an amendment. At that point, Senator VOINOVICH will offer an amendment, and I think I will stop there. I know Senator CONRAD is trying to line up one or two more.

It is our hope that people would not want too much time on their amendments so we could expedite as many amendments as possible.

Again I will repeat, we expect votes to occur probably shortly before 9.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 2751

Mr. BAUCUS. I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 2751.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike the outlay reconciliation instruction to the Committee on Finance)

Strike section 201(c).

Mr. BAUCUS. Mr. President, this amendment would eliminate the reconciliation instruction in the budget resolution directing the Finance Committee to produce savings in mandatory programs within the committee's jurisdiction. The amendment is based on an assumption in the resolution that our committee would cut Medicaid by $11 billion over 5 years, and reduce earned-income tax credit outlays by $3 billion.

Let me begin by clearing up one common misconception. Some may think the budget calls for the Finance Committee to produce legislation that saves $3.4 billion over 5 years, since that is the figure in the reconciliation instruction. In fact, the Finance Committee would have to produce $21.6 billion in savings. Why? Because the budget resolution calls for extending the child tax credit and marriage penalty relief. Since a portion of the child tax credit and marriage penalty relief

is refundable, these count as outlays in the budget process. So extending the child tax credit and marriage penalty relief, as the President has proposed and as the budget resolution provides, and which I support and I think the vast majority of Members of this body support, it will have the effect of increasing outlays also by $18.2 billion over 5 years.

To produce legislation that generates net outlay reductions of $3.4 billion, and the additional $8.2 billion cost, the Finance Committee would have to draft legislation to reduce spending by $21.6 billion—again, not the $3.4 billion over 5 years, which is the figure in the budget resolution. It would actually have to be $21.6 billion.

The budget resolution assumes the Finance Committee will pass legislation that cuts Medicaid by $11 billion and cuts the earned-income tax credit by $3 billion and comes up with the remaining $7.6 billion by extending customs user fees.

Mr. CONRAD. Will the Senator withhold for one moment? I apologize.

Mr. BAUCUS. Absolutely.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. Chairman, would you like to present a unanimous consent request on time agreements on the next four amendments?

Mr. NICKLES. Mr. President, we have three or four amendments in the queue. I believe they are the amendment of Senator BAUCUS, the amendment of Senator VOINOVICH, the amendment of Senator NELSON, and the amendment of Senator CORZINE.

I ask unanimous consent there be 30 minutes equally divided on each of those four amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SARBANES. Reserving the right to object, can I get in that queue?

The PRESIDING OFFICER. The Senator from Maryland.

Mr. BAUCUS. Mr. President, I reserve the right to object, too.

Mr. SARBANES. Can I get on that queue?

Mr. NICKLES. You would have to talk to your manager.

Mr. CONRAD. I will be happy to make that the fifth amendment.

Mr. NICKLES. What amendment would that be?

Mr. CONRAD. The firefighters amendment.

Mr. NICKLES. I am not familiar with the amendment. I would like to see it. I expect I would agree to it.

Mr. CONRAD. It is the amendment offered in the committee. I would say what we would like to accomplish. The next round of votes has been set for 8:45 or 9 o'clock. We would like to get the next group of amendments debated so they could be voted on at that time. That is why we are trying to have very tight time limits on these amendments. Would that be agreeable to the Senator?

Mr. BAUCUS. Mr. President, actually it is not agreeable. I would like an hour. I may not use it all, but I would like an hour, equally divided.

Mr. CONRAD. Equally divided. I ask the chairman, could we say we have an hour equally divided on that amendment and 30 minutes on the other three, equally divided, and reach that agreement?

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I will modify the request that there be an hour equally divided on the Baucus amendment and the other three amendments I referred to be equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. I object. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Montana has the floor.

Mr. BAUCUS. Mr. President, let me just recap briefly so Senators understand my amendment. I explained where we were before the break in the action.

I am offering an amendment which would eliminate the reconciliation instruction to the budget resolution directing the Finance Committee to produce savings in mandatory programs within the Finance Committee's jurisdiction. The amendment, as I mentioned earlier, is based on the assumption in the resolution that the committee would cut Medicaid by $11 billion over 5 years and reduce the earned-income tax credit outlays by $3 billion.

Some may think the budget calls for the Finance Committee to produce legislation that saves $3.4 billion over 5 years, since that is the figure in the reconciliation. Actually, the committee would have to produce savings of $21.6 billion, and that is basically because the resolution calls for extending the child tax credit and the marriage penalty relief, as the President has proposed, and as provided for in the budget resolution and which I support. I think the vast majority of the Members here support it.

As a consequence of all that, the outlays have to be increased $18.2 billion over 5 years, and that is, again, because the earned-income tax credit is refundable. So you add it all together and it actually comes up to $21.6 billion that has to be cut, not the figure of $3.4 billion contained in the budget resolution.

I might add that I think neither the earned-income tax credit cuts nor the Medicaid cuts make a lot of sense. Let me start with the earned-income tax credit. That is a feature in the Tax Code that President Reagan once hailed as—and let me give his quote:

> . . . the best anti-poverty, the best pro-family, the best yet creative measure to come out of Congress.

I think he is right. The earned-income tax credit has done a lot to lift people out of poverty.

President Bush has not proposed any reductions in the earned-income tax credit, and with good reason. The earned-income tax credit was created in 1975 as a bipartisan effort to reduce the tax burden on low-income Americans. It provides a powerful incentive for people to work. It has played a very large role in moving poor families from welfare to work. It has reduced poverty.

Nearly 4.8 million people, including 2.6 million children, are lifted out of poverty each year because of the EITC. By all accounts, the earned-income tax credit has been successful, and it has been effective.

While the earned-income tax credit has achieved its policy aims, and I might add with incredible success, a 1999 Treasury audit of EITC returns shows that noncompliance is a problem. And it is a problem. Noncompliance in the EITC has been a problem. I believe, however, that noncompliance on the earned-income tax credit is largely due to errors, not because of fraud. Both the complexity of the tax credit and the complex living situations are responsible for the high error rate.

Let me give an example. There is an IRS publication called publication 596. That is the IRS instructions and forms for the earned-income tax credit. Guess what. It is 52 pages long. Can you imagine somebody sitting down at his or her kitchen table trying to figure out the earned-income tax credit? The IRS takes more pages to explain the earned-income tax credit than it does to explain the complicated alternative minimum tax. Guess how many pages are in that. Eight. They are eight terrible pages, but there are only eight of them. The EITC booklet has 52 pages. Obviously, it is unnecessary complexity.

Senator GRASSLEY and I fashioned a series of reforms that were enacted as part of the 2001 tax cut legislation. The Treasury expects those changes alone will reduce earned-income tax credit overpayments by about $2 billion a year. So we are doing something about it. We all recognize more needs to be done, and we will all work together to see that this work gets done.

But the remaining work is administrative; it is not legislative. As this administration has indicated, finding ways to identify earned-income tax filers who were not compliant, and to save money by preventing losses to the Treasury, is primarily an administrative issue, not one that can be achieved through legislation. One can't simply wave a wand and pass a law mandating a lower error rate. That takes a lot of administrative work. The IRS and Treasury are working on it now. They are conducting a major pilot project to test new procedures which the agency hopes will reduce overpayments. I hope the Treasury reduces overpayments, and the IRS is also likely to conduct a second pilot this summer. I and other Senators want to see whether these procedures work, while making sure

they don't cause honest, eligible working families to lose earned-income tax payments for which they qualify.

But I believe administrative action is the proper course. Let me reiterate that no legislative remedies are at hand that the Joint Committee on Taxation has found will generate significant savings—no legislation. Reducing errors is primarily administrative, and the budget resolution's reconciliation instructions to the Finance Committee would unfortunately force the committee to cut the EITC itself. It doesn't really address the error rate.

For hard-working, low-income families, the EITC offsets income, payroll, or Federal excise taxes. It would thus raise taxes for these working families; that is, if the EITC were cut.

It is bad enough we continue to let the minimum wage erode. We should not be raising the taxes on the working poor on top of that by cutting the EITC. The Senate should take a firm stand against raising taxes on working Americans.

The chairman's mark in the Budget Committee last week lays out two ways to achieve these so-called EITC savings. One way is a tax increase, pure and simple. The other way is administratively infeasible and would generate strong opposition from small business owners. The only way the second method could be designed so it would save money would be to make it, too, into a tax increase. Let me explain.

The first of two options in the chairman's mark is to repeal the EITC for very poor workers, particularly workers without children. According to the IRS, some 3.7 million low-income workers received this credit in the year 2003 and secured an average tax credit of a little over $200 each. These workers are among the poorest, lowest paid workers in the country. Only single workers with incomes below $11,490, and married couples with incomes below $12,490, would even qualify.

This credit equals a maximum of 7.65 percent of the first $5,000 in wages these workers earn. As a result, this credit simply offsets some or all of the employee share of the payroll taxes these workers pay. Repeal it and the net Federal tax burden on these workers rises.

Furthermore, if this tax credit is repealed, poor, single workers will begin owing Federal income tax in addition to their payroll taxes when their earnings only reach $7,950. That is nearly $2,000 below the poverty line. We can't do that. Such a change would literally tax these low-paid workers deeper into poverty.

The other option the chairman's mark lists for achieving these EITC savings is to require workers to get their EITC payments in their paychecks rather than in the refund when they file their tax returns at the end of the year. This is unworkable.

First, some small employers will find it very difficult to do. They would have to have additional complexity to do it. Second, many workers will not want to do this because they believe their earnings or their spouse's earnings may rise during the year which would make them eligible for a smaller EITC or no EITC at all, and if they received EITC payments during the part of the year their family's income was lower, they would have to write the IRS a check paying back the EITC when they file their tax returns. Not everyone in this situation is likely to file a separate amended tax return or have the cash to pay the EITC back. As a result, this could actually increase errors. It could increase overpayments as well as causing many families considerable difficulty.

It would not save money. Suppose you instituted this system starting in the tax year 2005. It means next year low-income workers would receive both their EITC tax refund for the tax year 2004 and their EITC payments for tax year 2005 which would be provided in their paychecks throughout the year. The result would be the earned-income tax credit costs would nearly double in 2005. That would increase costs, not reduce them.

This is not the time to cut Medicaid. Medicaid provides a crucial health care lifeline to more than 50 million Americans. It is a critical player in our health care safety net. Medicaid pays for about 40 percent of all births in this country. It pays for almost half of all nursing home days. Its reach stretches throughout the health care system, and substantial costs will be felt in every corner of this Nation if this cut were to proceed.

Even without these proposed cuts, Medicaid beneficiaries and providers are facing a very difficult year. Many States have not yet emerged from their worst financial crisis in several decades, and Medicaid programs have been cut in virtually every State in the past 2 years. In fact, over the past 2 years, States have instituted Medicaid changes that have resulted in between 1.2 million to 1.6 million low-income children, parents, elderly, and disabled people losing coverage and becoming uninsured.

Benefits and provider payments have also been cut, resulting in beneficiaries' reduced access to needed services and greater cost shifting to individuals who are insured. The liability of our health care safety net is threatened. These cuts would have been significantly steeper had Congress not provided States with $20 billion in fiscal relief last year.

Even after these Medicaid cuts and other budget cuts—and in many States tax increases—States still face a new round of deficits estimated at $40 billion in the coming year. Despite this news, the Federal fiscal relief is ending with the result that deeper Medicaid cuts are likely. The last thing we need to do now is to reduce Federal funding for Medicaid further and force deeper cuts in Medicaid.

We should instead heed the bipartisan warnings of the National Governors Association. In a letter last week, the National Governors Association chair and vice chair, Governor Kempthorne of Idaho and Governor Warner of Virginia, had this to say:

> States are currently emerging from the most severe budget crisis since World War II. And nearly every State has enacted difficult cuts to its Medicaid program, including both eligibility levels and provider payments. Federal funding reductions would force States to implement even deeper cuts by restricting eligibility, eliminating or reducing critical health benefits, and cutting or freezing provider reimbursement rates. As a result, the Medicaid funding cuts could add millions more to the ranks of the uninsured and would harm our Nation's health care safety net.

We should listen to the Governors. They are bipartisan. This is not a bipartisan issue.

Opposition to the cuts extends beyond the Governors to hundreds of organizations of hospitals, doctors, nurses, veterans, disability advocates, patients' advocates, and nursing homes.

Some have argued the savings could come—harmlessly, they seem to suggest—by merely cutting ''fraud and abuse,'' particularly in State financing arrangements. But this is a false premise. Not one, not the administration and not the chairman of the Budget Committee—not one—has proposed a policy to limit State financing arrangements they decry. The administration's exhortations on this matter are so vague the Congressional Budget Office has not scored the administration's proposal as producing any savings in Medicaid. No one has even claimed any specific proposals could raise $11 billion as essentially called for in this reconciliation instruction.

To be clear, Congress has addressed the fraud we hear about.

The Finance Committee takes very seriously its oversight of the programs within its jurisdiction. The committee is dedicated to maintaining program integrity and ensuring taxpayer dollars are used wisely and efficiently. I am as strongly opposed to fraud as any Senator. But mandatory budget cuts are a blunt instrument unsuited to address this difficult, complex problem, particularly in the absence of specific administration proposals the Congressional Budget Office scores as producing savings.

Some have argued this budget reconciliation instruction doesn't matter. They argue if the Finance Committee does not want to make these cuts, then it can simply not act.

But I ask, What if the House committees of jurisdiction do act? If the House passes a reconciliation bill, any single Senator could then use rule XIV to put that bill on the calendar, bypassing the Finance Committee. The Senate could then be facing a fast-track vehicle to make unfair spending cuts that fall in the Finance Committee's jurisdiction without the committee ever having participated in the effort.

I have high confidence in the chairman of the committee, Senator GRASSLEY of Iowa. He will find a good way to

deal with Medicaid and with Medicare. He is very fair. He works with all Senators. I think that is by far the preferable procedure rather than the fast-track procedure as I mentioned under rule XIV which bypasses the committee. It could well happen, if the House acts.

Finally, I note the House budget is likely to reconcile much deeper cuts in these programs while acting as though all such savings can somehow be achieved by wishing away ''fraud, waste, and abuse.'' I am deeply concerned about conference deliberations on this matter.

This reconciliation instruction is a very dangerous provision. It is one that could do real damage. My amendment to strike this reconciliation instruction enjoys widespread support from many Governors, many health care providers, and organizations dedicated to helping the Nation's children, among countless others.

I urge my colleagues to join me in supporting the amendment.

I yield 10 minutes to the Senator from Hawaii to also speak on this amendment.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I rise to support an amendment offered by my colleague from Montana, Senator BAUCUS, the ranking member of the Finance Committee. His amendment seeks to right wrongs perpetuated against low-income families in the budget resolution before us. As he has explained, the pending resolution seeks to make room for further tax cuts by instructing the Finance Committee to make ill-advised cuts of $21.6 billion from Medicaid and the earned-income tax credit, EITC.

I am already concerned about the reconciliation instructions in the resolution that would further reduce federal revenues by $80.6 billion for tax cut extensions that we cannot afford. We have felt in the current fiscal year the negative effects of these tax cuts on important domestic programs starved for resources, while we continue to put essential support toward our operations in Iraq and Afghanistan and the global war on terror. I strongly support our men and women in the military who are fighting to preserve our security, and we must not erode further resources from them or the people they are protecting at home by extending tax breaks or making them permanent. Although fully offset relief to lower income families through measures such as the refundable child credit are seductive assumptions under this instruction, I understand that further assumptions in the resolution would allow an earlier repeal of the estate tax in 2009 instead of 2010 and permanency in other areas such as the dividends and capital gains rate structures at a cost of $22.7 billion. Now is simply not the time for such measures.

With due respect to my colleagues on the other side of the aisle, while we are seeing small promising signs in the economy, my colleagues seem willing to deny the ability of lower income families to help drive economic recovery by raising their taxes. The resolution would partly fund tax cut extensions and permanency on the backs of the working poor with attacks on Medicaid and the earned-income tax credit, EITC. These are simply mean-spirited actions against working families in this country.

The budget resolution would increase the number of underinsured and uninsured in this country by cutting more than $11 billion from Medicaid. The impact that this would have on already strained state Medicaid programs and the individuals who rely on this important safety net would be devastating. States continue to face crisis situations with respect to their budgets. We all know that Medicaid makes up a tremendous portion of state budgets, and drastic cuts by states to balance their budgets have swelled the rolls of those without insurance. The Center on Budget and Policy Priorities reports that state cuts over the past 2 years have shut between 1.2 million and 1.6 million people out of the Medicaid Program.

Additionally, the reductions in Medicaid included in the budget resolution will lead to further cuts in coverage and benefits for people in need. They will prevent individuals from being able to access health care, which will increase the burden on our public health system. The uninsured delay seeking medical treatment, which is likely to lead to more significant and costly problems later on than if they had sought earlier, preventative treatment or had access to proper disease management. These cuts will also further erode the ability of the hospitals, physicians, and other medical providers in our communities to meet the health care needs of the community. Our health care providers who already are confronted with inadequate reimbursements, rising costs, and an increasing demand to provide care for the uninsured. A tremendous $11 billion cut would far exacerbate this problem and perhaps hold tragic consequences for welfare recipients only beginning to rebuild their way to self-sufficiency.

The resolution before us would also strike $3 billion from the EITC—a refundable credit that helps lower income individuals and families to meet essential needs—food, clothing, housing, transportation, and education. The Census Bureau notes that the credit lifted nearly 4 million people above the poverty line in 2001. This year, families can expect an average refund of $2,067, which can mean a stay of eviction, transportation to a decent paying job for the year, or food in children's bellies. The EITC can mean the equivalent of a $2 an hour raise in the salary for working mothers and fathers.

I would like to present a visual image of just which families are reached by the EITC. As you can see in the chart behind me, courtesy of the Brookings Institution, higher concentrations of EITC recipients are in the dark orange at more than 40 percent, with the percentage decreasing as the colors move to yellow, then blue. We can see how effectively the EITC reaches families and communities in large cities and all across the rural South. Highest concentrations of EITC recipients as a percentage of total filers in a state can be found in Alabama, Arkansas, Georgia, Louisiana, Mississippi, New Mexico, South Carolina, and Texas.

Finally, an analysis of delegations by state clearly shows that the EITC should remain a bipartisan issue. The 18 States that have two Senators from my side of the aisle have 15.2 percent of all EITC earners, while the 19 States with two Senators from the other side of the aisle have an even greater percentage of recipients at 17.2 percent of all EITC filers. All total, EITC assistance of almost $36 billion is lifting our communities representing meaningful relief for millions of EITC earners, whose numbers grew by 8 percent between tax years 2000 and 2002 due to the economic downturn and longer-term unemployment trends.

Mr. President, in closing, we should not be attempting to produce savings for ill-timed tax cuts by denying such assistance to those in our states who most need it. Without the Medicaid program and the EITC, many families will go without health services and fundamental, everyday priorities. The Baucus amendment seeks to ensure that the working poor will have access to the healthcare that they and their children need, and the financial assistance that will provide for their essential expenses.

I have sent to my colleagues in the Senate a copy of the statement of the low-wage workers. I have also sent a ''Dear Colleague'' letter to each office on the earned-income tax credit map we have shown.

I hope all of my colleagues will look at the EITC predicament and support the Baucus amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, during this debate on this amendment, we have heard there is going to be $11 billion cut from various programs under the jurisdiction of the Senate Finance Committee. I have the budget resolution in front of me. I defy anybody to tell me where in this budget resolution there is an $11 billion cut.

I want to make it clear. What has been said, thus far, is based on some assumptions, assumptions that, in the global view of all the possible assumptions that the Senate Finance Committee could draw on to save a little

bit of money, it is in the realm of possibility, but it is a very extreme possibility of just exactly where the Senate Finance Committee ends up to save $3.4 billion, not $11 billion. This comes from the fact the budget includes an instruction to the Finance Committee to reconcile $3.4 billion over 5 years.

Now, if you were talking on ''Main Street'' in Waterloo, IA, about saving $3.4 billion over 5 years, out of the trillions of dollars that the Federal Government is going to spend over that period of 5 years, and you wanted to explain to somebody that you could not save a fraction of 1 percentage point, they would say: You better get some businessperson to serve in the U.S. Senate because the average businessperson has to deal with problems like that all the time. It is a small amount of money, but it is still some direction given to the committee.

Now, exactly where we might do that—there has been a lot said tonight, that somehow people know exactly where the Senate Finance Committee is going to get this sort of reconciled figure. I would have to say, I do not know yet. I do not know yet because I have not looked at all the possibilities. I do not know yet for a second reason: that even if I had a very good idea of exactly where this ought to come from, a chairman of a committee, particularly of the Senate Budget Committee, does not run the Finance Committee. We do things in a bipartisan fashion in that committee. Even within the Democrats, there is a difference of opinion, not a unified position among Democrats and, for sure, among my Republican members of the committee there is not a unified position.

It takes a lot of compromise to do anything in the Finance Committee. When you are talking about even saving a fraction of 1 percent—a very small fraction of 1 percent—let me tell you, there would still be a great deal of difference of opinion that it ought to be done. The fact is, there is nothing in this budget resolution that says where we have to save that money. That is our committee's decision.

When you vote this week on this budget resolution or when you vote on this amendment, I want to make it very clear to you that there is nothing in this that says how this money ought to be saved. So I can say to any of my colleagues on the other side of the aisle: I do not want this program cut. Another one says: I do not want that program cut. I can say: There is nothing in this resolution that says I have to cut program ''ABC'' or ''DEF.'' It is what we can do in our committee.

For sure, there has been a great deal of talk about it might come out of Medicaid or it might come out of the earned-income tax credit. Maybe it could, to some extent. But I do not know that yet. Even if I knew it, I could not produce 11 votes this minute, and that is the way it ought to be. This has to be a thoughtful process.

All we are doing in this budget resolution is making an overview of the fiscal policy of the Congress for the next 12 months. That is all we are doing. We are doing that so all the committees of Congress are disciplined. Before the budget resolution, when it came to fiscal matters, every committee and subcommittee in Congress was a kingdom unto itself. And what was the fiscal policy of the Congress of the United States? It was the total action of all the separate committees.

But the Budget Committee is set up so that before you spend money, before you make tax policy, you have a well-thought-out process of keeping within certain limits so that each committee is not a kingdom unto itself, but they are disciplined by the total view expressed in the Congress in a budget resolution—in the Senate and House separately; and then, after compromise between the two Houses, that policy is adopted.

Now, the budget assumes additional savings, but the Finance Committee is not required to reconcile these savings. Striking the $3.4 billion reconciliation instruction does not remove these other nonbinding savings. These nonbinding assumptions would remain. This amendment does not change any—does not change any—of those assumptions.

The amendment deals with $3.4 billion, but all the debate has been about certain assumptions, and there is nothing in the amendment that changes any of those assumptions. So what all the debate has been about is not what you are going to be voting on. You are going to be voting on $3.4 billion being saved. But the debate has been about, ''Oh, the money is going to come out of Medicaid; the money is going to come out of the earned-income tax credit'' because of some assumptions that were made. But the assumptions are not binding. The amendment before us does not even change the assumptions.

As to the point that the House-passed reconciliation bill could be handled in the Senate under what we call the rule XIV procedure—which is a way of bypassing the Finance Committee—the Congressional Budget Act clearly states that only a bill reported by the Finance Committee is entitled to the reconciliation protections. So you cannot bring something over from the House under rule XIV and have it reconciled. Our committee, and only our committee, has the responsibility to deal with this for the Senate.

Now, speaking to a specific program, I would address the issue that has come up about Medicaid. As chairman of the Senate Finance Committee—we have jurisdiction over the entire Medicaid Program—I am not bound by those budgetary assumptions. That is the third time I have said it. I hope it is clear. The chairman of the Senate Budget Committee and the Budget Committee can put certain assumptions in the resolution, and those are legitimate assumptions to put in the report, although we do not vote on those assumptions. But they are assumptions because it is legitimate for those of us in the Congress to expect the Budget Committee to be responsible. If you are going to put down a figure, you ought to have something to back it up. It should not be pulled out of the clear blue sky. It ought to be based on certain assumptions. That is what the Budget Committee and the chairman did, and that is what they should be doing. Now, I am not bound by those. I have respect for those, though, I want to point out, as I have respect for the work of the Budget Committee and its chairman. But I don't have to share the assumptions that any Budget Committee makes on how to arrive at the figure. In this particular instance, I might have different views about Medicaid. Frankly, I do. But that is not the issue of debate.

I happen to believe Medicaid is a vital safety net program for our most vulnerable citizens. It is for people who are low income. It is for pregnant women. It is for the elderly, for the disabled, and for others. States also spend a significant amount of their budgets on Medicaid. When I look at a program, how we save Medicaid money, if we go there—and we are going to have a responsibility to look at all this stuff; we might not even look at Medicaid at all, but we might—I have to be mindful of any effective changes we make to the Medicaid Program that it might have on the States, because this is a program where there is a partnership between the Federal Government and State governments and, in some States, even local governments.

Last year, for instance, this entire Congress felt very serious about doing something to help States, in addition to what we would do through Federal grants to the States, emergency grants, because most of the States had very tight budget situations. We gave $20 billion relief to States, of which $10 billion was just for Medicaid. I say that not that you need to be reminded of it, but I want you to know our committee, even 8 months ago, took into consideration the needs of the States.

I am going to look at how Federal tax dollars are spent, but I also have to know there is some impact they have on the States.

We also have to look at the reality of every Federal program. They ought to be reviewed from time to time. It seems to me we can look at Medicaid not as some sacred cow. Not that it is not a good program, not that it should not be preserved. It is part of the social safety net of our society. It will be maintained. It is a program that is 38 years old. But it is only an extension of a 200-year history our society has had of taking care of the most vulnerable, originally, entirely by counties or local governments. Then the States got involved, and then, in the 1940s, the Federal Government got involved in several ways. Then that was all kind of put together in the 1960s in the Medicaid Program.

There is no reason to think this is some sort of a flawless program that

can't be made a better program. You don't even have to assume it is some program that at least a fraction of 1 percent maybe can't be saved to some extent. No conclusions on my part, but I wouldn't be a very good public official, a very good trustee of the taxpayers' money if I thought any program couldn't be looked at to see could we save a half of 1 percent out of that program.

I am not opposed to reviewing whether there are instances of fraud or abuse in the Medicaid Program, but I want you to know that I will conduct oversight activities and do it in the open. I will do it in a bipartisan manner. I am going to do it with extensive input from stakeholders.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague, Senator GRASSLEY, chairman of the Finance Committee, for his statement. He happens to be exactly right. The net essence of this reconciliation instruction is to tell the Finance Committee, save $3.4 billion over the next 5 years. The Finance Committee is an enormous committee. It has jurisdiction over welfare, Medicare, Medicaid, Social Security, a total of about $4.6 trillion over the next 5 years. Surely this committee can find $3.4 billion of waste, of money that should not be spent.

Senator BYRD alluded to the reconciliation process and said it is supposed to be used to save money, to reduce the deficit. We gave an instruction to the Finance Committee to do that. Can't we save at least $3.5 billion out of $4.6 trillion?

I have heard people say: It is going to mean some cuts in Medicaid. Medicaid has a lot of fraud. I tell my colleagues and my good friend from North Dakota, I may want to do a hearing in the Budget Committee, if the Finance Committee is not willing to do it. Let's get into these intergovernmental transfers. Let's find out about how much some States are ripping off the Medicaid system. I use that term exactly as I meant it, ripping off the Medicaid system, ripping off the Federal Government, taking a program that is supposed to be 50–50 Federal-State and turning it into a program where the Federal Government pays 100 percent.

There are some proprietors who specialize in how to milk the Federal Government on Medicaid where the State doesn't even have a match. They don't have to pay anything. It is all Federal Government. They are doing that today in a lot of States. Maybe they will pay a little payment to the hospital if they will participate. There are a lot of schemes, scams, I think fraud, probably should be totally illegal, some of it may be bordering on illegality, to the tune of billions of dollars. The committee doesn't have to do that. We just said: Look, can't you find at least $3.5 billion?

We have the appropriators tell us day after day: Wait a minute. We only appropriate maybe about 30-some percent of the budget. Don't make us take the full brunt of any savings plan. What about those entitlements? Year after year people say: We can't do that.

My guess is you could find this amount of savings in a number of entitlements. The committee has jurisdiction over welfare. Are you going to tell me there is not welfare abuse; that it couldn't be tightened up?

One assumption I think we need to look at is the earned-income tax credit. This is a $36 billion program our Federal Government is writing a check for every year; in some cases, a lump sum in excess of $4,000 for a family. We find out it has abuse of 27 to 30 percent from fraud or incorrect payments. We can't tighten that up? I didn't say 5-percent fraud. I didn't say 10 percent. I said 27 to 32 percent of fraud or mispayment in the earned-income tax credit program. Surely we can tighten that up. That program over the next 5 years will be about $170 billion or something. Surely we can find some savings in that program.

Whether you are talking about Medicaid, Medicare—there is fraud in Medicare. We have had some people put in jail because of fraud in Medicare. Let's tighten it up. We have deficits. We can't afford to have fraud. We can't afford to have this kind of cheating system going on day in and day out. It has happened frequently.

So should we not look at the two-thirds of the budget, two-thirds of the budget that many people say: That is untouchable; let's not do anything to Social Security. I don't want Social Security fraud. When you are spending the kind of money we are, there is some fraud. I think we should look at every dollar.

The Finance Committee has enormous jurisdiction and is very capably led by Senator GRASSLEY. He is exactly right: $3.4 billion out of a total of $4.6 trillion is .0007 percent. It is not one-tenth of 1 percent. It is less than that. It is such a small figure. Yet some people are acting as if the sky is falling because somebody is afraid maybe their gravy train of abuse might not be able to continue or somebody is saying: Wait a minute, we have been doing that for a long time. I want to make sure I can continue.

I say: What is your program? Let's eliminate some fraud. Let's eliminate some waste. Let's give the discretion to the Finance Committee to come up with some savings. Let's curtail the growth of entitlement programs if they are fraudulent, if they are incorrect.

I have great confidence Senator GRASSLEY and Senator BAUCUS are not going to report anything out of the Finance Committee that is not going to be fair if they are talking about trying to tighten up some of the abuses in the system.

They are not limited. They are not bound. They are not directed to do anything except can't you save $3.5 billion over the next 5 years when we assume spending under the committee's jurisdiction will be $4.6 trillion? Surely that can be done.

Again, appropriators have said: Let's not have us bear the full brunt. Let's have savings elsewhere in the budget. These are very minor savings, very doable savings.

I urge my colleagues to vote no on the Baucus amendment.

Mr. KENNEDY. Mr. President, America faces a continuing health care crisis, and this budget makes it even worse for those on Medicaid. For years, that State-funded program has provided health insurance coverage for the poor. Because of the fiscal pressures created by the failed Bush economic policies, States have already had to drop 1.5 million people—half of them children—from the Medicaid rolls. Instead of helping States provide insurance coverage, this budget actually cuts Medicaid further. That is the wrong policy—and this amendment will reverse it.

The Bush administration is out of touch with the reality of the plight of working Americans across the Nation. The unemployment rate continues high, and no end to this crisis is in sight. In addition to struggling to pay their rent and buy food for their families, millions of Americans are also having to go without needed health care.

Almost 44 million Americans are uninsured and this number is rising. Health costs are soaring at double-digit rates each year. As health insurance premiums continue to soar, employees and employers alike worry that they will not be able to keep their coverage.

Those without health insurance pay a cruel price. A third of Americans without insurance say they do without recommended treatment because they can't afford it. A third report not filling a prescription because of cost. Almost half report postponing care because of cost. These facts have real health consequences. According to the Institute of Medicine, 18,000 Americans die every year, simply because they don't have health insurance. Thousands more suffer needlessly or acquire early disabilities.

The Republican budget ignores this crisis, without any credible proposal to protect the uninsured or reduce the rising cost. Instead, the Republican budget makes the problem worse, by slashing $11 billion from Medicaid over the next 5 years.

Medicaid is a lifeline for 50 million Americans who have no other access to health care. Medicaid provides needed prenatal care to pregnant women. It means that children receive early and periodic screening, diagnosis, and treatment. They get immunizations and other health services. Millions of low-income elderly seniors rely on Medicaid to pay the health and nursing home costs that Medicare doesn't cover.

States are struggling to maintain their share of Medicaid in the face of severe budget deficits. Last year, States had a combined deficit of $78 billion, and another $40 billion shortfall is expected this year. The State Medicaid cuts last year would have been far worse without the $20 billion State relief passed by Congress to help meet it a year ago. We should continue that assistance now, not make the problem worse by slashing benefits to the most vulnerable Americans.

The amendment we are proposing will eliminate the unfair reconciliation instruction that would force the Finance Committee to cut $11 billion more from Medicaid. These harsh cuts are opposed by more than 155 national organizations, including physicians, hospitals, children, the elderly, women, religious organizations, and professional associations. The National Governors Association opposes these cuts. The American Hospital Association opposes these cuts. The American Medical Association opposes these cuts. The American Health Care Association opposes these cuts. The Children's Defense Fund opposes these cuts. The National Organization for Women and Families opposes these cuts.

The American people understand that these cuts are cruel and counterproductive. They are the wrong priority for America, and I urge the Senate to approve this amendment and preserve health care coverage for millions of Americans.

Mrs. CLINTON. I rise in strong support of the amendment to save crucial programs like Medicaid from being slashed by this short-sighted budget.

This is a time when American families are still struggling to find jobs, and the new jobs they are finding are often low-wage jobs that lack health insurance. In this setting, Medicaid remains an essential ''safety-net'' in the provision of health and long term care services for millions of Americans.

Meanwhile, even as need is greater, States' revenues are declining, so there are fewer and fewer resources to meet those needs. New York had a $6.8 billion budget gap last year, $11.5 billion in '03/'04—that's 25 percent of the general fund. This is a pattern repeated for all the states. Texas had a 15 percent shortfall. Alabama faced a shortage amounting to 16.5 percent of the general fund. And because States, unlike the Federal Government, often face State constitutional provisions that prevent them from carrying a deficit, they are forced to cut benefits to make ends meet, thus slashing eligibility, starving hospitals and physicians, and slashing services. We see that happening all over the country.

But instead of acting to prevent these cuts, and stanch the bleeding, this budget turns the knife further and forces $11 billion in unspecified cuts to Medicaid at a time when such cuts would cripple states' ability to serve American families in hard times.

We have all been on record supporting the important safety net role that Medicaid plays when American families are hard-pressed to find jobs. Last year, we worked hard to recognize the existing financial instability threatening the Medicaid program. We provided $10 billion in temporary State fiscal relief directed at Medicaid. Thanks to this relief, States and local communities have been able to continue to maintain their Medicaid programs and avert drastic cuts in local services. But the fiscal relief is due to expire in 3 months, even as State budget situations remain in critical condition. And as the jobs situation continues to look dire, Medicaid is as critical as ever to ensuring the health of millions of Americans. Now is not the time to make additional reductions in federal Medicaid funding.

We must reject the Medicaid reduction provisions in the budget and, in doing so, take a stand to protect the health and long term care needs of our nation's struggling families, our elderly and disabled. That is why I urge my colleagues to support the Baucus amendment to reduce the amount of cuts that would otherwise have to come from Medicaid.

Mr. CONRAD. Mr. President, I am wondering at this point if we can reach an agreement on the additional time on this amendment. Senator BAUCUS tells me he only requires 5 more minutes.

Mr. NICKLES. Mr. President, I ask unanimous consent there be 5 minutes on each side remaining on the Baucus amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I want to address a couple of points that I think need to be addressed. They are a bit misleading. First, there is no language in the budget that specifically requires the Medicaid cuts. So why pass this? The fact is, with all due respect to the chairman of the Budget Committee, during markup the chairman said basically that we assumed the $11 billion in mandatory cuts was going to come from Medicaid. That is the chairman's assumption. He made that very clear. He wants it to come out of Medicaid.

As we know around here, that is the general thrust of measures we pass that are in the budget resolution, and that is what is going to happen. As long as I have been here, and I have been here a long time, that is the way this place operates.

There are clearly going to be cuts there. So the point that cuts in Medicaid are specifically required, that is not true. Are they effectively required? Clearly, yes. Also, it has been suggested there is a lot of fraud, waste, and abuse. That is a bit of a disingenuous statement. First, we never condone fraud and abuse. We don't need a statute to allow that. There are anti-fraud and anti-abuse laws. There are no specific fraud and abuse proposals. It just says cut.

If there is no proposal, as I said earlier, Joint Tax has not scored anything that amounts to raising revenue. By logical conclusion, we are going to cut Medicaid; it is that simple. It sounds good, this fraud, waste, and abuse, but it is just going to be a straight cut. There is no specific proposal that addresses that.

Also, we are already so-called cutting waste. There is a $2 billion savings, a cut in error rates, because the administration is looking at this more closely, which is good. There are a lot of error rates elsewhere in the code, not just for low-income people. It is in sole proprietorships and other categories of taxpayers as well. We are not cracking down on them; we are cracking down on poor people. That is the wrong thing to do.

The main point is this is a cut in Medicaid. That is clearly what is intended. Second, this is not a fraud, waste, and abuse cleanup; it is a cut in Medicaid. Be honest. That is the effective result.

Technically—it is a small point—some of the concern about error rates in Medicaid is because States controlling the Medicaid Programs are undertaking actions that are now being corrected by Uncle Sam. So it is not the fault of the low-income folks. It is not the earned-income tax credit or the refundability portion. That is a small part of the problem. Rather, it just changes the administration of it between Uncle Sam and the States.

This is a good amendment. We should not cut Medicaid. We should not cut folks who get the advantage of the marriage penalty by $21.6 billion. That is the effect of the cut that is going to be required in the budget resolution.

My amendment says, let's eliminate that requirement and deal with Medicaid and other programs as we normally do in the normal course of business.

I yield back the remainder of my time.

Mr. NICKLES. Mr. President, I think Senator GRASSLEY said it very well. He is chairman of the committee. He said the committee can find $3.4 billion out of $4.6 trillion. I think it could be in Medicaid or in the earned-income tax credit. I think it could be in almost any program, such as the welfare program. I have no doubt whatsoever there is plenty of abuse. The administration talked about the intergovernmental transfers. There is lots of abuse.

I am going to embarrass our colleagues by getting into this in detail. I will show people how some States have been ripping off this system—probably to a much greater extent than even what has been bantered about. It is happening today. Many States are doing it.

I will tell my colleagues that we found we had payment abuse in Medicaid in years past. You might remember the program. We had to tighten it up. There has been some tightening of

the intergovernmental transfer but not very much. A lot more could be done.

The Federal Government should not be taking Medicaid dollars and giving it to States to pave roads. In some cases, Medicaid money is being used by States for a lot of things other than Medicaid. I am telling you, I come to this Senate with, I hope, a little bit of credibility. I am not making this up. Maybe a more thorough evaluation in the committees would expose some of this. The earned-income tax program, people don't want to touch it. Yet the GAO says there is an error rate, a fraud rate in 27 to 30 percent, or a 32-percent fraud in a program that spends $36 billion a year, and we cannot direct the committee to say, Can you not come up with some savings? I am embarrassed.

If we are not going to stay let's at least do some shaving of the growth of some of the fraud in the entitlement programs, two-thirds of the Federal Government or of the budget, if we cannot shave a little spending in this area, shame on us.

For the people who act as if I am a deficit hawk, I want to get the deficit down. The last time we had significant instruction to reduce the growth of some of these entitlements to take out some abuse was in 1997. Some of my colleagues say we got the deficit down. The biggest spending reduction thing we did—maybe one was shutting down the Government in 1995 for a while, but the biggest thing was in the 1997 bill that had reconciliation instructions, had significant savings. A lot of the people taking credit for the great savings we did in the nineties didn't vote for that.

Anyway, to ask this committee to find $3.4 billion out of $4.6 trillion over the next 5 years is not heavy lifting, as Senator GRASSLEY alluded to. I agree with him entirely. I think the committee can find this much and more. I urge our colleagues to, at the appropriate time, vote no on the Baucus amendment.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, my understanding of the Baucus amendment is that he has not taken out the savings at all. All he does is take out the reconciliation instruction. The savings are still there.

Let me comment for a moment, if I can, on what Chairman NICKLES is saying, because he is talking about something where I entirely agree with him.

In Medicaid, there are States that are engaged in scams. I don't know how else to say it. What Chairman NICKLES has said is entirely accurate. There are States that have figured out ways of tapping into the Federal Treasury and replacing what should be State funds with Federal funds. There is nobody who studies this who doesn't know what the chairman has said is true.

There are a number of States that have almost made a science out of playing games with Federal programs, to tap into the Federal Treasury, to advantage their States to the disadvantage of Federal taxpayers and to the disadvantage of other States.

But I repeat, in looking at the amendment of Senator BAUCUS, he has not taken out those savings. Those savings remain in the underlying resolution. It does take out the reconciliation instruction. So I have concluded that the Baucus amendment is worthy of support.

What the chairman has said is something I join in, especially with respect to Medicaid Program abuses. I am very hopeful we will have a hearing on these issues once we get past the budget resolution and the negotiations in which the chairman will have to be involved in the coming days. We ought to put a bright light on some of these States that are engaged in a scam operation.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, we yield back the remainder of our time. I believe the Senator from Ohio has an amendment. He has requested 25 minutes on his side. I know a couple of other colleagues have amendments. We told people to expect votes at 9 o'clock. I would like to get in three or four amendments, if possible. I call upon our colleague from Ohio.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, maybe we can lock in an agreement. Is there any way the Senator from Ohio would take 20 minutes on his side, and we will take 20 minutes on this side? I would even take 15 minutes on this side if the Senator would reduce his time to 20 minutes. That will give us a chance to offer another amendment or two before the voting starts.

Mr. VOINOVICH. Mr. President, I think I need 25 minutes, but it may be 20. I think I need 25 minutes.

Mr. NICKLES. I ask unanimous consent that the Senator from Ohio be recognized for his amendment not to exceed 25 minutes, and the Senator from North Dakota be recognized for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio.

AMENDMENT NO. 2705

Mr. VOINOVICH. Mr. President, I call up amendment No. 2705 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. VOINOVICH] proposes an amendment numbered 2705.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To balance the budget and lock away the Social Security surplus by establishing a supermajority point of order prohibiting the consideration of any bill that raids the Social Security Trust Fund by exceeding a declining level of on-budget deficits on a fiscal year basis)

At the appropriate place, insert the following:

**SEC. . BALANCED BUDGET POINT OF ORDER.**

(a) IN GENERAL.—Except as provided in subsection (b), it shall not be in order in the Senate to consider any bill or resolution (or any amendment, motion, or conference report on that bill or resolution) that would result in an on budget deficit larger than—

(1) in fiscal year 2004, $639,000,000,000;
(2) in fiscal year 2005, $575,000,000,000;
(3) in fiscal year 2006, $511,000,000,000;
(4) in fiscal year 2007, $447,000,000,000;
(5) in fiscal year 2008, $383,000,000,000;
(6) in fiscal year 2009, $319,000,000,000;
(7) in fiscal year 2010, $255,000,000,000;
(8) in fiscal year 2011, $191,000,000,000;
(9) in fiscal year 2012, $127,000,000,000;
(10) in fiscal year 2013, $63,000,000,000; and
(11) in fiscal year 2015, $0.

(b) EXCEPTION.—Subsection (a) shall not apply if—(1) the President has declared a state of national emergency; or (2) the economy is in recession, defined as 3 consecutive quarters of negative growth in Gross Domestic Product.

(c) SUPERMAJORITY.—(1) Waiver.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) EXERCISE OF RULEMAKING POWERS.—Congress adopts the provisions of this section—(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each house, or of that house to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and (2) with full recognition of the constitutional right of either house to change those rules (so far as they relate to 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.

Mr. VOINOVICH. Mr. President, before I speak in regard to this amendment, I would like to comment on the discussion that was going on with regard to Medicaid. There is no question that as a former Governor I observed my colleagues around the country gaming the system, and I was very upset about it. I made it very clear as chairman of the National Governors Association that this was an understanding we had with the Federal Government and that we ought not to game the system.

I will never forget while I was Governor there was a management company, which is no longer in business, that went out to the school districts and showed them how they could use the money they were spending for

health care and use it to game the Medicaid system. They would charge a percentage of the money they were able to bring into the school district. When I found out about it, I went beserk, to put it as nicely as I can, and that stopped. But I do think it is not a sacred cow that ought not be looked at. Just like a lot of mandatory spending we have, it should be reviewed to see if there are ways we can save some money.

Mr. President, I support this budget resolution, and I applaud Senator NICKLES for his diligence and fiscal responsibility. The budget resolution we are considering builds on the success of the resolution Senator NICKLES crafted last year. The fiscal year 2004 budget resolution reestablished fiscal discipline and provided reconciliation instructions for a stimulus package that generated 4-percent economic growth in 2003.

The fiscal year 2004 budget resolution also balanced fiscal discipline with a very real need to stimulate the economy. Although the economy started to grow after the 2001 tax reforms, the growth was very sluggish and did not create many jobs. Real growth in GDP was 2.9 percent in 2001 and 2.8 percent in 2002.

Consequently, the fiscal year 2004 budget resolution included reconciliation instructions for a modest, highly targeted economic stimulus package that Congress adopted in May of last year—a $350 billion stimulus package. By the end of the year, economic growth reached 4.4 percent, and unemployment had finally fallen below 6 percent. Most experts expect the economy to grow by more than 4 percent this year and for unemployment to continue to fall.

Unfortunately, my own State of Ohio has not participated as fully in the recovery as some of the other States. We need to continue the stimulus measures to make sure Ohio's economy takes off. We have too many people out of work in my State. We have too many people who are concerned about whether or not they are going to have a job. I agree with the President that we should not rest until every American who wants a job has one.

Congress also provided direct assistance to working families last year when we accelerated the phase-in of the child tax credit, eliminated the marriage penalty, and expanded the number of families paying income taxes at the lowest rate of 10 percent. I supported these tax reform provisions when they were enacted last year and even joined with Senator SNOWE and Senator LINCOLN to encourage the Finance Committee to expand refundability of the child tax credit for families with incomes between $10,500 and $25,000 per year.

For many families in Ohio, these tax reform provisions meant they could buy presents for Christmas as well as food. For some, it meant they could pay the heating bill. All families benefited from these reforms, and I am proud we supported them.

Fortunately, Senator NICKLES has again crafted a budget resolution that balances fiscal discipline with the need to continue assisting low-income families. The Budget Committee makes hard decisions by assuming a freeze for most spending programs at 2004 spending levels, with increases for high-priority programs and reductions for low-priority, one-time, or expired programs. Nevertheless, the committee recognizes fiscal reality and provides a contingency fund of up to $30 billion for 2005 to fund ongoing military operations in Iraq and Afghanistan. Also, at long last, the Budget Committee addresses runaway increases in mandatory spending and proposes a $4.6 billion net reduction in mandatory spending programs over 5 years.

The fiscal year 2005 budget resolution also assumes Congress will act to close tax loopholes identified by the President and by the tax-writing committees. The committee builds upon the budget discipline included in last year's budget resolution by establishing enforceable caps on discretionary spending for 2005 and 2006.

The spending caps are set at levels consistent with the discretionary spending assumptions and are enforced with a 60-vote point of order. The Budget Committee continues a 60-vote point of order against advanced appropriations that exceed current levels.

These budget enforcements proved very important last year. There were 67 attempts to increase spending by waiving the Budget Act, and we successfully fought back 64 of them and saved this country billions of dollars of additional spending.

Finally, the budget resolution assumes continued budget enforcement under existing mechanisms for nondefense emergency spending and pay-as-you-go. In other words, if you want to spend the money, you find offsets or you find revenues that you can increase to pay for them.

Equally important, the resolution before us today includes tax policy assumptions focused on preventing economically damaging tax increases on working families.

The budget resolution proposes to extend the personal tax relief currently scheduled to expire at the end of 2004, including the $1,000-per-child tax credit, the 10-percent income tax bracket expansion, and marriage penalty relief. The budget resolution assumes a revenue loss of $80.6 billion from 2005 to 2009 for these proposals and directs the Senate Finance Committee to produce a reconciliation bill to facilitate their enactment.

Let's put that $80.6 billion in context. I remind my colleagues that in one fell swoop, we spent $87 billion to provide funding for the war in Afghanistan and Iraq. That just gives us a figure. That is $87 billion in 1 year, and we are talking about $80.6 billion over a 5-year period.

These provisions directly impact almost 90 million taxpayers nationwide, and about 4 million of them in my State. If they are not extended, a low-income family of four making $40,000 a year will go from receiving a small refund of $30 to paying the IRS an additional $800. Frankly, these families simply do not have the extra $800 to send to Washington at this time. So it is critical that we continue assisting them until the job market catches up with the growth in the economy.

I fought very hard for the refundable child tax credit in the 2001 tax reform, addressing the marriage penalty problem that discouraged many people from getting married because they paid higher taxes if they got married, and moving the people in the 15-percent bracket down to 10 percent.

When we enacted tax reforms to provide assistance to working families, I fully supported the sunset provisions that would allow those provisions to expire when they were no longer needed.

Unfortunately, while the economic situation has improved, we are not out of the woods yet. In Ohio, over 96,000 initial claims for unemployment compensation were filed in January. That is why I voted to extend unemployment benefits and that is why I think this Senate should vote in the next several weeks to extend unemployment benefits.

Although this number is more than 5 percent lower than last year, it still represents real families who have lost their principal source of income. Also, many families and individuals who regained employment over the past 6 months must still pay off loans to make up late payments they missed while they were unemployed.

It is time for Congress and the Nation to acknowledge the size of the problem we face. The Federal Government has a serious debt of almost $7 trillion, annual unified deficits of $477 billion, and net interest payments that consume 7.5 percent of the Federal budget.

If we see interest rates start to go up in the next couple of years, that 7.5 percent number could go up to 13 or 14 percent because that is what it was in 1999 when I came to the Senate.

Under current policy assumptions outlined in OMB's budget projections, the Federal debt will exceed $9.3 trillion by 2008 and net interest payments will claim 9.5 percent of our budget. If the private sector corporations ever issued similar financial projections, their stock value would plummet. Their credit rating would be discounted to below junk bond status and no bank on the planet would lend them additional money. During the savings and loan crisis, the Resolution Trust Corporation liquidated companies with healthier balance sheets than the Federal Government can produce today.

Whatever we may desire, until we restore some sort of fiscal discipline to Federal spending we may not be able to

afford any new initiatives, no matter how badly they are needed.

More importantly, we are rapidly approaching the time when much of the debt comes due and we must carefully consider how we will meet this obligation. Currently, we borrow $160 billion to $175 billion each year from the Social Security trust fund. As the baby boom generation retires, this source of borrowing will no longer be available, and starting in 2017 Social Security will start cashing in the bonds which make up its assets. If we exercise fiscal discipline now, the Federal Treasury will be able to redeem those bonds with little or no negative impact on the rest of the budget or the economy as a whole.

However, if we dig ourselves into deeper debt, we will only be able to pay our Social Security obligations by raising taxes or with draconian cuts in other Federal programs.

For almost two decades starting in 1980, fiscal conservatives have worked hard to return the Federal Government to a balanced budget. For a short time, after hand-to-hand combat—and I was here for that hand-to-hand combat—we met our goal for 2 years. In 1999, for the first time in 30 years, we had a balanced budget, about $1 billion; in 2000, we had an $87 billion budget surplus. That means we did not use Social Security to balance our budget.

However, our success in balancing the budget was short-lived. In the blink of an eye we returned to spending the Social Security surplus running large budget deficits. Today, instead of reducing our $7 trillion national debt, we are expanding it. Unfortunately, as soon as we achieved success we reversed course in 1998 and have been increasing spending ever since. Do we really want to lose 20 years of hard work? Is it not time we went back to what we were trying to do in 1999 and 2000?

Since 1999, this body has increased Federal spending an average of 7 percent per year. If we maintain this pace, Federal spending will double every 10 years. Instead of doubling spending, we should be cutting it. We have consistently skirted the truth about how much we increase spending and the size of the debt we are incurring.

Advance appropriations and other accounting gimmicks have become commonplace in our budget process. Thank God these last two budgets have gotten rid of most of the gimmicks we have had, but most of the American public does not realize we are spending the Social Security surplus. So although people may be going around Washington saying next year's deficit will only be $477 billion, it will really be $639 billion. According to the new CBO projections, we will spend all of the $162 billion of the Social Security surplus and issue new debt.

Our budget system is broken. Its obvious failure to perform is having serious consequences on our economy and, by extension, future Federal revenues, deficits, and debt. That is why I am here to talk about our Social Security lockbox amendment.

My amendment is simple. It caps the on-budget deficit at the level projected by CBO for fiscal year 2004, $639 billion, and reduces it by 10 percent each year thereafter. We are going to reduce it over 10 years so at the end of a 10-year period, we will no longer be spending the Social Security surplus. That means we will really have an on-budget surplus.

This is a very conservative proposal. It has been 5 years since we have had an on-budget surplus. This proposal proposes it will be 15 years from 1999–2000 until we get back to where we were at that period of time.

This proposal has a nice, natural glide. We will go from $639 billion in 2004 to $575 billion to $511 billion to $447 billion, to $383 billion to $319 billion. For my colleagues' information, the numbers I have for the next couple of years, 2005 and 2006, are a little bit above the on-budget numbers the Budget Committee is projecting.

Once we get to the fourth and fifth year, it is lower than the Budget Committee has projected for that 5-year budget, and then we keep going down to zero.

I recognize it would be unrealistic to eliminate the ongoing budget deficit in a single year or even within 5 years. The attempt would require either draconian spending cuts or job-destroying tax increases. It contains waivers to recognize national emergencies or a prolonged recession.

I understand the need for waivers in case of emergencies. This is hard to believe, but Senator MILLER and I drafted a Social Security lockbox that gained the support of the White House. We worked with them for 6 months. We were going to announce it 2 days after 9/11. In other words, we were all set to do it, have a nice press conference, and 9/11 happened. Of course, that changed everything.

Nevertheless, Congress and the President can act now to prevent the on-budget deficit from getting any larger and initiate a 10-year glidepath to reduce the on-budget deficit to zero, thereby limiting transfers from the Social Security trust fund and at the end of the 10 years placing the entire Social Security trust fund in the lockbox.

We need to get this bill passed because today our national debt stands at $6.2 trillion and until we restore some sort of fiscal discipline to Congress's spending habits, this number is only going to keep going up.

It is immoral—it is immoral—to bequeath trillions of dollars in debt to our children and grandchildren. One of the reasons I came to this Congress was because I was concerned about my children and my grandchildren; that we were going to balance the budget, that we were going to reduce the debt—good, solid Republican principles. We were there in 1999 and 2000, and then we know what happened. We have to return to those days.

I know when people come into the office asking for money for particular projects, I always ask them the same question, and that question is: Is this particular priority worth putting your children and grandchildren further into debt? I have done that with several veterans organizations during the last couple of days. They want mandatory spending for veterans health care. I pointed out to them how bad off we are, that we have a war going on and we have to be concerned about our children and grandchildren, and if we do not do it there will not be anything around in 10 or 12 years for anyone.

It is remarkable. Their attitudes change. Most of them look at me, talk about it, and they say, I understand.

The problem today in America is people do not know how bad our debt is. They still think there is some kind of spigot we can turn on in Washington and take care of all the problems. It is our obligation to do something about that. It is our obligation to make sure people understand how far in debt we are and the tough decisions we are going to have to make.

I applaud the chairman of the Budget Committee for giving instructions to the Finance Committee and saying to them, let's find some reductions in mandatory spending because that is where all the money is going. The discretionary part of the budget is minuscule compared to the mandatory spending.

The amendment I offer today is a good start on the difficult path we must take in order to ensure our economic freedom and security for the future. I urge my colleagues to consider not only what we propose today but also to seriously consider what will happen to our Nation's economy tomorrow if we do nothing.

I ask for the yeas and nays on my amendment, and I yield the floor.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. CONRAD. Mr. President, the stated purpose of the Voinovich amendment, to prohibit consideration of any legislation that would raid the Social Security trust fund, is one with which I strongly agree. It is a noble purpose. But I am afraid this amendment does not come close to achieving that purpose. Here is what this amendment does.

We are looking at a comparison between the CBO baseline deficits, that would be the blue line; the dotted red line would be the Senate GOP budget plan, the deficits under that plan; the green line would be under the Voinovich plan. What one sees is the deficits are higher under the Voinovich plan for the next 3 years than under either the CBO baseline or under the Senate GOP budget resolution. He is actually going further into the hole on the promise that 3 years from now, he will have less of a deficit. He promises

less of a deficit out in 2008 and 2009. Unfortunately, because of the way it is constructed, you cannot even be sure you would have less of a deficit out in 2008 and 2009. What you can be certain of is the deficits will be higher in 2005, 2006, 2007.

Let me show my colleagues what I am talking about. Comparing to the CBO baseline, the deficits of the Senator from Ohio would be $78 billion higher in 2005; $121 billion higher in 2006; $57 billion higher in 2007, with the promise that in 2008, they would be $24 billion lower and $89 billion lower in 2009. If you add this up, this is $256 billion more deficit here and $113 billion less deficit there. That is more deficits, not less. That is more.

I don't know what kind of a plan this is to save anything. It certainly doesn't save Social Security. It digs the hole deeper. I don't know what the intention was, but I did read what the effect is. Compared to the budget resolution before us, the amendment of the Senator from Ohio would increase the deficit by $63 billion this year, $66 billion in 2006, and $16 billion in 2007. That is a $145 billion increase in the deficit over the next 3 years, on the promise that it is going to reduce it compared to the chairman's mark by $180 billion in 2008 and 2009. But because of technically the way it is drafted, you have absolutely no assurance it is going to save on the deficit out in 2008 and 2009 either. All I can say is the words are good, the sentiment is good, but the proposal goes in exactly the wrong direction. It increases the deficits, it increases the debt. It makes no sense to this Senator.

Mr. VOINOVICH. Will the Senator yield for a question?

Mr. CONRAD. I will be happy to yield.

Mr. VOINOVICH. I think perhaps the Senator is misinterpreting the amendment. Fundamentally what this says is we are going to use these numbers to get down, in 10 years, to an on-budget surplus like we had in 1999 and 2000. You are right, the amount of reduction in this amendment allows for a higher debt, but the fact is, all this says is you can raise a point of order if it exceeds this amount. I am not suggesting we reach this amount. All I am saying is, understanding the way things work around this Senate as I have observed during the last 5 years, we just go straight down and we have this opportunity to raise a point of order if the amount of money exceeds the numbers we have in our proposed amendment.

It is a very simple way of achieving what my colleagues on the other side of the aisle have talked about for a great period of time. The purpose of it is to allow us to raise a point of order. It takes 60 votes to waive that point of order in terms of spending.

Mr. CONRAD. Mr. President, if I could say this to the Senator, the problem I think he has with his amendment is he has assumed the CBO baseline unadjusted. I know this sounds like inside-the-beltway gobbledygook, but let me say this to the Senator. There was a supplemental appropriations bill approved last year of $86 billion. I think all my colleagues will remember that. The problem with the numbers the Senator from Ohio has chosen is he has built that supplemental appropriations bill—that was a one-time increase of $86 billion—into that baseline figure. He has that $86 billion built in, going out all the years into the future. As a result, what you wind up with is much higher deficits than if you used the adjusted baseline the chairman of the Budget Committee has adopted.

The chairman of the Budget Committee quite wisely and with strong support from the ranking member adjusted the CBO baseline by taking out the future years' adoption of the one-time supplemental. The effect of the Senator's amendment is to create higher deficits—or at least the potential for higher deficits—in each of the next 3 years by the amounts that I talked about. These are the amounts: $256 billion over the baseline that was adopted by the chairman. I say to the Senator, I think that would just be a profound mistake.

Mr. VOINOVICH. Will the Senator yield for a question?

Mr. CONRAD. I am happy to yield.

Mr. VOINOVICH. I wonder if he had a chance to see the numbers I used in this amendment?

Mr. CONRAD. Yes.

Mr. VOINOVICH. I think there is no question that in the first 3 years the number is a little higher than what you projected, assuming this $86 billion hit we had last year. But the fact is, if you look at the numbers for 2008 and 2009, the last 2 years of the 5-year budget resolution, our numbers are below the numbers projected by the Budget Committee. In effect, in the first 3 years it may be a little higher. That doesn't mean we are necessarily going to spend that money. But when we get to the fourth and fifth year, our numbers are below the numbers projected in the budget.

Mr. CONRAD. I would just say this to the Senator. I have great respect for the Senator from Ohio. I think he has been one of the most levelheaded Members here on issues of fiscal discipline. I think this amendment in technical detail is flawed, and you will increase or give the potential for substantial increases in the deficit in the first 3 years, compared to the adjusted CBO baseline, a $256 billion increase.

My experience around here is the promise of more deficit reduction in the fourth and fifth year is a distant hope, and what you presented is a present threat of substantially increasing the deficit. I think that will be just most unwise for the body. It is higher than the adjusted CBO baseline, higher deficits, higher deficits than in the underlying Senate budget resolution.

I hope my colleagues will resist this amendment.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, if we look at the practicality, I just used these numbers because it was 10 percent a year. But the fact is a budget point of order will lie against the numbers that you are projecting in the budget that came out of the Budget Committee. In other words, if we exceed your numbers, you are saying this number I am proposing is going to provide we can spend up to that amount of money.

I am saying the number coming out of the Budget Committee creates a point of order you can't go beyond.

Mr. CONRAD. Mr. President, let me say to the Senator that I know his intentions are good. I really do. I have great respect for the Senator.

The problem is, technically, with the baseline that has been adopted, his numbers leave just so much room for additional deficits for these first 3 years, and I don't think you will ever catch up to it.

Chairman NICKLES and I agreed with the Senator totally about adjusting the baseline so that one-time expenditures didn't get built into future years' expenditures. Unfortunately, the Senator from Ohio has taken the unadjusted Congressional Budget Office baseline that has the one-time expenditures and includes them going forward in each and every year. That adds hundreds of billions of dollars to expenditures over the next years of this budget. What you are left with, as I have described, is higher deficits for the first 3 years, with the promise that I am afraid will prove ephemeral, that you are going to get lower deficits in the fourth and fifth year. I don't think that is a trade we ought to make.

Mr. VOINOVICH. Mr. President, will the Senator yield for a question?

Mr. CONRAD. Yes.

Mr. VOINOVICH. Mr. President, the Senator from North Dakota has been here longer than I have. He is the ranking member of the Budget Committee. I have been interested in this budget for a long time, as he knows. I would like to ask him if we could achieve this in 10 years through a real on-budget surplus. Most people would say it would be miraculous. But the point I am making is you could argue about this number. You can make a big deal out of it in terms of we know we are going to do this and you are going to raise these issues. But the real issue is to try to get down to where we were 5 years ago. I can assure you, for this Congress to achieve this will be something very significant and cause a great deal of discipline in terms of extending tax reductions, and so forth.

In effect, in order to get here we are going to have to have some pay-go restrictions in order to make that happen.

All I am saying is, say what you want about these first couple of years, down the road the Senate could achieve what I have on this chart. It would be a wonderful gift to the American people because we could guarantee to them that

we are going to have a true on-budget surplus.

Mr. CONRAD. Mr. President, I don't want to prolong this debate. But I say to the Senator that I think the intention is good. I think the legal effect of what is before us does not accomplish the Senator's purpose. In fact, what we would wind up with is room for greater deficits in the first 3 years, and you would never catch up in the outyears.

Mr. VOINOVICH. I can't understand that because the numbers provide for the budget point of order. How can you say, if you have the number, that you have a budget point of order, that you are not going to achieve these numbers?

Mr. CONRAD. Because what is critical to having a budget point of order that is actually effective in reducing deficits and debt in the future is having a baseline that really gets you the result you want. Unfortunately, the baseline the Senator has provided will not lead to the result as depicted on the graph. That is our conclusion.

Mr. VOINOVICH. Mr. President, I would like to reiterate if we were able to achieve what this graph shows, it would be the greatest gift we could give to our children and grandchildren because it would mean that we have been fiscally responsible. The way we are trying to achieve it is to say we are not going to use the Social Security surplus. When we were able to get that on-budget surplus in 1999 and 2000, I remember how we always had to wrestle in order to not use the Social Security surplus. It was a way that we were able to control spending. That is exactly what we are trying to do with this amendment.

Mr. NICKLES. Mr. President, I wish to compliment my colleague from Ohio. I appreciate the amendment. If his amendment had our deficit projection level for the first few years and then went down to zero, I would probably support him. I can't support an amendment that would have higher deficits than what we project in our budget. I have the greatest respect for my colleague. He is very sincere. He is a deficit hawk. He is very interested in getting down to zero, as I am.

Mr. VOINOVICH. Mr. President, will the Senator yield for a question?

Mr. NICKLES. I would be happy to yield.

Mr. VOINOVICH. I would be more than happy to take my amendment and put the numbers of the Senator from North Dakota in for the first 3 years so that it will take care of the problem the Senator made reference to and handle it that way so it eliminates any allegations that somehow this amendment is going to allow for increased spending. I would be more than happy to do that.

Mr. NICKLES. Mr. President, for the information of our colleagues, momentarily we will be taking up the Nelson amendment. We will have a very short 10 minutes on each side on that amendment, and I expect we would have three rollcall votes.

Mr. SARBANES. Mr. President, will the Senator yield for a question?

Mr. NICKLES. I am happy to.

Mr. SARBANES. The Senator mentioned three rollcall votes, and then stay on the floor for other amendments to be offered.

Mr. NICKLES. I would be happy to do that temporarily for some period of time. I know Senator CORZINE has an amendment. I think he was next in line to lay one down. I was expecting that would be the first amendment we would vote on tomorrow. But I will be happy to consider it. I know the Senator has an amendment that deals with homeland security. I think Senator COCHRAN will be debating that issue. I am not sure he wants to debate it tonight. I would like to get the rollcalls started pretty quickly so we can get people home by 10 o'clock, or not too late thereafter.

Tomorrow, for the information of our colleagues, is going to be a very tough day. We will have a lot of votes tomorrow. I expect we will have a lot of votes on Friday. I am trying to cooperate to dispose of as many amendments as possible. I will be happy to work with my colleague from Maryland to get in his amendment.

I have asked Senator CONRAD to line up amendments on his side. I am trying to line up amendments on my side.

Mr. SARBANES. What problem would it cause if we were to offer the amendment after the votes and maybe even discuss it for a few minutes?

Mr. NICKLES. I might not have any objection. I would like to ask Senator COCHRAN. I just wanted Senator COCHRAN to be able to respond to my colleague from Maryland. We may be able to do that. We could actually set aside the Corzine amendment and discuss the amendment of the Senator from Maryland. I am willing to consider that.

Mr. VOINOVICH. Mr. President, I understand from talking to the desk in order to amend my amendment to reflect the numbers that were in the budget that came out of the Budget Committee, I need consent from my colleagues. I would like to move to amend and insert the numbers that were in the budget resolution to eliminate the problem Senator CONRAD has brought to our attention so the numbers would reflect his numbers. And, I might point out the number in the third and fourth year is below the number the Senator from North Dakota has in his budget numbers.

Mr. CONRAD. Mr. President, I would be constrained to object. I object because even with that change, he would still be substantially above the Congressional Budget Office adjusted baseline. And he is still left with an utterly unenforceable mechanism. I would be happy to sit down and talk with the Senator as to why that is the case. We would object.

The PRESIDING OFFICER. The objection is heard.

Who yields time?

Mr. NICKLES. Mr. President, the order we have agreed upon now would be to recognize the Senator from Florida. I ask unanimous consent there be 10 minutes on each side on the Senator's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida.

AMENDMENT NO. 2745

Mr. NELSON of Florida. I call up amendment numbered 2745.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. NELSON], for himself, Mr. CORZINE, Ms. MIKULSKI, Mr. SCHUMER, and Mr. NELSON of Nebraska proposes an amendment numbered 2745.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To create a reserve fund to allow for an increase in Veteran's medical care by $1.8 billion by eliminating abusive tax loopholes)

On page 3, line 9, increase the amount by $1,620,000,000.

On page 3, line 10, increase the amount by $162,000,000.

On page 3, line 11, increase the amount by $7,000,000.

On page 3, line 12, increase the amount by $2,000,000.

On page 3, line 17, increase the amount by $1,620,000,000.

On page 3, line 18, increase the amount by $162,000,000.

On page 3, line 19, increase the amount by $7,000,000.

On page 3, line 20, increase the amount by $2,000,000.

On page 4, line 20, increase the amount by $1,620,000,000.

On page 4, line 21, increase the amount by $162,000,000.

On page 4, line 22, increase the amount by $7,000,000.

On page 4, line 23, increase the amount by $2,000,000.

On page 5, line 3, decrease the amount by $1,620,000,000.

On page 5, line 4, decrease the amount by $1,782,000,000.

On page 5, line 5, decrease the amount by $1,789,000,000.

On page 5, line 6, decrease the amount by $1,791,000,000.

On page 5, line 7, decrease the amount by $1,791,000,000.

On page 5, line 11, decrease the amount by $1,620,000,000.

On page 5, line 12, decrease the amount by $1,782,000,000.

On page 5, line 13, decrease the amount by $1,789,000,000.

On page 5, line 14, decrease the amount by $1,791,000,000.

On page 5, line 15, decrease the amount by $1,791,000,000.

At the end of Title III, insert the following:

**SEC. . RESERVE FUND FOR VETERANS' MEDICAL CARE.**

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $1,800,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that

provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for veterans' medical programs, included in this resolution for the Department of Veterans Affairs.

Mr. NELSON of Florida. I ask unanimous consent Senators CORZINE, MIKULSKI, SCHUMER, and NELSON of Nebraska be added as cosponsors to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, we have arrived at the moment of truth on veterans. Veterans have been all over this Capitol today pleading their case regarding their health care. There is not one Member from any one of our 50 states who has not heard from veterans the tales of woe, the tales of inefficiency, the tales of long waits, waits as much as 6 months to get an appointment with a VA doctor to get a prescription.

The way I approached this amendment was to go to the deliberations of the Senate Veterans' Affairs Committee and to find and be guided by their bipartisan analysis of the Veterans' Administration budget, concluding we must add $1.8 billion in order to adequately fund the health care requirements of veterans.

Listen to the words of the Secretary of Veterans Affairs when he testified last month to the House Veterans' Affairs Committee. Secretary Principi said:

I asked for $1.2 billion more than I received.

In other words, even the Secretary of the VA is calling for more money.

The President's budget makes up the difference for these cuts in trying to rely on copayments from veterans on enrollment fees. To pay, the administration has tried to impose this tax—and it is a tax—on the hard-earned benefits of veterans in the past, but the Congress has not and is not going to allow it. We simply cannot accept a budget that includes access fees and higher prescription drug copayments.

What this budget assumes is the number of VA patients requiring mental health care will decrease next year. If you believe that, you believe in the tooth fairy because the bipartisan analysis of our own Veterans' Affairs Committee finds no basis for this assumption and wholeheartedly rejects the President's $60 million cut in the funding for mental health care.

To make matters worse on veterans health care, there are 60,000 veterans nationwide who have enrolled in the VA and have waited for 6 months or longer for an appointment. This is according to the Senate Veterans' Affairs Committee. Failure to provide more funds is going to result in longer waits and a higher risk to the quality of the care.

Then there are a couple of other complicating factors. If anyone thinks because we have so many World War II veterans and because of their age their numbers are declining, think of all the veterans who were deployed in our Armed Forces serving in Operation Enduring Freedom and Operation Iraqi Freedom: 287,000 service members have served or are serving in those missions. The veterans health system has struggled, to make matters worse, with war-related problems from the first gulf war, with hundreds of thousands of American soldiers serving on the ground, while we cannot begin to estimate future demand on the veterans health system.

Indeed, because of wonderful improvements in the way our military operates its health care on the battlefield, this present operation in Iraq has fewer deaths. But because of the nature of the war, there are many more injuries. At the end of November of last year, a few months ago, the number of soldiers medically evacuated from Iraq was almost 11,000, both battle and non-battle related. This means what? It means our veterans are surviving at higher rates, hallelujah, but they are going to also, more likely, depend on the VA for future medical care related to those injuries.

When we look at the President's budget for the Veterans' Administration, it reflects only a 1.8 percent increase in medical care funding over last year's appropriation. Overall medical care inflation, according to the Bureau of Labor Statistics, was 4 percent. So if we have medical care inflation at 4 percent with the President's budget only rising at something under 2 percent for veterans medical care funding, where is that going to leave our veterans? We must recognize the health care costs are growing more rapidly and reflect this in the rapid rise in the VA budget.

From where do I get it? I get it from tax loopholes. Since I only have 10 minutes, I will not give examples of tax loopholes. If anyone wants these examples, they have been discussed over the course of the last several days.

It is simple. Take the money, $1.8 billion increase for veterans medical care, which is woefully, inadequately funded in the President's budget and you get that out of closing tax loopholes where corporations are taking advantage of tax provisions that, in essence, allow them to pay less taxes than are owed. It is a simple tradeoff. That is what I am proposing.

Why don't we do something for the veterans?

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, to advise our colleagues, it now appears we will have a vote in a couple of minutes. The first will be a 15-minute rollcall vote, the second will be a 10-minute rollcall vote. It appears we will have two rollcall votes tonight. The first will be on the Baucus amendment dealing with striking the reconciliation instruction and the second will be an amendment by Senator NELSON.

If my memory serves me correctly, we voted on a similar amendment yesterday. I wonder how many times we will have to vote on various issues. This amendment is very similar to the one from yesterday in a couple of respects. One, it has billions of dollars of tax increase, has billions of dollars of spending, except the spending is sheltered into a reserve fund so some people say this gives more money to veterans medical care, but it does not do that. It does not increase money to veterans medical care. It creates a fund and maybe that money would go in there if the Appropriations Committee did such and such. But you can count on what it does do; it increases taxes.

My colleague has very legitimate concerns—I share some of those concerns—about veterans health care. Let me mention a couple of facts on veterans. We are increasing the total amount of money going to veterans on mandatory and discretionary by 14.5 percent. I believe I said this yesterday. That is a lot, especially when you consider you are trying to do a budget that is almost deficit neutral.

We did add $1.4 billion for medical care. I understand people want more. I know people wanted more even if we did not do anything. No matter what we put in, they would want more because they think they are scoring political points.

I will also say we have taken total veterans function 700—mandatory and discretionary—from $47.5 billion in the year 2001 to $70.4 billion. That is an enormous increase.

I understand the demands. I understand the challenge it is. But I urge our colleagues to vote no on the amendment.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, this amendment is significantly different from the one defeated yesterday by a very narrow vote. That one was for a $2.7 billion increase, but it also had a commensurate like reduction in the deficit, so the total amount taken out of tax loopholes was $5.4 billion. This amendment has only $1.8 billion taken out of tax loopholes to give to veterans for their medical care.

What easier tradeoff—we, all the time, have to make tradeoffs around here—what easier tradeoff is there than to do this on tax loopholes, for example, that allow a corporation to go out and buy a bridge, turn around and lease it back to a municipality, and because it technically owns the bridge, depreciate the value of that bridge? That is a sham kind of tax loophole, and that is the kind of stuff we can go after to fund, to stand up and support the men and women in uniform who have served this country.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, how much time does the Senator from Florida have left?

The PRESIDING OFFICER. Twelve seconds.

Mr. NICKLES. Does the Senator yield his time? I am going to order some votes.

Mr. NELSON of Florida. Mr. President, I will be happy to yield back the remainder of my time, urging a vote for the veterans of this country.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, we are ready to begin voting. We are going to have two votes tonight.

Mr. President, I yield the floor.

AMENDMENT NO. 2705 WITHDRAWN

Mr. VOINOVICH. Mr. President, I ask unanimous consent to withdraw amendment No. 2705.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague from Ohio. He is my very good friend. He makes some excellent points. I compliment him. He is what I call a deficit hawk, and I compliment him.

I look forward to working with him on a lot of ideas. Some of his ideas are in this resolution. Some of his ideas for budget reform were in last year's resolution. I will remind my colleague from Ohio, we used some of your budget points of order you suggested to me over a year ago, this year, throughout the year, to save a lot of spending.

I compliment my colleague from Ohio for his work, and I look forward to continuing to work with him.

AMENDMENT NO. 2751

Mr. President, we are now ready to vote, first on the Baucus amendment. I expect it will be a 15-minute rollcall vote. I do not expect to let it go much beyond 15 minutes. I ask unanimous consent to have the second rollcall vote be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I yield back the remainder of our time.

I ask for the yeas and nays on the Baucus amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Without objection, the question will first occur on the Baucus amendment.

The question is on agreeing to amendment No. 2751.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from South Dakota (Mr. JOHNSON), and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 43, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—53

| | | |
|---|---|---|
| Akaka | DeWine | Lieberman |
| Baucus | Dodd | Lincoln |
| Bayh | Dorgan | Mikulski |
| Biden | Durbin | Murray |
| Bingaman | Edwards | Nelson (FL) |
| Bond | Feingold | Nelson (NE) |
| Boxer | Feinstein | Pryor |
| Breaux | Graham (FL) | Reed |
| Cantwell | Harkin | Reid |
| Carper | Hollings | Rockefeller |
| Chafee | Inouye | Sarbanes |
| Clinton | Jeffords | Schumer |
| Coleman | Kennedy | Smith |
| Collins | Kerry | Snowe |
| Conrad | Kohl | Specter |
| Corzine | Landrieu | Stabenow |
| Daschle | Leahy | Wyden |
| Dayton | Levin | |

NAYS—43

| | | |
|---|---|---|
| Alexander | Enzi | Miller |
| Allard | Fitzgerald | Murkowski |
| Allen | Frist | Nickles |
| Bennett | Graham (SC) | Roberts |
| Brownback | Grassley | Santorum |
| Bunning | Gregg | Sessions |
| Burns | Hagel | Shelby |
| Campbell | Hatch | Stevens |
| Chambliss | Hutchison | Sununu |
| Cochran | Inhofe | Talent |
| Cornyn | Kyl | Thomas |
| Craig | Lott | Voinovich |
| Crapo | Lugar | Warner |
| Dole | McCain | |
| Ensign | McConnell | |

NOT VOTING—4

| | |
|---|---|
| Byrd | Johnson |
| Domenici | Lautenberg |

The amendment (No. 2751) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Ms. CANTWELL. 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 Oklahoma.

Mr. NICKLES. Mr. President, for the information of our colleagues, we will have one more rollcall vote tonight. That will be on the Nelson amendment. It is a 10-minute rollcall vote.

I warn my colleagues, we have allowed these last rollcalls to go a little long. Tomorrow we are going to have a lot of votes. I am going to yield back a lot of time tonight or tomorrow. So we are going to be having a lot of votes. We are doing that to try to make this a more orderly process because we do not want to have a vote-arama that will go all night long tomorrow.

I will cooperate with my colleague, and I thank Senator CONRAD for his cooperation. I urge my colleagues to expect a long, hard day tomorrow. I urge my colleagues, when we have debate, to keep the time limited so we can consider additional amendments and conclude this resolution by sometime tomorrow night or sometime Friday. But we will stay here until we complete this resolution.

VOTE ON AMENDMENT NO. 2745

Mr. NICKLES. Mr. President, we are now going to vote on the Nelson amendment. I urge my colleagues to vote no. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 2745. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 51, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—46

| | | |
|---|---|---|
| Akaka | Durbin | Lieberman |
| Baucus | Edwards | Lincoln |
| Bayh | Feingold | Mikulski |
| Biden | Feinstein | Murray |
| Bingaman | Graham (FL) | Nelson (FL) |
| Boxer | Harkin | Nelson (NE) |
| Breaux | Hollings | Pryor |
| Cantwell | Inouye | Reed |
| Carper | Jeffords | Reid |
| Clinton | Kennedy | Rockefeller |
| Conrad | Kerry | Sarbanes |
| Corzine | Kohl | Schumer |
| Daschle | Landrieu | Stabenow |
| Dayton | Lautenberg | Wyden |
| Dodd | Leahy | |
| Dorgan | Levin | |

NAYS—51

| | | |
|---|---|---|
| Alexander | DeWine | McConnell |
| Allard | Dole | Miller |
| Allen | Ensign | Murkowski |
| Bennett | Enzi | Nickles |
| Bond | Fitzgerald | Roberts |
| Brownback | Frist | Santorum |
| Bunning | Graham (SC) | Sessions |
| Burns | Grassley | Shelby |
| Campbell | Gregg | Smith |
| Chafee | Hagel | Snowe |
| Chambliss | Hatch | Specter |
| Cochran | Hutchison | Stevens |
| Coleman | Inhofe | Sununu |
| Collins | Kyl | Talent |
| Cornyn | Lott | Thomas |
| Craig | Lugar | Voinovich |
| Crapo | McCain | Warner |

NOT VOTING—3

| | | |
|---|---|---|
| Byrd | Domenici | Johnson |

The amendment (No. 2745) was rejected.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. 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.

Mr. NICKLES. Mr. President, that is the last vote tonight. I believe Senator CORZINE has an amendment he is going to lay down. We will possibly discuss it tonight. I believe he wants to discuss it a little bit, I am not sure. I have to see what the amendment is. I am not sure what it is.

I don't know if there are any other amendments that will be introduced tonight. But I want to let all our colleagues know we are going to be starting pretty early tomorrow, and we will have a lot of votes. My guesstimate is I will yield back a lot of time so we will be on amendments tomorrow. We handled a lot of amendments today. I haven't counted the number. We accepted some, we disposed of some, but

we are going to have a lot more amendments tomorrow night, and tomorrow night we are probably going to be working a lot past 10 o'clock. I regret that. I would love to change the way budgets are done.

I urge our colleagues, not all these amendments have to be offered. I urge our colleagues if you have amendments, if you can work them out with Senator CONRAD and myself, we are happy to try to do that. That might save a lot of time. Rollcalls take a lot of time. We still conduct rollcalls the way it was done 200-some-odd years ago. It takes a little while, and that is fine. But I encourage our colleagues to think of the major amendments we really need to vote on, that they feel compelled to vote on, and we will try to have those together and give everybody a fair crack at amending this budget resolution.

I hope some of our colleagues, if they have had success in passing an amendment, maybe they would consider voting for the resolution, not just trying to tear the resolution down or change it and continue to oppose it.

Anyway, I urge our colleagues tomorrow to expect a long day with a lot of votes. Maybe we can conclude tomorrow night. More than likely we will conclude sometime on Friday.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I add my voice to the chairman's and indicate to our colleagues we have now been able to substantially reduce the list on our side. I report to the chairman a very substantial reduction. I think we have eliminated, now, more than 50 of the amendments that have been noticed. But that still leaves us with over 40.

At three amendments an hour, that would be 13 hours of straight voting. It is not just going to be straight voting because we still have time on the resolution. We still have eight or nine amendments that are going to require more extended time during the day, before we get to vote-arama.

I think, just eyeballing it, we are probably talking 4 hours before we get to vote-arama. Then we have at least, as I have indicated, 13 hours of votes after that, if people do not back off and show restraint.

We have the night. We have the night to think very carefully about what kind of quality of life we want for ourselves over the next 2 days.

We have had very significant debates, significant amendments. Let's try to close this out and do it in a way that has the dignity the Senate should have. Yes, we will have significant additional amendments and debate, but let's eliminate the duplication and try to have a reasonable number of amendments so we can be done by a reasonable time on Friday.

I thank the chairman for working with me as we have to try to move this process.

I also thank very much Senator CORZINE, who is a very valuable member of the committee, who has been extraordinarily patient. We almost achieved a unanimous consent that would have allowed his amendment to be voted on this evening. It did not happen. I thank him personally for his patience and his graciousness.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I compliment both the chairman and the ranking member for their leadership in this debate. I hope people understand how civil and effective the views in the debate have been carried forward. They will be pleased to know we have pulled the other three amendments I submitted.

Mr. CONRAD. I thank my colleague.

AMENDMENT NO. 2777

Mr. CORZINE. With that, Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. CORZINE] proposes an amendment numbered 2777.

Mr. CORZINE. 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 eliminate tax breaks for those with incomes greater than $1 million and reserve the savings to prevent future cuts in Social Security benefits)

On page 3, line 9, increase the amount by $20,000,000,000.

On page 3, line 10, increase the amount by $31,000,000,000.

On page 3, line 11, increase the amount by $34,000,000,000.

On page 3, line 12, increase the amount by $39,000,000,000.

On page 3, line 13, increase the amount by $36,000,000,000.

On page 3, line 17, increase the amount by $20,000,000,000.

On page 3, line 18, increase the amount by $31,000,000,000.

On page 3, line 19, increase the amount by $24,000,000,000.

On page 3, line 20, increase the amount by $39,000,000,000.

On page 3, line 21, increase the amount by $36,000,000,000.

On page 4, line 20, increase the amount by $20,000,000,000.

On page 4, line 21, increase the amount by $31,000,000,000.

On page 4, line 22, increase the amount by $34,000,000,000.

On page 4, line 23, increase the amount by $39,000,000,000.

On page 4, line 24, increase the amount by $36,000,000,000.

On page 5, line 3, decrease the amount by $20,000,000,000.

On page 5, line 4, decrease the amount by $31,000,000,000.

On page 5, line 5, decrease the amount by $34,000,000,000.

On page 5, line 6, decrease the amount by $39,000,000,000.

On page 5, line 7, decrease the amount by $36,000,000,000.

On page 5, line 11, decrease the amount by $20,000,000,000.

On page 5, line 12, decrease the amount by $31,000,000,000.

On page 5, line 13, decrease the amount by $34,000,000,000.

On page 5, line 14, decrease the amount by $39,000,000,000.

On page 5, line 15, decrease the amount by $36,000,000,000.

At the appropriate place, insert the following:

''SEC. . RESERVE FUND TO PREVENT CUTS IN SOCIAL SECURITY BENEFITS.—If legislation is reported by the Senate Committee on Finance, or an amendment thereto is offered or a conference report thereon is submitted that would extend the solvency of the Social Security Trust Funds and prevent future cuts in Social Security benefits, the Chairman of the Senate Committee on the Budget may revise the aggregates, allocations, and other appropriate levels and limits in this resolution by not more than $160,000,000,000 to reflect such legislation.''

Mr. CORZINE. Mr. President, this is an amendment that is very simple in nature. It calls for the elimination of tax breaks for those with incomes greater than $1 million, that is less than two-tenths of 1 percent of income-tax payers in the United States with incomes greater than $1 million, and reserves the savings for the Social Security fund. I emphasize that is two-tenths of American taxpayers, basically setting a new bracket, returning it to 39.5 percent for those who have adjusted gross income over $1 million.

The amendment uses the savings to establish a reserve fund for Social Security which would be used only to extend the solvency of the Social Security trust fund and prevent future cuts in Social Security benefits. It is straightforward.

Social Security represents the best of America's values. It promises all Americans, if you work hard, pay your taxes, play by the rules, you can live out your life in dignity. Social Security is not a handout. It is not welfare. It is an earned benefit. It honors and rewards work, a basic American value. The promise of Social Security, when you get right down to it, is a guaranteed promise of retirement security. Regardless of how long you live, regardless of the rate of inflation, regardless of the state of the economy or the state of the stock market, you worked all your life, you contributed to our Nation's productivity. Social Security promises you will have enough to have dignity in your senior years.

In fact, the benefits promised by Social Security are quite modest. The average monthly benefit is about $900; $900 per month for a senior. I don't think, at least not in New Jersey—that is not exactly luxurious living that one would be benefiting from, from Social Security. But it does provide an important safety net.

For nearly one-third of the seniors in retirement, it is at least 90 percent of their income or more—one-third. For another one-third it is 50 percent or more of their retirement security. And for the balance, it is a major support, that third third; it is a little less than 50 percent but a significant part of their retirement security.

As a result of Social Security, the poverty rate among seniors today is less than 10 percent. It is actually about 9 percent. Without the program, nearly half of all retirees would live below the poverty level—48 percent is what the calculations would be—which, by the way, is where seniors were before the institution of Social Security. It has provided a major support for the quality of life for America's seniors.

We hear a lot of conversation around here about the problems facing Social Security. Let me first say that talk is way overblown. Even if Congress does nothing, the Social Security system is secure and solvent to 2042. After that date, a substantial portion of benefits could continue—about 75 percent, I guess, according to the actuaries.

That said, we all have a responsibility to address the long-term solvency problem of Social Security. It is not in crisis, but it needs to be addressed. It is better to deal with it earlier rather than later. That is one of the reasons I believe my amendment makes sense. If we get started on that process now, we can protect seniors as time goes forward.

The Social Security trust fund faces a long-term shortfall. The last 30 years of the trust fund needs to be addressed. We ought to be preparing for it. That is what I am trying to talk about.

Given the angst that so many people in the country have with regard to Social Security, the President proposed a very radical reform program which we heard about in the State of the Union. It is something I think we ought to start putting money aside for now to protect our seniors as we go forward.

The reality is that this budget resolution does nothing to preserve or save Social Security. That is why I think it is so important that we address it. This is one of those means to do it.

Actually, this budget resolution in many ways will make the problem worse. This budget resolution takes every penny out of the Social Security trust fund and spends it either on funding additional tax cuts or spending it on other programs, depending on how you look at it. But the fact is, over the next 10 years we are going to—if we don't eliminate tax cuts or some portion of it—use $2.5 trillion. That is the cost of the Bush tax cuts over the next 10 years. That is almost dollar per dollar what would be coming into the Social Security trust fund over the period of time ahead. That is what the excess is. Almost dollar for dollar, we match the funding of those tax cuts and use up the Social Security trust fund. I don't think that is what the American people had in mind. I know they don't have in mind running this country deeper and deeper into debt. In fact, this budget resolution continues what this Congress and this President have done over recent years, which is absolute abandonment of fiscal discipline.

For the year 2005, the majority is proposing that the Government run a deficit of more than $512 billion with this resolution. That is the full on-budget element, and I think it is very hard to argue it is fiscally responsible. In fact, I consider that a pretty egregious figure hardly reflecting the kind of fiscal responsibility we all seem to hold close to our chests. Even that figure is misleading because it excludes known costs such as the cost of addressing the alternative minimum tax beyond 2005; similarly, the cost of our continued presence in Afghanistan and Iraq after 2005.

By the way, I compliment the chairman and others for putting together a resolution that actually acknowledges there will be additional expenditures. But I don't think we have addressed it.

Most importantly, we are not addressing, and there is no allowance for, the provisions that are embedded in Social Security reform that is talked about both by the President and many of those on the other side of the aisle.

Everyone knows that the total cost of the transition to private accounts, which is so readily embraced by many, will be over $1 trillion and that nothing is allowed in this budget for the beginning of that transition. I think it is even more aggravated with regard to where we will end up relative to what the reflected budget deficit is that is included. I think it will be considerably larger.

We are fooling ourselves if we think that running such deficits comes without a cost. In the long run, these deficits will have a substantial impact on our economy and on every American family.

In January of 2001, the Congressional Budget Office projected that by the end of 10 years we would have $36 billion in publicly held debt. Instead, today we are looking at a projection of $5.5 trillion by 2008. It is a rather significant swing in cashflow by this country. It calls into question whether we are really thinking about the long-run impact this is going to have on our Nation. Our level of national savings will go down, interest costs will go up, investment will go down, and the end result is likely to be a reduced standard of living in the long term for all Americans.

There is one thing that is absolutely certain in this context, and that is the certainty that every American will be carrying the debt burden that goes well beyond where we are today, which is about $24,000 per person and up to about $35,000 just in 2009. I hate to see how this explodes over the longer period of time because we have all seen the charts about how deficits grow as the baby boomers retire. We have a real problem. It is going to undermine the quality and level of standard of living in America through a period of time.

That is why I believe we need to revisit at least some of the huge tax breaks enacted in recent years. Over the next 75 years, the cost of the Bush tax cuts is about $12 trillion in present value terms. By contrast, the amount needed to ensure the long-term solvency of Social Security is less than $4 trillion. This is what the tax cuts cost for 75 years. This is how much it costs to fix Social Security, according to the actuarials. In other words, those tax cuts cost more than three times the entire Social Security shortfall.

What will happen if we make the tax cuts permanent, as the President wants? It is a real problem in our capacity to fix this problem; by the way, Medicare as well. It will lead inevitably to benefit cuts in Social Security, and more than likely will be dealt with quite deeply.

Many of us, by the way, have thought and long suspected that the rising deficits of recent years have been no accident but rather part of a strategy designed to force deep cuts in Social Security and Medicare to change the basic underlying fix of the social safety net we have in this country.

Recently, it became a little more clear in a lot of people's minds exactly what is going on here. No less a figure than the Federal Reserve Chairman, Alan Greenspan, came out and publicly stated it is time to do two things: make permanent tax breaks which go largely to those doing the most well in our society, or make significant cuts—long run cuts—in Social Security benefits. No doubt many politicians who believe in such an approach were hoping to defer this debate until after the election. But I think we need to have that debate out in the public and fully understood.

I compliment Chairman Greenspan for at least raising this issue so it is on the table. I don't necessarily agree with the strategy of execution, of making permanent these tax cuts which undermine our ability to deal with it, but I think it is absolutely one we need to debate.

We need to be saving today to make sure we can protect those benefits for tomorrow. We can't do it if we are going to continue to live with this absolute binge of tax cuts, especially for the most fortunate. Yet that is what this resolution proposes. That is why I feel so strongly we should take steps to try to address something that is so fundamental to the American people.

My amendment proposes to limit those tax breaks that go to those with incomes greater than $1 million.

By the way, just returning to the tax bracket at the very high end, .2 percent of the American taxpayers use those savings to establish a Social Security reserve fund. The fund would be available only for legislation to extend the solvency of the Social Security trust fund and to prevent future benefit cuts. This would not entirely save Social Security's long-term challenge. Roughly $4 trillion is what we have, but it is a heck of a downpayment. It is about $1 trillion on the present value basis in the direction of a big step towards trying to preserve and make sure we can deal with the Social Security shortfall over a period of time.

Again, let me recap why this amendment is so important. Social Security is a promise we must keep. It is a promise millions of hard-working Americans will depend on to keep them out of poverty in their old age. Keeping that promise in the future will require increasing our savings now. That is why we cannot afford to build massive deficits with huge new tax breaks for the most fortunate Americans among us.

We need to be disciplined. We need to be responsible. This amendment says instead of going deeper and deeper into debt, let's save a portion for the future. Let's hold off on tax breaks for those with incomes greater than $1 million so we can keep our promise to Social Security and prevent future benefit cuts for our seniors as the years go on.

That is the right thing to do. It is the responsible thing to do. I hope the majority of my colleagues will support the amendment.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Oklahoma.

Mr. NICKLES. Will the Senator yield?

Mr. CORZINE. Certainly.

Mr. NICKLES. I am trying to figure out how the amendment would work. You are assuming the highest income level people would have no reduction in their tax rates going back to 2001, so their personal income tax rate would be 39.6 percent?

Mr. CORZINE. The Senator is right, except for the 2001. It is moving back up to the 39.6 percent rate for those over $1 million.

Mr. NICKLES. If the Senator will yield further, would that include the rate on capital gains?

Mr. CORZINE. It would.

Mr. NICKLES. And the rate on dividends?

Mr. CORZINE. It would.

Mr. NICKLES. Madam President, I have great respect for my colleague from New Jersey, but this is one of the worst amendments I have seen. This is a tax increase of $160 billion. The Senator from New Jersey can assume it will only be on millionaires, but you cannot do that. Therefore, it is a direction to the Finance Committee to raise $160 billion. It assumes it would be saving Social Security, but it will not. It will not in any way, shape, or form. He assumes it will be put into a trust fund to save Social Security, but it will not. It raises taxes $160 billion.

I will talk about, if he was correct, how bad that would be. It would be kind of interesting to say everyone in the country gets a capital gain rate of 15 percent, but if you happen to be at an income level of such and such, your capital gain rate is twice as high; it is 39.6 percent. That is very strange.

I assume, too, if you had dividend rates now and we set them now at 15 percent, and that helped the market a lot, and we tax dividends higher than any other country in the world, but we helped that in last year's bill by cutting dividends to 15 percent, and you say dividends will be taxed for everybody in the country at 15 percent except for the highest income people, that will be at 39.6 percent, you are getting into a mess as far as administering the Tax Code.

What about this instruction to increase it $160 billion? How does that save Social Security? I tell my colleagues, Social Security has a $4.9 trillion unfunded liability. If this makes sense to do it to Social Security, the unfunded liability over 75 years for Medicare is 3 or 4 times as high. The last estimate I had was $15.3 trillion for Medicare. We made it worse last year when we expanded the Medicare benefits.

First, if we went with the amendment's assumption, you would be increasing the maximum rate at least to 39.6 percent. The maximum rate on corporations is 35 percent. So why would we tax individuals who happen to be proprietors, who own their own business, who happen to be the individuals who are creating about 80 percent of the jobs, and probably 80 percent of the people who pay maximum rates are individuals, self-employed proprietors, maybe doctors and lawyers, hiring a lot of people, but we will tax them higher rates than we tax Exxon and we tax Goldman Sachs, the corporation. They pay 35 percent, but we will say we will have these individuals pay an additional tax up to 39.6 percent, and then to say we will put it into a fund, that just will not work.

What we would do, the net essence, is raise taxes $160 billion. Presumably we will put it into a fund, but with the deficit situation we have right now it will be spent. It is absurd to think it would not be spent. It will be spent.

You might have an IOU in that fund, but if the Government collects the taxes—I made this speech yesterday; I don't want to be redundant, especially this late—all money will go into one pot, and if you want to have a little paper entry that says IOU over here and you have another fund that says IOU, and someone assumes it is to pay Social Security, that is not the way it works. It would not work that way.

I appreciate my colleague's amendment. I hope our colleagues would vote no on this amendment to raise taxes by $160 billion on a lot of small business entrepreneurs throughout the country. I think it would be slamming the door on economic recovery right off the bat. I urge our colleagues to vote no. We will vote on this amendment tomorrow morning.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Madam President, would the chairman acknowledge the $160 billion is only for 5 years? If you were to implement this policy over the full 75-year timeframe, the present value would be roughly $1 trillion. My calculation is not down to the last decimal point. But the point being not that $160 billion will save Social Security, nor $1 trillion, but doesn't the Senator think we ought to be making steps, even if it is not this approach, to begin to address these shortfalls as we go forward?

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I don't think this economy needs a big tax increase. I have not figured out percentagewise what it would be if you applied it to upper income, but it is an increase of about 15 percent, I guess maybe 14 percent on some of the most productive people we have in the country.

That is a good way to encourage a lot of people to go overseas. That is a good way to encourage more business in other areas. That is a good reason for people to outsource more to other countries that do not have tax rates this high.

I find this to be very shortsighted. This is a big tax increase. It would not be funneled into Social Security. If you want to do that, increase the payroll tax. Some people think we will save Social Security by increasing some people's income tax. That is not my opinion. Very shortsighted. We pay Social Security right now. It is basically an unfunded, defined benefit plan. It is a rollover type plan, money coming in, money going out. Right now a little more is going in than going out, but there is significant liability. It has never been a funded, vested plan. It is basically a pay-go system, paid for under the payroll system.

Some think it should be changed. I happen to think maybe it should be changed in line with what the President suggested, where we move it from a defined benefit to a defined benefit plus a defined contribution plan; where we allow individuals to take a percentage of their payroll and put it in their own bank account where they own it and they control it and they are not dependent on Government promises to provide future benefits.

That is a debate for another day. That would help save the system. I used to be a trustee of a private pension system. Our system, like millions across America, moved away from a defined benefit system to a defined contribution system. Federal employees have done the same thing. Frankly, that will continue happening and will continue happening. We need to let individuals have the opportunity to grow, own, invest, and control part of their retirement funds, including Social Security retirement funds.

This, however, is not that solution. This is a solution that says let's not only have the payroll tax—and I might mention, the payroll tax is already very large. The payroll tax of Social Security is 12.4 percent of payroll. Matching employee and employer, 6.2, 6.2, 12.4 percent of all payroll going up to 87,000 is paid into Social Security. That is a lot. That is thousands and thousands of dollars.

Incidentally, the individuals get a crummy deal because they have to pay

taxes on it before they make their contribution. So they have to use aftertax dollars to make their Social Security contribution.

This is not a great deal for individuals. They can do a lot better if they were able to invest some of their own money in their own accounts, and let it grow—hopefully, grow tax free—so they would not be so dependent on Government.

This solution says, let's have not only the payroll taxes and the demographic challenge that we have with payroll taxes—because right now you are going to have a lot more people drawing the benefits and fewer people paying as the baby boomers retire—but let's create a tax surcharge or an income tax just on a very small percentage and really sock it to them. And we will say we are putting that into a fund.

All that fund would be used for would be to maybe reduce debt or maybe finance more spending. The direction in this amendment is: Well, let's create a fund. Basically, the Finance Committee might create a fund, but there are going to be more taxes raised. It would be a $160 billion tax increase over the next 5 years.

I do not doubt my colleague from New Jersey; it may be $1 trillion over the next umpteen years. I think it would be very shortsighted economic policy.

Marginal rates make a difference. I used to run a manufacturing company. I used to have a janitor service. Marginal rates made a difference when I had a janitor service because I found out I was working just as much for the Government as I was for myself. And why would you build or expand?

The Senator's amendment would move us very close to 40 percent, not counting State income tax, not counting city income tax, if you happen to live in some cities. If you add all that together, people will say: Why should I grow, build, or expand? If they do not expand, they are not creating jobs. This is a very bad amendment if you want to grow the economy.

The real future of Social Security is going to be dependent on a growing economy. This amendment would be sending the signal we are not interested in growing; we would rather have you leave.

So I urge my colleagues to vote no on the amendment.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Madam President, I would like to make just a couple observations relative to the views of the Senator from Oklahoma.

The last time I checked, when marginal rates were 39.6 percent for a whole wider range of Americans—and I do believe marginal rates and large increments do make a difference on the motivation to work—the economy grew for 8 straight years, producing 22.5 million jobs. We had 4, 5 percent productivity, the highest growth in small business in the history of the country.

It is hard for one to imagine just exactly how that marginal rate ended up being so dampening to economic growth given the reality of the economy's performance in the 1990s. And now what we are talking about with this suggestion applies to two-tenths of 1 percent of taxpayers.

I would also suggest that there are many differentials already in the Tax Code with regard to tax payments on dividends. It is not a flat application of the dividend rate for all businesses. So there are many circumstances where you could end up having a differential of rates.

I think the choice that we are making here is: Is it worthwhile to protect guaranteed benefits—again, where one-third of Americans now are 100 percent dependent on Social Security as their sole protection for their senior years and another third are 50 percent or more dependent? Do we want to continue to have a social safety net, a guaranteed benefit for Americans? I think that is a compact and a trust we put together.

This is one of the ways that we can begin to address it: a $1 trillion present-value step, if we were to implement it. So I hope my colleagues will take into account whether we want to maintain Social Security with its guaranteed benefit structure or are we going to put ourselves at risk, having to change that program because we do not have the long-term actuarial protection of the ability to fulfill the obligations that are accumulating by Americans who work, the fundamental value that we take on here.

The folks from the State that I call home tell me that Social Security is vital to their long-term security. And I hear from those folks that they would like to see a program that is not at risk, but they want to maintain that guaranteed benefit.

This is one of those steps we can take to make that happen.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Madam President, I have just a couple thoughts to share tonight on the Senator's amendment and on Social Security in general.

The Senator from Oklahoma mentioned what the Senator's amendment would actually do: raise taxes, supposedly to put into a fund to save Social Security.

First of all, it directs the Finance Committee to raise taxes. You cannot tell the Finance Committee, in a budget resolution, what taxes to raise. It could easily raise taxes on the child tax credit. It could easily raise whatever taxes it chooses to raise. You cannot direct the Finance Committee on what taxes to raise. We all know that.

Any of the amendments that have been put forward today that say, well, just raise the tax on millionaires, you have to be on the Finance Committee to be able to direct that. That may be your desire, but that is not the way the budget resolution works. You can just direct the amount of money for the Finance Committee to raise. And I think the Senator from New Jersey is aware of that.

As far as putting it in a fund, this Senator has only been here for 3 years. I was in the House of Representatives for 4 years prior to this. The one thing I have learned around here, first of all, is that there is no Social Security trust fund; it is a bunch of IOUs. It is simply an accounting system that we have. Taxpayers, basically in the future, will pay taxes to fund this accounting gimmick that we know as a trust fund.

In most companies, the way they set up trust funds, they actually take the money and invest it. That money accumulates. There are actually real assets. There are not real assets, other than the word of the United States, in the Social Security trust fund. That is really all we have.

Mr. CORZINE. Will the Senator yield for a question?

Mr. ENSIGN. Let me make a few points, and then I will be happy to yield.

There is no cash. There are Treasury bills, basically financing debt that we have for the long term. And we get a very low rate of interest on those for the Social Security trust fund.

The pension systems of companies and States have real assets in them. The State of Nevada has the Public Employees Retirement System. It is a system that a lot of States have.

Most teachers, police officers, and the like are not in the Social Security system because they are in a pension system. The easiest way to explain that is, instead of the taxpayers of today paying for the retirees of today, the retirees' money that they earned while working got put in a system that earned money, so that when they retired they started getting that money back out with interest.

For retirees of today under Social Security, theirs was put in a paper account. It has earned a tiny amount of interest, but the workers of today pay in taxes for their retirement payments. That is how it works. It is a complete difference.

By the way, for the State of Nevada, since we have had our PERS system—I think for 25 or 30 years, whatever it has been—the average rate of return has been 11 percent. Social Security is about 2, 3 percent, somewhere in there—1 percent. It is a lot lower, we know, than 11 percent.

If Social Security would have been set up as a retirement system, as a pension system with real assets, what the Senator is trying to do—put money into that system—may work. But it is not set up that way.

It is set up as a pay-as-you-go system. All this money you give to Congress today, they will spend it. I have been around here 3 years, but it is obvious: If you give more money to this Government, it is going to spend it. It

is an easy way to get reelected, just giving money to people.

So while the Senator from New Jersey wants to put it in to save Social Security, it is not going to do that.

As a matter of fact, it will raise the baseline which will put more liability into the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, if I might ask the Senator from Nevada a simple definitional question, I think government bonds and treasury bills are assets. They may not be as high yield assets as those available to the investment profile that is the Nevada PERS fund, but then again, it is also an asset that provides presumably greater security and less volatility and less risk to those who would benefit from it down the road. Social Security, while it has pay-as-you-go characteristics, has never been a system that was without accumulated reserves or deficient reserves.

There is a time for us to have a debate about Social Security that goes further than we do tonight, but my view is if we reduce the amount of borrowings that are taken out of the Social Security trust fund to fund everything else we do in government, we would be a lot safer in the long run, and that is what my amendment is really to accomplish.

The reserve is going to lower actually the amount of borrowing the Federal Government has to do.

I think it is up to us to express the self-discipline of not having unlimited tax cuts and also discipline with regard to spending. It is not just on the spending side that we have shown a lack of discipline that has allowed us to get to $5.5 trillion of publicly held debt.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. If I may respond to the Senator from New Jersey, first of all, we have a difference of philosophy. The ranking member on the Budget Committee and I had this discussion last night. There is a difference in philosophy. This Senator believes in cutting tax rates, giving entrepreneurs more of their own money. For instance, when I was practicing as a veterinarian, I was a sole proprietor. If I wanted to expand my business, I looked at my costs, and I looked at rate of return. Part of that was taxes. Could I justify expanding my business. I looked at the cost of borrowing. I looked at the cost of taxes. I looked at all those variables. The higher you raise the cost of taxes, the less expansion of business you are going to get, the fewer jobs you are going to create.

While we have to have tax rates that allow what we believe in to be funded, there is a balance there. I believe if we raise taxes, as you are suggesting, especially as fragile as this economy and this economic recovery is, it could send us back into a double-dip recession as we have seen this economy do historically several times.

I think raising taxes would actually threaten the Social Security trust fund because, as the Senator from Oklahoma said, the only real security for the Social Security trust fund as it is set up today is a strong economy.

We have the baby boomers who are retiring, this huge demographic shift. When Social Security was first set up, there were 39 workers for every one retiree. The retirement age was 65. The average age when people died was 63. That is why a pay-as-you-go system worked for all those years. We had plenty of workers to pay for the retirees. We are down to less than four workers for every one retiree today. We are going to two to one. In future years, if we continue with the birth rates and the increase in age that people live, we will be down to one to one. A pay-as-you-go system does not work in that regard.

It is an important debate to have. I realize we are not going to solve this on the budget resolution, but the bottom line is, a strong economy is the only way in a pay-as-you-go system, a growing, strong, healthy economy is the only way for you to be able to have enough revenues coming into the Federal Government to be able to pay Social Security retirees.

If we want to change the system, and I believe in changing the system, keep it the way we have now, but for the future having similar private accounts, whether it is like we have a Nevada PERS or whatever it is, to where you have real assets that are returning a better rate of return that many other countries in the world are changing their Social Security systems into, if we have that, that is a better way for the long-term solvency for Social Security, in this Senator's opinion. But the current system would be threatened by the amendment of the Senator from New Jersey because we are in the situation of a fragile economy, and tax increases could send us into a double-dip recession.

Mr. BUNNING. Mr. President, I express my support for the budget resolution.

We have seen tough economic times take jobs from the average American. We have seen new spending in the face of terrorism and war increase the deficit. Today we respond with a budget resolution that will set the correct tone for our country.

We now see that the President's tax cuts we passed in 2001 and 2003 are jumpstarting the American economy and providing us with some positive movement in job creation. This budget will extend the tax reductions that have fueled our economy and have helped the average American worker.

Thanks to this budget resolution, we will reduce the deficit by $139 billion to a total deficit of $338 billion in 2005. Our reductions follow the President's plan to cut the deficit as a percentage of our economy in half by 2006. We will hold the line with an $814 billion cap on discretionary spending and even decrease mandatory spending by $5.7 billion.

This budget is a blueprint for America tomorrow that recognizes the realities of today. Those realities call for strong budgets for our military and for the State Department. There are real threats on the horizon that we cannot ignore. We must have the manpower, infrastructure, and intelligence network to protect all Americans from the threat of terrorism. We cannot afford to lose sight of the importance of these programs.

Of course, spending more in the budget to protect Americans means that some other worthy programs will have to face a little belt-tightening. But as we review our spending levels, we have an opportunity to allocate some new monies and focus on new priorities.

One such program is the Pell Grant program. Since 2001, Pell Grant funding has increased by 47 percent. In committee, I was able to amend the budget resolution to increase Pell Grants for students who are willing to work harder in high school. This $33 million program will allow students who participate in a ''State Scholars Program'' to receive an extra $1,000 for their college education.

We will seek out those students who work harder and strive for better college preparation from their high school education and reward them with more money for college. Motivating our young Americans to learn today will create a skilled workforce tomorrow.

Another area we have expanded is veteran's medical research. The Budget Committee unanimously agreed to my amendment to add $536 million in funding over 5 years for veteran's medical and prosthetic research. That is a 25 percent increase in fiscal year 2005 funding over this year's level.

We owe it to the men and women of the armed forces to expand these programs. And breakthroughs in medical research funded by this program will benefit all Americans, not just those in uniform.

But one of the most important provisions this budget addresses is the tax cuts we have fought so hard to enact over the last few years. We have to stop the average American from getting a tax increase next year. That is why this budget will extend several provisions that are set to expire at the end of this year, including the $1,000 per child tax credit, the 10 percent income tax bracket expansion, and marriage penalty relief.

We passed these tax cuts to help the American family. And just as America is finally getting back on track and creating new jobs, we can't throw the weight of a tax increase on the shoulders of working Americans.

This budget offers responsible spending, protects the tax cuts that have stimulated our economy, and cuts the deficit. We have taken a hard look at our priorities and how we can help the

economy. But we're getting stiff resistance from across the aisle. They have attacked these needed tax cut extensions and sensible spending policies.

But they offer no constructive criticism or alternative solutions. They just throw rocks and complain about our budget proposal. When they ran the Budget Committee, they couldn't even get a budget that could pass on the floor of the Senate.

We also hear complaints about Social Security. Where is their plan to grapple with the future of Social Security? Where were they when the Clinton budgets ''spent'' the Social Security Surplus?

As our Budget Committee chairman said this morning, this budget will treat Social Security exactly the same as past budgets. The trust fund balances are available for future benefit payments, just as they were described in the fiscal year 2000 Clinton budget, which said, ''they do not consist of real economic assets that can be drawn down in the future to fund benefits.'' We'll keep our Social Security money in treasury bills just as we always have and in fact, are required to do by law.

I am ready to tackle the problems Social Security will face in the next several decades. I, unlike many who just complain about the problem, have spent a lot of time thinking about Social Security, particularly during my time as chairman of the Social Security subcommittee in the House. In the past, I have even drafted and introduced an option for improving the system. Very few can say that. All can complain, but few are willing to be constructive.

I hope my colleagues can look past the partisan bias and rhetoric coming from some across the aisle. We drafted in the Budget Committee a serious proposal that addresses spending levels and our economy.

I support this budget before us today because it recognizes the realities of our world, the necessity to limit spending, and the importance of creating jobs and keeping the average American on the road to economic recovery. I urge my colleagues to support the budget resolution before us.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. JOHNSON. Mr. President, as the Senate considers the fiscal year 2005 Federal budget, I want to address what I believe are the deeply misplaced priorities of the Republican budget plan and the dangerous fiscal course facing the Nation.

In 3 short years, the Nation's fiscal health has deteriorated to the point of turning a record budget surplus of $236 billion in 2001 to a gapping projected budget deficit of $477 billion. Instead of working to steady the country's fiscal condition, the budget plan the U.S. Senate is considering will contribute an additional $179 billion to the Federal budget deficit over the next 5 years by permanently extending tax cuts for the richest one percent of American taxpayers.

There is another approach. It is an approach that strengthens the fiscal integrity of the government, while addressing the pressing needs of the 40 million Americans without health insurance, ensuring the solvency of the Social Security trust fund, as well safeguarding the homeland.

On Thursday, March 4, on a party line vote, the Senate Budget Committee approved a budget that adheres too closely to the President's budget plan and sets the wrong priorities for securing the homeland, creating the conditions for job growth, and tackling the out-of-control Federal budget deficit. Under the budget plan the Senate is considering, the Federal budget deficit would actually increase $179 billion above the Congressional Budget Office CBO baseline. To forestall a further run-up on the government's credit card, the Senate should amend the Republican budget plan by identifying a combination of spending reductions and increases in revenues that will achieve the goals of reducing deficits and strengthening the economy.

In 2001, President Bush pushed through a sweeping tax cut on the rationale that the historic budget surpluses built up during the Clinton administration justified reductions in taxes. At that time, the Federal budget was at a record budget surplus of $236 billion and I, along with many of my colleagues in the Senate, agreed that taxes should be reduced. Now that the fiscal condition of the country has swung deep into the red, it is necessary and prudent to reevaluate permanently extending tax breaks for the highest income levels. Such an approach, in combination with focused spending discipline, could reduce the deficit that threatens the long-term fiscal health of our country.

Instead of pursuing this approach, President Bush is asking Congress to make permanent the tax cuts that have put us in this situation. Since the United States is already in red ink, obviously the money for this new distribution will require decreases in important domestic spending and borrowing from the Social Security trust fund. I believe this is a terrible idea when other pressing budget priorities are shortchanged and cut.

Our Nation's veterans are currently on year-long waiting lists to get access to VA health care, our rural hospitals and nursing homes are on the verge of closing because of inadequate Medicare/Medicaid reimbursement, our schools are struggling to stay open due to reduced budgets, and the President says we don't have the funds for South Dakota's water projects. Some may see the people affected by these cuts as ''special interests.'' I see them as South Dakotans who should not be short-changed to provide tax cuts that overwhelmingly benefit the wealthiest one percent of Americans.

I remember when being a conservative meant living within one's means, and that is the strategy our Nation ought to return to. President Clinton had it right when he called for an secured a balanced Federal budget—that meant we were not borrowing from Social Security, we were not creating huge new debts for future generations to pay off, we were creating millions of new jobs, and we were not jeopardizing Medicare and Social Security. Government is about priorities, and the Bush administration's budget priorities are wrong in too many instances. I will continue to do all that I can to redirect our Nation's resources to an agenda that better meets America's domestic needs and our international moral obligations.●

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, we have had a good debate. I appreciate our colleagues staying this late. We have been on this bill for a little over 13 hours today. I think we have made a lot of progress. We are going to have to make a lot more progress tomorrow.

## MORNING BUSINESS

Mr. NICKLES. Madam President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## 2004 WOMEN IN SCIENCE WEEK

Mr. DASCHLE. Madam President, the degree to which our Nation prospers in the 21st century will depend on our abilities to develop scientific talent in our youth, to provide lifelong learning to a well-educated workforce able to embrace the rapid pace of technological change, and to raise the level of public scientific and technological literacy.

That is why I am proud to announce a very exciting series of events taking place this week in my home State of South Dakota.

We urgently need to upgrade American students' knowledge and skills across the educational spectrum, particularly in mathematics, science, and technology. Results of an international science and mathematics study conducted in 2000 indicate that ''children in the United States were among the leaders in the 4th grade assessment, but by high school graduation they were almost last.'' Part of the problem is that many girls and young women in junior and senior high school lose interest in science and technological careers.

As we work to develop the finest scientists and engineers for the 21st century, our human resources policy must move beyond simply the supply and demand of personnel and address the composition of the science and engineering workforce. Achieving diversity throughout the ranks of the scientific and technical workforce presents a formidable challenge; the number of

women and minorities in science and engineering, relative even to professions such as medicine and law, remains low.

We need to draw upon the full talent pool. Quality of education and equality of educational opportunity are central to our political future as well as to producing the workforce needed to maintain American leadership in the century ahead.

To address this challenge, the National Weather Service Forecast Offices in Aberdeen and Rapid City, with the support of local and State agencies, schools, and businesses, are co-hosting Women in Science conferences in Aberdeen, Watertown, Pierre, and Hot Springs the week of March 8 through 13, 2004. Governor Rounds has declared that week to be ''Women in Science Week'' in South Dakota.

These conferences provide a forum for young women and girls to learn about the virtually limitless opportunities available in math- and science-related careers and to create personal connections with professional women scientists. These positive role models encourage young women to develop or continue to cultivate an interest in science and technological careers. A total of over 700 junior and senior high school students and teachers will attend these conferences.

The work of all these individuals and organizations to inspire and mentor young women, and offer role models is crucial. My special thanks and appreciation go to everyone involved in this partnership—teachers, workers, State, local, and Federal Government, academia, and businesses—who will make this a successful and an inspiring conference.

## LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Madam 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 Enhancement 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.

In the fall of 1999 in Washington County, PA, Ira Swearingen, a 49-year-old medical consultant was abducted, beaten and murdered. After being abducted, Swearingen was stuffed inside the trunk of his car while one of the perpetrators allegedly said, ''Did ya' hear it? I broke his jaw.'' Another perpetrator heard gurgling of blood and heard the victim screaming. They yelled ''Shut up faggot!'' Later, the victim was driven to an isolated area, forced to strip and marched into the woods as he pleaded for his life at which point, one perpetrator testified, he shot the victim between the eyes at close range.

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. By passing this legislation and changing current law, we can change hearts and minds as well.

## MILITARY SURVIVOR BENEFITS IMPROVEMENT ACT

Mr. INOUYE. Madam President, I rise to encourage my colleagues to support S. 1916, the Military Survivor Benefits Improvement Act. The purpose of this legislation is to correct a long standing inequity in survivor benefits paid to the widows and widowers of our military retirees and what is afforded survivors of other Federal retirees. This legislation would balance cost and equity considerations by phasing in an increased benefit for military surviving spouses, over a 10-year period, from 35 percent to 55 percent of retired pay after age 62.

The military Survivor Benefits Plan simply does not stack up with the Federal civilian Survivor Benefit Plan either in benefits to survivors or in intended Government cost sharing to help reduce premium costs. When you compare survivor benefits you find that the military Survivor Benefit Plan provides for 55 percent of retired pay until the widow is 62, then drops payments to 35 percent of retired pay. This dramatic drop can translate to as much as one third of the previous payment.

Survivors of Federal civilian retirees under the earlier Civilian Service Retirement System receive 55 percent of retired pay—with no drop in benefits at age 62. Under the newer Federal Employee Retirement System, survivors receive 50 percent of retired pay, again with no drop at age 62. When the military Survivor Benefit Plan was enacted, the Congress intended a 40-percent Government subsidy for cost of military Survivor Benefit Plan premiums. Over time, because of conservative actuarial cost assumptions, the Government's cost share has declined to 19 percent. This means that military retirees are now paying 81 percent of program costs from their retired pay versus the intended 60 percent. This contrasts with a Government Service Retirement System and 33 percent for the current Federal Employee Retirement System.

In closing, I submit that these inequities are unfair to the deserving survivors of military retirees and should be corrected by supporting this important measure.

## TIBETAN UPRISING DAY

Mr. BROWNBACK. Madam President, March 10 has been known around the world as ''Tibetan Uprising Day.'' Today, as Tibetans remember those who died resisting Chinese occupation, we too should reflect on the struggles that have faced Tibet since that fateful day 45 years ago. The events of that day, followed by over four decades of struggle by the Tibetan people, is a plight that has become known to many around the world.

After Chinese invasion in 1949 and despite the 1951 Seventeen Point Agreement forced upon the Tibetans by the Chinese Government, it was clear by 1958 that they had no intention of securing the preservation of Tibetan autonomy and institutions. By March 10, 1959 so many Tibetans feared for the Dalai Lama's life that they surrounded his compound as a means of protection and began protesting Chinese occupation. Only seven days later the Dalai Lama escaped to India fearing for the lives of his vigilant people. After the crowds refused orders to leave the compound and unaware of the Dalai Lama's escape, the People's Liberation Army launched an attack killing thousands of innocent civilians. It is estimated that 87,000 Tibetans were killed, arrested or deported to labor camps during the uprising. Many attempted escaping the communist persecution to India, but only a small percentage actually survived the difficult conditions.

The United States has long supported the Tibetan right to self-determination and has declared Tibet to be an occupied territory. In 2000 this very body passed a resolution recognizing March 10 as Tibetan Uprising Day. In fact, the United States has supported the Dalai Lama's commitment to a dialogue and has commended him for his 1989 Nobel Peace Prize recognizing his efforts to work for self-determination through non-violent means. In the Dalai Lama's statement today he said, and I quote,

> My hope is that this year may see a significant breakthrough in our relations with the Chinese Government. As in 1954, so also today, I am determined to leave no stone unturned for seeking a mutually beneficial solution that will address both Chinese concerns as well as achieve for the Tibetan people a life of freedom, peace and dignity.

I, like the Dalai Lama, hope that this year will be a breakthrough year for the Tibetan cause. On the eve of the 60th Session of the U.N. Commission on Human Rights, let us not forget or neglect the plight of Tibetans who have struggled for too long.

I ask unanimous consent that the full statement of the Dalai Lama be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF HIS HOLINESS THE DALAI LAMA ON THE FORTY-FIFTH ANNIVERSARY OF TIBETAN NATIONAL UPRISING DAY

March 10, 2004

Today we commemorate the 45th anniversary of the Tibetan People's Uprising of 1959. I pay tribute to the many brave Tibetan men and women who have sacrificed their lives for the cause of Tibetan freedom. They will always be remembered.

This year marks 50 years since my visit to mainland China in 1954 to meet with the then Chinese leaders, especially Mao Tse-tung. I remember very well that I embarked on the journey with deep concerns about the future of Tibet. I was assured by all the leaders I met that the Chinese presence in Tibet was to work for the welfare of the Tibetans

and ''to help develop'' Tibet. While in China I also learned about internationalism and socialism which deeply impressed me. So I returned to Tibet with optimism and confidence that a peaceful and mutually beneficial coexistence could be worked out. Unfortunately, soon after my return China was embroiled in political unrest unleashed by radical political campaigns. These developments impacted the Chinese policy on Tibet resulting in more repression and rigidity leading finally to the Tibetan People's Uprising in March 1959.

My hope is that this year may see a significant breakthrough in our relations with the Chinese Government. As in 1954, so also today, I am determined to leave no stone unturned for seeking a mutually beneficial solution that will address both Chinese concerns as well as achieve for the Tibetan people a life in freedom, peace and dignity. Despite the decades of separation the Tibetan people continue to place tremendous trust and hope in me. I feel a great sense of responsibility to act as their free spokesman. In this regard, the fact that President Hu Jintao has personal knowledge about the situation and problems in Tibet can be a positive factor in resolving the Tibetan issue. I am therefore willing to meet with today's leaders of the People's Republic of China in the effort to secure a mutually acceptable solution to the Tibetan issue.

My envoys have established direct contact with the Chinese government on two trips to China in September 2002 and in May/June 2003. This is a positive and welcome development, which was initiated during the Presidency of Jiang Zemin. The issue of Tibet is complex and of crucial importance to Tibetan as well as Chinese peoples. Consequently, it requires careful consideration and serious deliberations on both sides before taking any decisions. It will take time, patience and determination to lead this process to a successful conclusion. However, I consider it of highest importance to maintain the momentum and to intensify and deepen this process through regular face-to-face meetings and substantive discussions. This is the only way to dispel existing distrust and misconception and to build trust and confidence.

Consequently, I have instructed my envoys to visit China at the earliest date to continue the process. I hope that they will be able to make this trip without delay. This will help in building trust and confidence in the present process among Tibetans as well as among our friends and supporters around the world—many of whom remain strongly skeptical about the willingness of Beijing to engage in a genuine process of rapprochement and dialogue.

The current situation in Tibet benefits neither the Tibetans nor the government of the People's Republic of China. The development projects that the Chinese Government has launched in Tibet—purportedly to benefit the Tibetan people—are, however, having negative effects on the Tibetan people's distinct cultural, religious and linguistic identity. More Chinese settlers are coming to Tibet resulting in the economic marginalization of the Tibetan people and the sinicization of their culture. Tibetans need to see an improvement in the quality of their life, the restoration of Tibet's pristine environment and the freedom to decide an appropriate model of development.

I welcome the release of Ani Phuntsok Nyidrol, even as we recognize the injustice of her sentence and continue to urge for the release of all political prisoners in Tibet. The human rights situation in Tibet has not seen any marked improvement. Human rights violations in Tibet have a distinct character of preventing Tibetans as a people from asserting their own identify and culture. The violations are a result of policies of racial and cultural discrimination and religious intolerance.

Against this background we are encouraged and grateful that many individuals, governments and parliaments around the world have been urging the People's Republic of China to resolve the question of Tibet through peaceful negotiations. Led by the European Union and the United States there is growing realization in the international community that the issue of Tibet is not one of human rights violations alone but of a deeper political nature which needs to be resolved through negotiations.

I am also encouraged by the recent improvements in the relationship between India and China. It has always been my belief that better understanding and relations between India and China, the two most populous nations of the world is of vital importance for peace and stability in Asia in particular and in the world in general. I believe that improved relations between India and China will create a more conducive political environment for a peaceful resolution of the Tibetan issue. I also strongly believe India can and should play a constructive and influential role in resolving the Tibetan problem peacefully. My ''Middle-Way-Approach'' should be an acceptable policy on Tibet for India as it addresses the Tibetan issue within the framework of the People's Republic of China. A solution to the Tibetan issue through this approach would help India to resolve many of her disputes with China, too.

It is 54 years since the establishment of the People's Republic of China. During Mao Zedong's period much emphasis was put on ideology, while Deng Ziaoping concentrated primarily on economic development. His successor Jiang Zemin broadened the base of the Communist Party by enabling wealthy people to become part of the Communist Party under his theory of ''The Three Represents''. In recent times Hu Jintao and his colleagues were able to achieve a smooth transition of leadership. During the past decades China has been able to make much progress.

But there have also been shortcomings and failures in various fields, including in the economy. One of the main causes of the shortcomings and failures seems to be the inability to deal with and act according to the true and real situation. In order to know the real and true situation it is essential that there be free information.

China is undergoing a process of deep change. In order to effect this change smoothly and without chaos and violence I believe it is essential that there be more openness and greater freedom of information and proper awareness among the general public. We should seek truth from facts—facts that are not falsified. Without this China cannot hope to achieve genuine stability. How can there be stability if things must be hidden and people are not able to speak out their true feelings?

I am hopeful that China will become more open and eventually more democratic. I have for many years advocated that the change and transformation of China should take place smoothly and without major upheavals. This is in the interest of not only the Chinese people but also the world community.

China's emergence as a regional and global power is also accompanied by concerns, suspicion and fears about her power. Hosting the Olympic Games and World Exposition will not help to dispel these concerns. Unless Beijing addresses the lack of basic civil and political rights and freedoms of its citizens, especially with regard to minorities, China will continue to face difficulties in reassuring the world that she is a peaceful, responsible, constructive and forward-looking power.

The Tibetan issue represents both a challenge and an opportunity for a maturing China to act as en emerging global player with vision and values of openness, freedom, justice and truth. A constructive and flexible approach to the issue of Tibet will go a long way in creating a political climate of trust, confidence and openness, both domestically and internationally. A peaceful resolution of the Tibetan issue will have wide-ranging positive impacts on China's transition and transformation into a modern, open and free society. There is now a window of opportunity for the Chinese leadership to act with courage and farsightedness in resolving the Tibetan issue once and for all.

I would like to take this opportunity to express my appreciation and gratitude for this consistent support that we have been receiving throughout the world. I would also like to express once again on behalf of the Tibetans our appreciation and immense gratitude to the people and the Government of India for their unwavering and unmatched generosity and support.

With my prayers for the well-being of all sentient beings.

## TIBETAN DAY OF COMMEMORATION

Mrs. FEINSTEIN. Madam President, I rise today to commemorate the 45th anniversary of the Tibetan Uprising of 1959. I sincerely hope that Chinese and Tibetan leaders will take this opportunity to work together in a spirit of cooperation and dialogue to overcome differences that have plagued relations between China and Tibet for too long.

After the Chinese invasion of Tibet in 1949–1950, China and the Tibet Government signed the ''Seventeen Points Agreement'' to make Tibet an autonomous region in the People's Republic of China and grant the Tibetan people the right of autonomy in determining the shape of their religious, cultural, and social institutions.

Nevertheless, in the ensuing years the Chinese Government did not fulfill its commitments, leading to the 1959 Lhasa Uprising and the flight of the Dalai Lama. Forty-five years later, tens of thousands of Tibetan refugees have been forced to flee their homeland in the face of repeated oppression and human rights abuses and those that remain are still unable to practice their religion freely and preserve their cultural autonomy.

Despite this tragedy, the Dalai Lama has consistently stated that his goal is not independence for Tibet but rather cultural and religious autonomy for the Tibetan people and negotiations within the framework enunciated by Deng Xiaoping in 1979.

Last year, in his speech to commemorate the Lhasa Rebellion, the Dalai Lama said:

> As far back as the early seventies in consultation with senior Tibetan officials I made a decision to seek a solution to the Tibetan problem through a ''Middle Way Approach.'' This framework does not call for independence and separation of Tibet. At the same time, it provides genuine autonomy for the six million men and women who consider themselves Tibetans, to preserve their distinctive identity, to promote their religious

and cultural heritage that is based on a centuries-old philosophy which is a benefit even in the 21st century, and to protect the delicate environment of the Tibetan plateau. This approach will contribute to the overall stability and unity of the People's Republic of China.

I have worked on behalf of Tibet and the Tibetan people for over 20 years and I have done everything in my power to bring China and Tibet together to settle their differences peacefully at the negotiating table. I have personally carried messages from the Dalai Lama to China on these issues and there is no doubt in my mind that he is fully prepared to negotiate with China to achieve a just and lasting peace for the Tibetan people.

It is disappointing that another year has gone by and more progress has not been achieved in settling these issues. The road ahead of us is long but we must persevere to ensure that the Tibetan people will one day achieve the freedom and autonomy to shape their own society. It is my sincere hope that China will cooperate with the Dalai Lama in resolving their differences on Tibet.

## FULL FAITH AND CREDIT CLAUSE OF THE CONSTITUTION

Mr. KENNEDY. Madam President, I welcome this opportunity to call the attention of the Senate to an impressive article in yesterday's Wall Street Journal by Professor Lea Brilmayer of Yale Law School on the proposed amendment to the Constitution on same-sex marriage.

Supporters of the amendment claim that same-sex marriages in one State must be recognized in all other States. That claim is not true. As Professor Brilmayer explains, ''Longstanding precedent from around the country holds that a state need not recognize a marriage entered into in another state with different marriage laws if those laws are contrary to strongly held public policy.'' States have broad discretion in deciding to what extent they will defer to other states when dealing with sensitive questions about marriage and raising families.

There is no need to amend the Constitution on this issue. States across the country are clearly dealing with the issue and doing so effectively, according to the wishes of the citizens in each of the 50 States. If it is not necessary to amend the Constitution, it is necessary not to amend it.

Professor Brilmayer testified on these constitutional issues at our Judiciary Subcommittee hearing last week, and I ask unanimous consent that her article in the Wall Street Journal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 9, 2004]

FULL FAITH AND CREDIT

(By Lea Brilmayer)

Last Wednesday's hearing before the Senate's ''Subcommittee on the Constitution, Civil Rights and Property Rights'' was billed as the occasion for a serious discussion on the need for a constitutional amendment to limit the interstate effects of Goodridge, the Massachusetts court decision recognizing a state constitutional right to same-sex marriage. Why else would the hearing's organizers invite me, a professor with no particular published opinion on gay rights but dozens of technical publications on interstate jurisdiction? Prepared to do battle over the correct interpretation of the Constitution's Full Faith and Credit Clause, I found myself instead in the middle of a debate about whether marriage is a good thing, and who really loves America's kids the most—Republicans or Democrats.

Like many political debates, the discussion was framed in absolutist terms. Conservatives say that without a constitutional amendment, Goodridge goes national. Gays will travel to Massachusetts to get married and then their home states will be forced (under the Full Faith and Credit Clause) to recognize their marriages. Traditional marriage (apparently a frailer institution than I'd realized) will be fatally undermined unless we act now to prevent the Massachusetts Supreme Judicial Court from imposing its will upon the whole nation. Either amend the Constitution to adopt a national, and traditional, definition of marriage (they say) or there will soon be gay and lesbian married couples living in your own neighborhood. Either it's their nationwide standard—anyone can marry—or it's ours.

The fly in the ointment was that nobody bothered to check whether the Full Faith and Credit Clause had actually ever been read to require one state to recognize another state's marriages. It hasn't. Longstanding precedent from around the country holds that a state need not recognize a marriage entered into in another state with different marriage laws if those laws are contrary to strongly held local public policy. The ''public policy doctrine,'' almost as old as this country's legal system, has been applied to foreign marriages between first cousins, persons too recently divorced, persons of different races, and persons under the age of consent. The granting of a marriage license has always been treated differently than a court award, which is indeed entitled to full interstate recognition. Court judgments are entitled to full faith and credit but historically very little interstate recognition has been given to licenses.

From a technical legal point of view, the debate at last week's hearing was entirely unnecessary. But inciting a divisive and diversionary debate over whether America's children will only thrive in traditional marriages (on the one hand) or whether people who oppose gay marriage are bigots (on the other) was probably a central objective in certain quarters. Social conservatives, in particular, have a vested interest in overstating the ''domino effect'' of Goodridge. This is particularly true in an election year. Only an ivory tower academic carrying a text full of footnotes would notice anything odd.

The assumption that there must be a single national definition of marriage—traditional or open-ended—is mistaken and pernicious. It is mistaken because the existing constitutional framework has long accommodated differing marriage laws. This is an area where the slogan ''stages rights'' not only works relatively well, but also has traditionally been left to do its job. We are familiar with the problems of integrating different marriage laws because for the last 200 years the issue has been left, fairly successfully, to the states. The assumption is pernicious because the winner-takes-all attitude that it engenders now has social conservatives pushing us down the constitutional-amendment path. For those who see the matter in terms of gay rights, this would be a tragedy. But it would also be a tragedy for those who genuinely favor local autonomy, or even those of us who genuinely favor keeping the constitutional text uncluttered by unnecessary amendments.

If today's proponents of a marriage amendment are motivated by the fear of some full faith and credit chain-reaction set off in other states by Massachusetts, they needn't be. If they are motivated by the desire to assert political control over what happens inside Massachusetts, they shouldn't be. In our 200-year constitutional history, there has never yet been a federal constitutional amendment designed specifically to reverse a state's interpretation of its own laws. Goodridge, whether decided rightly or wrongly, was decided according to Massachusetts' highest court's view of Massachusetts law. People in other states have no legitimate interest in forcing Massachusetts to reverse itself—Massachusetts will do that itself, if and when it wants to—and those who want to try should certainly not cite the Full Faith and Credit clause in rationalizing their attempts.

Unlike most other hotly contested social issues, the current constitutional marriage debate actually has a perfectly good technical solution. We should just keep doing what we've been doing for the last 200 years.

## SBA EMERGENCY AUTHORIZATION EXTENSION ACT OF 2004

Mr. KERRY. Madam President, yesterday I introduced a bill, S. 2186, to keep the SBA, its two largest lending programs, the 504 and 7(a) Loan Guarantee Programs, and the Women's Business Centers up and running through the remainder of this year, September 30, 2004. I ask unanimous consent that a letter of support from the trade association of 7(a) lenders, the National Association of Government Guaranteed Lenders, be printed in the RECORD. Along with NAGGL, I thank the American Bankers Association, the Independent Community Bankers of America, U.S. Chamber of Commerce, and the many other small business associations, that have helped us find solutions, demonstrating great cooperation in a difficult position, to help small businesses.

There being no objection, the material was ordered to be printed in the Record, as follows:

NATIONAL ASSOCIATION OF GOVERNMENT GUARANTEED LENDERS,
*Stillwater, OK, March 10, 2004.*

Re SBA 7(a) Funding Crisis and S. 2186.

Hon. JOHN F. KERRY,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR KERRY: As Congress considers how to solve the ongoing SBA 7(a) program funding crisis, we are writing to express our support for S. 2186, which includes provisions that both Small Business Committees and the 7(a) industry have already agreed are equitable.

While NAGGL is generally opposed to programmatic fee increases, the 2004 budget for the 7(a) program has made his concession necessary. NAGGL testified in 2003 that 2004 program demand would be nearly $12 billion, but the Administration adamantly disagreed with our estimate, providing program level

of only $9.5 billion. The Administration has also failed to reprogram any additional money to the 7(a) program or offer a supplemental appropriations request.

As a result, the SBA's flagship 7(a) loan program, the single largest provider of long-term start-up and expansion loans to American's small businesses, has been crippled since the beginning of this fiscal year, when the SBA temporarily shut it down due to a funding shortfall. When the Agency reopened the program a week later, it implemented an artificial loan cap of $750,000—a reduction of more than 50% of the program's statutory loan limit of $2 million—and a prohibition on piggyback loans, which would have allowed lenders to make loans in excess of a loan cap.

Businesses who had already submitted applications for loans in excess of the new cap were then told their deals would not qualify for the program. These applicants had gone through months of financial planning and had been promised their loans would be approved. Many had already begun purchasing equipment and hiring employees. And if their deals don't get done, many will lose earnest money they had taken from personal savings and retirement plans to inject into these loans.

Other potential applicants who would ordinarily qualify for the 7(a) program have since been told there is no alternative to finance their start-up or expansion. The net result to these small businesses is a loss of faith in the U.S. government. The net result to the economy is a loss of jobs.

The provisions of S. 2186 fix this problem, and the bill has NAGGL's full support. As the trade association representing lenders who make over 80% of loans in the 7(a) program every year, we can attest to the fact that the minimal fee increases in S. 2186 are ones that lenders will pay and will not be passed along to borrowers. We also continue to oppose the SBA's legislative proposal to reduce the guarantee on all 7(a) loans to 50% and allow the legislation that provided for lender and borrower fee decreases through the end of this fiscal year to simply sunset.

Without the provisions of S. 2186, $3 billion in loans will remain unavailable to small businesses for the remainder of FY 2004—a net loss of approximately 90,000 jobs. We also fear that if a swift and equitable solution is not enacted, many 7(a) lenders will flee the program, leaving a void in availability of the long-term financing that is so crucial to small businesses' success. This will be occurring at a time when our economy is in desperate need of a shot in the arm.

We request that you press for swift passage of S. 2186 to bolster economic recovery and the small businesses that can drive it. Thank you in advance for your consideration.

Sincerely,

TONY WILKINSON,
*President & CEO, NAGGL.*

## NOMINATION OF STEPHEN JOHNSON TO BE DEPUTY ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

Mr. WYDEN. Madam President, today, I announced my intention to object to any unanimous consent request for the Senate to take up the nomination of Stephen Johnson to be Deputy Administrator of the Environmental Protection Agency. I did this because I have been trying to obtain information concerning EPA's decision to become involved with the City of Portland's combined sewer overflow program since last August. Despite numerous requests, EPA has to this point failed to answer my questions and failed to provide me with the documents I have requested, with the exception of a limited number of documents that EPA would have to provide to any requester under FOIA.

There are legitimate questions about EPA's decision to intervene 10 years after the City signed an enforceable order with the State of Oregon and after the city and its ratepayers have spent more than $500 million to reduce sewer overflows. But to date, I have been unable to get answers to my questions from EPA despite repeated requests.

Last August, I wrote to the Acting EPA Administrator Marianne Horinko requesting answers to a number of questions concerning EPA's decision to become involved with the City of Portland's combined sewer overflow program. I also requested copies of documents about the Portland sewer situation. I never received answers to my specific questions, and I have received only a small number of the documents I requested.

I also submitted written questions following a hearing of the Senate Environment and Public Works Committee on September 15 to then EPA Assistant Administrator for Water, Tracy Mehan. I never received a response from Mr. Mehan, who has subsequently left the agency, or anyone else from EPA.

In October, I received a letter from Acting EPA Administrator Marianne Horinko promising to ''work[] with your staff to identify which of the documents that are not enforcement sensitive or confidential would be most helpful to you.'' Since then, I have received only a slim file of documents that doesn't begin to answer my questions.

Finally, I ask EPA Administrator Leavitt to look into this personally more than a month ago.

Until I receive answers to my questions and the documents I need to exercise my oversight responsibilities over EPA as a member of the Senate Environment and Public Works Committee, I will continue to object to any unanimous consent request for the Senate to take up the nomination of Stephen Johnson to be Deputy Administrator of the Environmental Protection Agency.

## ADDITIONAL STATEMENTS

### RECOGNITION OF E. NORMAN VEASEY

● Mr. CARPER. Madam President, I rise today in recognition of the Honorable E. Norman Veasey upon his retirement as Chief Justice of the Supreme Court of Delaware. He has served as Chief Justice of the State of Delaware for 12 years. His leadership over that span of time has won him the respect and gratitude of our entire State. He has been, and remains, a trusted friend.

Chief Justice Veasey was born on January 9, 1933 in Wilmington, DE to the late Dr. Eugene E. Veasey and Elizabeth N. Burnett. He attended the Peddie School in Hightstown, NJ. From there, he went on to Dartmouth College where he obtained his A.B. in 1954. He then attended the University of Pennsylvania Law School where he graduated in 1957 with his LL.B. At the University of Pennsylvania Law School, he was a Member of the Board of Editors of the University of Pennsylvania Law Review from 1955 to 1957 and was Senior Editor from 1956 to 1957. He was admitted to the Delaware Bar in 1958.

Chief Justice Veasey has spent most of his life in public service. He served honorably in the Delaware Air National Guard from 1957 to 1968 whereby he obtained the rank of captain. He has also served, among a long list, as Chief Deputy Attorney General of the State of Delaware, Chair of the Delaware Board of Bar Examiners, President of the Conference of Chief Justices in 2000, Chair of the ABA Special Committee on the Evaluation of the Rules of Professional Conduct ''Ethics 2000'', and President of the Delaware State Bar Association. Furthermore, he served as a Director of Beneficial Corporation and National Bank for 13 years from 1979 to 1992.

From 1957 to 1988, he was a member of the prestigious Delaware law firm of Richards, Layton & Finger, with practice emphasis in corporate transactions, litigation and counseling. He was a member of the firm from 1957 to 1992, serving as a partner from 1963 to 1992 and as president from 1985 to 1988.

Judge Veasey became Chief Justice of the State of Delaware on April 7, 1992, having been nominated to that post by then Governor Michael N. Castle and unanimously confirmed by the Delaware State Senate. Chief Justice Veasey is a Judicial Fellow of the American College of Trial Lawyers and is a member of both the Standing Committee on Rules of Practice and Procedure of the United States Judicial Conference and the American Law Institute. He is a Life Fellow of the American Bar Foundation and a director of the Institute for Law and Economics at the University of Pennsylvania. He has been a frequent speaker on corporate governance, ethics and professionalism at continuing legal education programs and has been published widely in the fields related to corporate governance.

In June of 2002, Chief Justice Veasey received the 2002 Paul C. Reardon Award, one of the highest awards given by the National Center for State Courts, NCSC. The Reardon Award, named after the late Massachusetts Supreme Court Justice who was the first president of The National Center's Board of Directors, is presented to a person who has made outstanding contributions to the improvement of the justice system and who has supported the mission of The National Center.

Chief Justice Veasey has been a member of the Conference of Chief Justices since 1992, and headed the conference from 1999 to 2000, a singular

honor for him and for Delaware. He has been intimately involved in issues of attorney ethics, having served as chair of the American Bar Association's Special Committee on Evaluation of Rules of Professional Conduct, Ethics 2000. A frequent speaker on corporate governance, ethics, and professionalism at continuing legal education programs, Chief Justice Veasey has been published widely in the fields related to corporate governance. From 1994 to 1995, he was Chair of the Section of Business Law of the ABA. Justice Veasey is also a Judicial Fellow of the American College of Trial Lawyers.

Justice Veasey has been married to the former Suzanne Johnson for 47 years. Both he and Suzy are the proud parents of four children, Andrew, Douglas, E. Norman, Jr. and Marian Elizabeth, and even prouder grandparents to eleven grandchildren.

Through Chief Justice Veasey's tireless efforts, he has made a profound difference in the lives of thousands of Delawareans. Upon his retirement, he will leave behind a legacy of commitment to public service for both his children and grandchildren and for the generations that will follow. I thank him for the friendship that we share and for the privilege of working closely with him when I served as Governor of Delaware from 1993 to 2001. On behalf of all Delawareans, I congratulate him on a truly remarkable and distinguished career. I wish him, Suzy and their family only the very best in all that lies ahead for each of them.●

## HONORING RETIRING SENATORS IN THE IDAHO STATE LEGISLATURE

● Mr. CRAPO. Madam President, I rise today to honor some good friends who will retire later this month from the Idaho State Senate after a long history of public service.

Laird Noh is completing his twelfth term, representing District 24, Twin Falls County. Presently he serves as the chairman of the Senate Committee on Resources and Environment; he is also a member of the Senate Committee on Agriculture Affairs and the Senate Committee on Education. Throughout his career, Senator Noh has provided reasoned stability, civility and wisdom to a wide range of issues confronting the State of Idaho for all these years.

Since he began his tireless service to Idaho in 1980, he has set a high standard for public service. Since I was elected to the Idaho State Senate in 1984, Laird has been a friend and mentor to me. I have always appreciated his thoughtful insights and measured manner. In countless meetings with Laird, he has paid incredible attention to the information given and followed that up with salient questions and real action. He has had remarkable foresight on a number of legislative issues, and been able to ascertain how an issue or piece of legislation will affect Idahoans down the road. He is truly a statesman who followed his own moral compass and set a course that he felt would best benefit Idahoans. He has been dedicated to giving his all as he has carefully listened to the needs of Idahoans. His leadership and institutional knowledge will be greatly missed as he retires after 24 years of service.

I am certain that his wife Kathleen and his children, John and Susan, will be pleased to have him back home, but I fully expect that he will stay involved in his community. Idaho is a better place to live because of Laird Noh's fine service to the State and its people. I know they join with me in thanking him and wishing him well in his future endeavors.

Sheila Sorensen is completing her sixth term representing District 18 in Ada County. She has been a significant force in the Idaho State Senate, and is completing her tenure as the chairman of the State Affairs Committee. She has also served this session on Judiciary and Rules.

Public servants like Sheila are hard to come by. She has demonstrated a strong commitment to her community and her ideals as she has represented District 18. Sheila is known for her political courage. She has been willing to work across party lines and develop solutions that will make Idaho a better place to live and work. Her medical training has given her unique insight into many issues that have come before the Idaho State Senate.

Her contributions to Idaho will be felt long after she retires from the State senate. Sheila and her husband Dean are longtime friends and supporters of mine, and I will personally miss having them in Idaho and look forward to their return to our State. I appreciate her service, and know that many others in District 18 and across the State join with me in wishing her the best as she moves to the next challenges in her life.

Cecil Ingram is also completing his sixth term representing District 16 in Ada County. He is finishing up his service in the State senate as chairman of the Transportation Committee. His service on the Health and Welfare Committee and the Local Government and Taxation Committee has also been admirable.

He has provided leadership to our State in so many areas, and has been an example of a great public servant. Cecil is known for his independent streak that has advanced the debate on many public policy issues in Idaho, and we are better for that contribution. His efforts have extended beyond the Idaho State Senate to various community organizations, including the Western Idaho Fair, the Salvation Army, the United Way, Junior Achievement, and the Mountain States Tumor Institute. Cecil's wife, Lois Ann, and his three children, Cynthia, William, and Christopher, have provided him with strong support from home, and I know that without that kind of backing, it would be impossible for him to work as tirelessly as he has for the betterment of our State. His contributions will be greatly missed, and I send my best wishes as he moves into the next phase of his life.

All three of these senators have carved their own mark on our State. They have done it in an admirable and memorable fashion, and I know that their efforts have not gone unnoticed and will likely be felt for years to come.●

## THE 175TH ANNIVERSARY OF FAYETTEVILLE FIRST BAPTIST CHURCH

● Mr. MILLER. Madam President, I rise today to honor the 175th anniversary of the Fayetteville First Baptist Church, which has faithfully served the spiritual needs of its congregation since its humble beginnings in 1828. The church's mark and influence on the community is evident by the good works that her congregation has taken part in over the last 175 years. Fayetteville First Baptist's commitment to worship the Lord and serve the public has established it as a beacon of hope to the surrounding community and has held it in high standing among the churches of the South Metro Baptist Association.

Fayetteville First Baptist's message has found its way out of the present chapel, built in 1939, and in to the greater community through its missionaries and ministers, through the sister churches that it has established, and through the spiritual and social opportunities that it has brought to so many. Our places of worship are vital to the social fabric of our Nation, and Fayetteville First Baptist is no exception. It has taken on this responsibility and remained steadfast in its mission for the last 175 years. I am proud of this wonderful church and ask that my colleagues join me in wishing its congregation a happy 175th anniversary.●

## TRIBUTE TO ELAINE RAUBACH

● Mr. HARKIN. Madam President, I would like to take a few minutes to comment on the recent retirement of Elaine Raubach. Elaine served for many years as the director of the Budget and Analysis Group of the Centers for Medicare and Medicaid Services. In that role, Elaine was responsible for putting together the budget and performance plan for CMS, as well as running the agency's financial management system.

Elaine previously played a lead role in the development and implementation of a major reorganization of the agency, then known as the Health Care Financing Administration. She also served the agency in information resources management.

Elaine began her Federal career in 1973 with the Social Security Administration and, soon thereafter, began

working with the Medicare program. She remained with Medicare when the Health Care Financing Administration was formed in 1977, and continued with work in Medicare, Medicaid and other Federal health programs.

Elaine graduated from Rutgers University and received her Master of Arts Degree from the University of Virginia and an Executive Master of Business Administration from Loyola College.

For the past several years, she provided invaluable service as liaison to the Appropriations Committee in the Senate and the House of Representatives. She has met each and every challenge given her with the utmost ability and professionalism. Elaine has been an asset in every position in which she has served.

On behalf of the members of the Appropriations Committee, I would like to take this opportunity to thank Elaine for her dedicated service, of her vision which so often guided us in formulating creative solutions to funding issues, and in caring for the people we serve. Best wishes for an enjoyable and well-deserved retirement.●

## MESSAGE FROM THE HOUSE

At 10:43 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3536. An act to designate the facility of the United States Postal Service located at 210 Main Street in Malden, Illinois, as the ''Army Staff Sgt. Lincoln Hollinsaid Malden Post Office''.

H.R. 3537. An act to designate the facility of the United States Postal Service located at 185 State Street in Manhattan, Illinois, as the ''Army Pvt. Shawn Pahnke Manhattan Post Office''.

H.R. 3538. An act to designate the facility of the United States Postal Service located at 101 South Chicago Avenue in Saint Anne, Illinois, as the ''Marine Capt. Ryan Beaupre Saint Anne Post Office''.

## ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 506. An act to provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes.

H.R. 2059. An act to designate Fort Bayard Historic District in the State of New Mexico as a National Historic Landmark, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2536. An act 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 Governmental Affairs.

H.R. 2537. An act to develop and coordinate a national emergency warning system; to the Committee on Governmental Affairs.

H.R. 3538. An act to designate the facility of the United States Postal Service located at 201 South Chicago Avenue in Saint Anne, Illinois, as the ''Marine Capt. Ryan Beaupre Saint Anne Post Office''; to the Committee on Governmental Affairs.

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 1997. An act to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

S. 1904. 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''.

S. 2022. A bill to designate the Federal building located at 250 West Cherry Street in Carbondale, Illinois the ''Senator Paul Simon Federal Building''.

S. 2043. A bill to designate a Federal building in Harrisburg, Pennsylvania, as the ''Ronald Reagan Federal Building''.

## EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. DOMENICI for the Committee on Energy and Natural Resources.

*Susan Johnson Grant, of Virginia, to be Chief Financial Officer, Department of Energy.

*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.

## 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. 2187. A bill to amend the Haitian Refugee Immigration Fairness Act of 1998; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself, Mr. MCCAIN, and Mr. DASCHLE):

S. 2188. A bill to provide for reform of the Corps of Engineers, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BIDEN:

S. 2189. A bill to establish grants to improve and study the National Domestic Violence Hotline; to the Committee on the Judiciary.

By Mr. INHOFE:

S. 2190. A bill to implement equal protection under the 14th article of amendment to the Constitution for the right to life of each born and preborn human person; to the Committee on the Judiciary.

By Mr. THOMAS:

S. 2191. A bill to provide the venue for the judicial review of actions by certain Federal agencies; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. KOHL, and Mr. FEINGOLD):

S. 2192. A bill to amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises; to the Committee on the Judiciary.

By Ms. SNOWE (for herself and Mr. BOND):

S. 2193. A bill to improve small business loan programs, and for other purposes; to the Committee on Small Business and Entrepreneurship.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HAGEL:

S. Res. 317. A resolution recognizing the importance of increasing awareness of autism spectrum disorders, supporting programs for increased research and improved treatment of autism, and improving training and support for individuals with autism and those who care for individuals with autism; to the Committee on Health, Education, Labor, and Pensions.

## ADDITIONAL COSPONSORS

S. 50

At the request of Mr. DASCHLE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 50, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

S. 595

At the request of Mr. BREAUX, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 740

At the request of Mr. LIEBERMAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 740, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the medicare program.

S. 846

At the request of Mr. SMITH, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 976

At the request of Mr. WARNER, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 1093

At the request of Ms. SNOWE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1093, a bill to amend the Internal Revenue Code of 1986 to extend the transportation fringe benefit to bicycle commuters.

S. 1197

At the request of Mr. ENZI, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1197, a bill to amend the Public Health Service Act to ensure the safety and accuracy of medical imaging examinations and radiation therapy treatments.

S. 1217

At the request of Mr. ENZI, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1217, a bill to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls.

S. 1380

At the request of Mr. SMITH, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1380, a bill to distribute universal service support equitably throughout rural America, and for other purposes.

S. 1630

At the request of Mrs. CLINTON, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1630, a bill to facilitate nationwide availability of 2–1–1 telephone service for information and referral services, and for other purposes.

S. 1645

At the request of Mr. CRAIG, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1703

At the request of Mr. SMITH, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1703, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

S. 1780

At the request of Mr. BIDEN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1780, a bill to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors.

S. 1793

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1793, a bill to provide for college quality, affordability, and diversity, and for other purposes.

S. 1805

At the request of Mr. SARBANES, his name was withdrawn as a cosponsor of S. 1805, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

S. 1855

At the request of Mr. ALLEN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1855, a bill to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles ''Pete'' Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories.

S. 1900

At the request of Mr. LUGAR, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1900, a bill to amend the African Growth and Opportunity Act to expand certain trade benefits to eligible sub-Saharan African countries, and for other purposes.

S. 1902

At the request of Mr. REED, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1902, a bill to establish a National Commission on Digestive Diseases.

S. 1916

At the request of Ms. LANDRIEU, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1916, 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. 1999

At the request of Mr. DASCHLE, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1999, a bill to amend part D of title XVIII of the Social Security Act, as added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide for negotiation of fair prices for medicare prescription drugs.

S. 2086

At the request of Mr. THOMAS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2086, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to improve the reclamation of abandoned mines.

S. 2161

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2161, a bill to amend title 5, United States Code, to establish a national health program administered by the Office of Personnel Management to offer Federal employee health benefits plans to individuals who are not Federal employees, and for other purposes.

S. 2175

At the request of Mr. DODD, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2175, a bill to amend the Public Health Service Act to support the planning, implementation, and evaluation of organized activities involving statewide youth suicide early intervention and prevention strategies, and for other purposes.

S. 2186

At the request of Mr. KERRY, the names of the Senator from Arkansas (Mr. PRYOR), the Senator from Washington (Ms. CANTWELL), the Senator from Washington (Mrs. MURRAY) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 2186, a bill to temporarily extend the programs under the Small Business Act and the Small Business Investment Act of 1958, through May 15, 2004, and for other purposes.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. CON. RES. 97

At the request of Mr. SARBANES, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Con. Res. 97, a concurrent resolution recognizing the 91st annual meeting of The Garden Club of America.

S. RES. 168

At the request of Mr. CAMPBELL, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. Res. 168, a resolution designating May 2004 as ''National Motorcycle Safety and Awareness Month''.

S. RES. 269

At the request of Mr. LEVIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Res. 269, a resolution urging the Government of Canada to end the commercial seal hunt that opened on November 15, 2003.

S. RES. 299

At the request of Mr. CAMPBELL, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Res. 299, a resolution recognizing, and supporting efforts to enhance the public awareness of, the social problem of child abuse and neglect.

S. RES. 307

At the request of Mrs. DOLE, her name was added as a cosponsor of S. Res. 307, a resolution honoring the county of Cumberland, North Carolina, its municipalities and community partners as they celebrate the 250th year of the existence of Cumberland County.

S. RES. 309

At the request of Mr. CRAIG, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. Res. 309, a resolution designating the week beginning March 14, 2004 as ''National Safe Place Week''.

S. RES. 311

At the request of Mr. BROWNBACK, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

AMENDMENT NO. 2671

At the request of Mr. SMITH, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of amendment No. 2671 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 2695

At the request of Mr. KENNEDY, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from California (Mrs. BOXER), the Senator from Connecticut (Mr. DODD) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 2695 intended to be proposed to S. Con. Res. 95, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

AMENDMENT NO. 2697

At the request of Mr. DEWINE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of amendment No. 2697 intended to be proposed to S. Con. Res. 95, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

AMENDMENT NO. 2699

At the request of Mr. KENNEDY, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of amendment No. 2699 intended to be proposed to S. Con. Res. 95, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

AMENDMENT NO. 2708

At the request of Mr. LUGAR, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Nebraska (Mr. HAGEL), the Senator from Ohio (Mr. DEWINE), the Senator from Washington (Mrs. MURRAY), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Vermont (Mr. JEFFORDS), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Illinois (Mr. DURBIN), the Senator from Washington (Ms. CANTWELL), the Senator from Oregon (Mr. SMITH) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of amendment No. 2708 intended to be proposed to S. Con. Res. 95, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

AMENDMENT NO. 2710

At the request of Mr. DAYTON, his name was added as a cosponsor of amendment No. 2710 proposed to S. Con. Res. 95, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS—MARCH 9, 2004

By Mr. DASCHLE (for Mr. KERRY):

S. 2186. A bill to temporarily extend the programs under the Small Business Act and the Small Business Investment Act of 1958, through May 15, 2004, and for other purposes; to the Committee on Small Business and Entrepreneurship.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. KERRY. Mr. President, today I introduce legislation that keeps the Small Business Administration and its financing and counseling assistance available to small businesses. Small businesses need us to act now to keep critical assistance available to our Nation's biggest job creators.

There should not be any objections to this bill. It has broad support in the small business and the lending communities. The lending provisions of the bill have the support of small borrowers that testified before Congress over the past few weeks and the support of a coalition of small business trade associations, including the trade associations of 504 lenders and of 7(a) lenders, the American Bankers Association and the Independent Community Bankers Association, as well as the National Small Business Alliance and the U.S. Chamber of Commerce, and the women's business center provisions have the support of women's trade associations such as Women Impacting Public Policy and the Association of Women's Business Centers.

This bill authorizes the SBA and most of its programs through the May 15, 2004, which will allow time for the House to complete its work on the SBA's 3-year reauthorization bill, passed by the Senate in September 2003. In addition, this bill addresses several urgent issues that are critical to keep SBA programs operating and helping small businesses across the country.

Let me outline these for you. The first provision authorizes the continued operation of the SBA's 504 loan guarantee program for the rest of fiscal year 2004. Unless we act, the authority to operate this program will expire on March 15, next Monday, and small businesses in need of financing for fixed assets will be turned away. These loans are for growing small businesses that need loans with long repayment terms and fixed interest rates to afford a new building or perhaps land to expand their business and their workforce, or equipment to improve or increase production. The lenders who make these loans serve a unique role in our economy—they develop economic opportunities where conventional lenders are not willing to take a risk. They are not a shy group, and care deeply about the communities where they live. I am sure most, if not all, Senators have received numerous calls and communications from them over the past few weeks. It is my hope that extending authorization will provide some stability to the industry so that they continue to fund our growing businesses, and then in the near future, the House will consider our more comprehensive SBA reauthorization legislation, bill number S. 1375, that we passed in September, to enact other important 504 program improvements that are supported by the small business community. This loan program requires no appropriations because it is funded entirely by fees that borrowers and lenders pay.

The second provision keeps open the doors of our most experienced and successful Women's Business Centers, again without added cost to the Treasury. This bill contains a small adjustment to the Women's Business Center program that updates the current funding formula. The adjustment changes the portion of funding allowed for women's business centers in the sustainability part of the program to keep up with the increasing number of centers that will need funding this fiscal

year. In short, this change directs the SBA to reserve 48 percent of the appropriated funds for the sustainability centers, instead of 30 percent, which will give the most experienced centers the greatest opportunity to receive sustainability funding, while still allowing for new centers and protecting existing ones.

Currently there are 88 women's business centers. Of these, 35 are in the initial grant program and 53 will have graduated to the sustainability part of the program. These sustainability centers make up more than half of the total women's business centers, but under the current funding formula are only allotted 30 percent of the funds. Without the change to 48 percent, all grants to sustainability centers could be cut in half—or worse, 23 experienced centers could lose funding completely. Cutting funding for these, our most efficient and successful centers, would not only be detrimental to the centers themselves, but also to the women they serve, to their local communities, to their states, and to the national economy.

As the author of the Women's Business Centers Sustainability Act of 1999, I can tell you that when the bill was signed into law, it was Congress's intent to protect the established and successful infrastructure of worth, performing centers. The law was designed to allow all graduating Women's Business Centers that meet certain performance standards to receive continued funding under sustainability grants. This approach allows for new centers to be established—but not by penalizing those that have already demonstrated their worth. It was our intention to continue helping the most productive and well-equipped women's business centers, knowing that demand for such services was rapidly growing.

Today, with women-owned businesses opening at one-and-a-half times the rate of all privately held firms, the demand and need for women's business centers is even greater. Until Congress makes permanent the Women's Business Center Sustainability Pilot program, as intended in Senate-passed legislation, an extension of authority and increase in sustainability funds is vital—not only to the centers themselves, but to the women's business community and to the millions of workers employed by women-owned businesses around the country.

The importance of the women's business centers to small business owners in communities across this country cannot be overstated. Take for instance the story of Melanie Marsden and Shannon Lawler, who recently opened A Better Place to Be Day Spa in Charlestown, MA. While working on a business plan last summer, the two hopeful entrepreneurs happened across the website of the Center for Women and Enterprise (CWE), a women's business center in Boston. Having just signed a lease and with a target opening for their spa quickly approaching, Melanie and Shannon were looking for help, and quick. At first, the process seemed overwhelming, but the experts at CWE were able to guide Melanie and Shannon through the complicated process—from business plan to long-term financing and management. CWE helped Melanie and Shannon open A Better Place to Be Day Spa and already see a steady stream of clients pass through their doors. Without CWE, Melanie and Shannon believe that they would not have opened their business on time, or at all. Last year alone, women's business centers like CWE helped over 100,000 entrepreneurs just like Melanie and Shannon with their small business needs. The majority of these women have few resources and little access to business development assistance, and without the women's business centers, they might have none.

As I have said on more than one occasion, women business owners do not get the recognition they deserve for the contribution to our economy: Eighteen million Americans would be without jobs today if it weren't for these entrepreneurs who had the courage and the vision to strike out on their own. For 19 years, as a member of the Senate Committee on Small Business and Entrepreneurship, I have worked to increase the opportunities for these enterprising women, leading to greater earning power, financial independence and asset accumulation. For these women, in addition to the challenge and experience of running their own business, it means having a bank account, buying a home, sending their children to college, and being in control of their own future.

I want to again express my sincere and continuing support for the growing community of women entrepreneurs across the Nation and for the invaluable programs through which the SBA provides women business owners with the tools they need to succeed. For years, I have fought for increased funding for SBA assistance that helps women entrepreneurs, including measures that have sustained and expanded the Women's Business Centers, and give women entrepreneurs their deserved representation within the Federal procurement process.

The third provision makes temporary changes to the SBA's largest loan program, the so-called 7(a) program, in order to compensate for the administration's budget gimmicks and program mismanagement that caused a substantial shortage in funding. This shortage led to a temporary shutdown of the program in January, followed by lending restrictions that created serious financial hardships for small businesses and reduced access to affordable capital for small businesses in general. For the remainder of fiscal year 2004, a coalition of 7(a) lenders and small business groups have worked with Congress to come up with some limited fees, paid by lenders and not borrowers, that will increase the amount of lending available. That extra funding will increase from $9.5 billion to more than $11 billion the amount of loan guarantees available to small businesses. With more funding, Congress expects the SBA to lift the loan cap size of $750,000 and other restrictions, give priority in processing and approval to eligible small businesses that have been shut out this year, and require the SBA to renew export working capital loans to eligible small businesses.

Of course, these changes would not be necessary if the administration had either requested adequate funding in its budget or used its authority to reprogram money to compensate for the shortfall. It also could have sent up a request for supplemental funding. On three different occasions, I wrote to the administration urging these actions, with the support of Senators LEVIN, HARKIN, LIEBERMAN, LANDRIEU, EDWARDS, CANTWELL, BAYH, and PRYOR, urging any of these solutions, but the administration refused to act. Instead, the insufficient funding was compounded by mismanagement and the program was completely shutdown from January 6 to January 14. When the administration reopened the program, it was with extreme restrictions. The restrictions were aimed at keeping the demand for the loans down without regard to their effect on the small businesses the Agency is intended to serve. Small businesses appealed to the administration and our committees for help because they were caught in the middle. For example, one company in Pennsylvania has a $1 million export working capital loan that needs to be renewed, but it can't because one of SBA's restrictions does not allow loans of more than $750,000. At risk is the home of one of the owners because it is part of the collateral securing the existing loan. This company is qualified; it's just trapped by the SBA's restrictions. With your help in passing this bill immediately, we can do the right thing for these small business owners and others who played by the rules. There is no cost to the Treasury in enacting these provisions.

Last, the fourth provision, addresses an urgent need for some firms in New York needing disaster loan assistance. Many have said we should wait until we address other SBA legislation in the next 60 days. However, hundreds of jobs are at stake and these businesses do not have 2 months. This language is included at the bipartisan request of the House Small Business Committee leadership. Their staffs worked closely with the SBA to develop this language, which is acceptable to all of them. In addition to the support of House Committee Chairman DON MANZULLO and Ranking Member NYDIA VELÁZQUEZ, this provision is also supported by Congresswoman SUE KELLY and Senator CHARLES SCHUMER.

All four provisions address circumstances that require immediate action. Let me remind everyone: Without

this legislation, the SBA's loan program for growing businesses, commonly referred to as the 504 Loan Guarantee Program, would shut down next Monday, March 15, 2004. Without this legislation, the future of counseling and training for women starting and growing their businesses, through the most established SBA's Women's Business Centers, would be compromised. Without this legislation, small businesses with their homes and life savings at stake may face financial and personal devastation because of program mismanagement. Without this legislation, small business disaster victims may go out of business.

Mr. President, I ask unanimous consent that the text of the bill and two letters relating to programs affected by this legislation be printed in the RECORD. I thank my colleagues for their support of small businesses and for considering immediate passage of this important small business bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A BETTER PLACE TO BE DAY SPA,
*Charlestown, MA.*

DEAR SENATOR KERRY: This past summer I had the opportunity to work with the Center for Women & Enterprise when I was in the beginning stages of writing a business plan for a small day spa that had long been a dream. My business partner and childhood friend and I were both born to working class families and raised in Charlestown. I was educated in the Boston Public School system and went on to attend Boston University on one of their Boston Scholars full tuition scholarships. While working full time after graduation, I decided to enroll at the Muscular Therapy Institute in Cambridge with the goal in mind of opening my own business someday. My business partner held down a full time job and attended The Elizabeth Grady School of Aesthetics in preparation for our venture. While for many years we talked about our dream, we know that making that dream become the reality it is today, would not have been possible without programs like the Center for Women & Enterprise and the Small Business Administration.

For the last 2 years we had been keeping our eyes and ears open about commercial space in Charlestown, which is not easy to come by and generally not affordable. Our goal was to open by May 2004 (when I will turn 30 and my partner will be 31). We hadn't even begun the business plan writing when the ideal location became available in August. The 1,500 square foot commercial space is located at Mishuwam Park Apartments on Maine Street in Charlestown which is an apartment complex funded through the HUD Section 236 program and is managed by Peabody Properties. We had to move quickly on the space and before we knew it we had signed a lease and incorporated in a matter of days. Our target opening date then became November 1st which didn't leave us much time to pull things together but we didn't even know how overwhelming the whole process might have been if we had not found the Center for Women & Enterprise.

After contacting CWE, I received a call back within minutes from Bea Chiem and she would prove to be an invaluable resource to us during the following months. She took what was very complicated and overwhelming for us and made it so much easier to understand. Every time we would come to a part of the financials that we thought we might never figure out, we knew Bea was only a phone call away. I was most impressed by her response time to each and every question I had. Her patience, knowledge and belief in our vision played a major role in us getting the financing we needed. CWE should be proud to have such a caring and knowledgeable woman on the team.

The closing on our loan with Sovereign finally took place last week and we got a $60,000 term loan and the $40,000 line of credit we requested from Sovereign through an SBA loan. Shannon and I cannot thank the Center for Women & Enterprise enough for all of their help. We have no doubt that without CWE (and Bea) in our corner the financial institutions we approached would not have taken us as seriously.

The way in which the center for Women & Enterprise reaches out to help women in business inspired us to do the same. In selecting suppliers and inventory for our gift shop within the spa, we chose to carry products that were made by women or by women owned businesses with a preference given to Massachusetts or New England based businesses.

A Better Place to Be Day Spa, was received well by the Charlestown community, we had 400 people at our grand opening open house on November 1st and have a steady stream of clients coming through our doors each day. And in the short time we have been open we have seen many repeat clients already. Our business got off to a great start because of the Center for Women & Enterprise and as we continue to grow I will be sure to let our clients know that A Better Place to Be Day Spa is here because of the guidance we received from the Center for Women & Enterprise and the support of the Small Business Administration.

In closing I need you to know that what the Center for Women & Enterprise and the SBA do for women in business is truly incredible. I particularly enjoy the frequent newsletters outlining upcoming events as well as educational opportunities and workshops that I will be sure to take advantage of in the future. A Better Place to Be Day Spa will be represented at the upcoming State House Day and we will continue to look for ways that we can give back to other women in business through CWE.

Thank you.

MELANIE MARSDEN,
SHANNON LAWLER,
*Owners.*

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NATIONAL ASSOCIATION OF
WOMEN BUSINESS OWNERS,
*Kansas City, MO, March 9, 2004.*

Hon. JOHN KERRY,
*Ranking Member, Committee on Small Business and Entrepreneurship.*

DEAR SENATOR KERRY: On behalf of the Kansas City chapter of the National Assoc. of Women Business Owners (representing 200 members), I would like to request the following actions be taken regarding the SBA 7(a) program.

Absent the SBA asking congress for additional funding, NAWBO supports increasing fees on lenders as an approach to adequately fund the SBA 7(a) program and to lift restrictions.

Specifically, NAWBO would like the program to:

Allow piggyback loans, but charge a 0.50 percent lender fee for each;

Raise lender fees by 0.10 percent; and

For loans that are under $150,000, have lenders pay the SBA the 0.25 percent fee that lenders currently keep for themselves. This only applies to these small loans.

Thank you.

ELAINE HAMILTON,
*Public Policy Chair.*

S. 2186

*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 ''SBA Emergency Authorization Extension Act of 2004''.

**SEC. 2. SBA PROGRAM AUTHORIZATIONS.**

(a) IN GENERAL.—Section 1 of Public Law 108–172 (117 Stat. 2065) is amended—

(1) in subsection (a), by striking ''March 15'' each place that term appears and inserting ''May 15''; and

(2) by adding at the end the following:

''(c) EXCEPTION FOR OTHER PROGRAMS.—Notwithstanding subsection (a), title V of the Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.) and section 29 of the Small Business Act (15 U.S.C. 656), including any pilot program, shall remain authorized through September 30, 2004.''.

(b) CONFORMING AMENDMENT.—Section 503(f) of the Small Business Investment Act of 1958 (15 U.S.C. 697(f)) is amended by striking ''October 1, 2003'' and inserting ''October 1, 2004''.

**SEC. 3. WOMEN'S BUSINESS CENTERS.**

(a) IN GENERAL.—Section 29(k) of the Small Business Act (15 U.S.C. 656(k)) is amended—

(1) in paragraph (2), by adding at the end the following:

''(C) FUNDING PRIORITY.—Subject to available funds, and reservation of funds, the Administration shall, for each fiscal year, allocate—

''(i) $150,000 for each women's business center established under subsection (b), except for any center that requests a lesser amount;

''(ii) from the remaining funds, not more than $125,000, in equal amounts, to each women's business center established under subsection (l), to the extent such funds are reserved under subsection (k)(4)(A), except for any center that requests a lesser amount; and

''(iii) any funds remaining after allocations are made under clauses (i) and (ii) to new eligible women's business centers and eligible women's business centers that did not receive funding in the prior fiscal year under subsection (b).''; and

(2) in paragraph (4)(A), by adding at the end the following:

''(v) For fiscal year 2004, 48 percent.''.

(b) SUNSET DATE.—The amendments made by this section are repealed on October 1, 2004.

**SEC. 4. 7(a) LOAN GUARANTEE PROGRAM.**

(a) COMBINATION LOANS.—

(1) IN GENERAL.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

''(31) COMBINATION LOANS.—

''(A) DEFINED TERM.—As used in this paragraph, the term 'combination loan' means a financing comprised of a loan guaranteed under this subsection and a loan not guaranteed by Federal, State, or local government.

''(B) AUTHORITY.—

''(i) IN GENERAL.—A small business concern may combine a loan guaranteed under this subsection with a loan that is not guaranteed by Federal, State, or local government.

''(ii) LENDER.—The nonguaranteed loan under clause (i) may be made by—

''(I) the lender that provided the financing under this subsection or a different lender; or

''(II) a lender in the Preferred Lenders Program.

''(iii) SECURITY.—The nonguaranteed loan under clause (i) may be secured by a senior lien and the guaranteed loan under this subsection may be secured by a subordinated lien.

''(iv) APPLICATION.—A loan guarantee under this subsection on behalf of a small

business concern, which is approved within 120 days of the date on which a nonguaranteed loan is obtained by the same small business concern, shall be subject to the provisions of this paragraph.

''(C) FEE ON COMBINATION LOAN.—The lender shall pay a one-time fee of 0.5 percent of the amount of the nonguaranteed loan if the nonguaranteed portion of the loan has a senior credit position to the guaranteed portion of the loan. This fee shall be in addition to any other lender fees and shall not be charged to the borrower.

''(D) LOAN SIZE.—

''(i) PREFERRED LENDERS PROGRAM.—If the loan guaranteed under this subsection is processed under delegated authority under the Preferred Lenders Program, the maximum amount of the nonguaranteed loan may not exceed—

''(I) $1,000,000; or

''(II) a combination of $2,000,000 gross loan amount of a loan guaranteed by the Administration and an additional nonguaranteed loan of $1,000,000.

''(ii) SMALL BUSINESS ADMINISTRATION.—If the loan guaranteed under this subsection is processed and approved by Administration staff, the amount of the nonguaranteed loan may not exceed—

''(I) $2,000,000; or

''(II) a combination of $2,000,000 gross loan amount of a loan guaranteed by the Administration and an additional nonguaranteed loan of $2,000,000.

''(E) USE OF PROCEEDS.—All proceeds from the fee collected under this subparagraph shall be used to offset the cost (as defined in section 502 of the Credit Reform Act of 1990) to the Administration of guaranteeing loans under this subsection.''.

(b) TERMINATION OF LENDER AUTHORITY TO RETAIN GUARANTEE FEES.—Section 7(a)(18)(B) of the Small Business Act (15 U.S.C. 636(a)(18)(B)) is amended to read as follows:

''(B) RETENTION OF CERTAIN FEES.—

''(i) IN GENERAL.—Except as provided under clause (ii), lenders participating in the programs established under this subsection may retain not more than 25 percent of a fee collected under subparagraph (A)(i).

''(ii) FISCAL YEAR 2004.—Beginning on the date of enactment of this clause and ending on September 30, 2004, the Administration or its agent shall collect all fees under subparagraph (A)(i). All proceeds from fees collected under this paragraph shall be used to offset the cost (as defined in section 502 of the Credit Reform Act of 1990) to the Small Business Administration of guaranteeing loans under this subsection.''.

(c) TEMPORARY MODIFICATION OF ANNUAL LENDER FEE.—Section 7(a)(23) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) by striking ''0.25 percent'' and inserting ''0.35 percent''; and

(2) by adding at the end the following: ''All proceeds from the fee collected under this paragraph shall be used to offset the cost (as defined in section 502 of the Credit Reform Act of 1990) to the Administration of guaranteeing loans under this subsection.''.

(d) LIFTING LOAN RESTRICTIONS AND PRIORITY PROCESSING OF REJECTED APPLICATIONS.—

(1) IN GENERAL.—The Small Business Administration shall—

(A) eliminate the program restrictions imposed by policy notices 5000–902 and 0000–1709 to allow for the processing and approval of loan applications cancelled or returned because of the program shutdown or restrictions imposed by policy notices 5000–902, 0000–1707, or 0000–1709;

(B) permit a small business or lender to resubmit any loan application that was not considered or approved because of the program shutdown or restrictions imposed by policy notices 5000–902, 0000–1707, or 0000–1709;

(C) give priority to processing any application submitted before January 8, 2004, that was not considered because of the program shutdown or loan restrictions imposed by policy notices 5000–902, 0000–1707, or 0000–1709;

(D) give priority, to the extent possible, to approving all eligible loans that were cancelled or returned because of the program shutdown or restrictions imposed by policy notices 5000–902, 0000–1707, or 0000–1709, in the order in which the applications were originally submitted; and

(E) give priority to processing all eligible loans to any small business that has received financing under section 7(a)(14) of the Small Business Act (15 U.S.C. 636(a)(14) and requests a renewal of such financing, regardless of temporary restrictions imposed by the Small Business Administration through the policy notices referred to in this paragraph, and approve such loans, if the small business is otherwise eligible for such financing under that section.

(2) PROOF OF APPLICATION.—An application shall not be denied consideration or approval because the Small Business Administration failed to retain a record of receiving an application if the lender or borrower supplies proof that the application was submitted by mail, fax, or electronic means before January 8, 2004.

(3) RESERVATION AND APPLICATION OF FEE PROCEEDS.—All proceeds from fees authorized under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) shall be combined with any amounts appropriated to carry out such section and used—

(A) first, to process and fund loan guarantees approved pursuant to paragraph (d)(1); and

(B) second, to process and fund other loan guarantees under section 7(a) of the Small Business Act.

(4) NOTIFICATION REQUIREMENT.—The Small Business Administration shall not make any significant policy or administrative changes affecting the operation of the loan program authorized under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) unless, not later than 15 business days before such change, the Administrator of the Small Business Administration submits, under the Administrator's signature, a report that specifically describes the proposed changes and the duration of those changes to—

(A) the chairman and ranking member of the Committee on Small Business and Entrepreneurship of the Senate; and

(B) the chairman and ranking member of the Committee on Small Business of the House of Representatives.

(e) SUNSET DATE.—This section and the amendments made by this section are repealed on October 1, 2004.

**SEC. 5. RESUBMISSION OF DISASTER LOAN APPLICATIONS FOR CERTAIN BUSINESSES.**

(a) RESUBMISSION OF APPLICATIONS.—During the 30-day period beginning on the date of enactment of this Act, a small business concern may resubmit an application for a loan that was not approved under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) if the following conditions are met:

(1) ORIGINAL APPLICATION.—The small business concern originally submitted an application before January 1, 2003, in response to the events associated with Small Business Administration Disaster Declaration 3364.

(2) LOCATION.—On the date of the original submission of the application and on the date of the resubmission, the applicant operates a facility in Bronx, Kings, Nassau, New York, Queens, Richmond, or Westchester county in the State of New York.

(3) INABILITY TO OPERATE.—Without regard to physical damage to a facility, the applicant was unable to operate at a facility because of a prohibition on the use of the facility, in whole or in part, by an order or other action of a Federal, State, or local government (or any instrumentality of any of the foregoing) for 20 or more consecutive days, occurring as a result of the events associated with Small Business Administration Disaster Declaration 3364.

(b) STANDARD FOR APPROVAL.—The Administrator shall approve (without regard to any requirements applicable under section 7(b) of the Small Business Act (15 U.S.C. 636(b))), a loan with respect to any application resubmitted under subsection (a) if the applicant has a debt coverage ratio, as attested to by a qualified, independent, third-party auditor, of not less than 1.15 for the applicant's last taxable year ending before the date of the submission of the original application. For purposes of determining the debt coverage ratio under this subsection, the Administrator shall not take into account any Federal or State tax lien or obligation other than a judgment lien.

(c) MINIMUM LOAN AMOUNT.—The Administrator shall not approve a loan under this section for an amount that is less than 80 percent of the documented losses shown on the application submitted under subsection (a).

(d) COORDINATION WITH OTHER LOAN LIMITS.—No loan made under this section shall be taken into account under section 7(b)(3)(E) of the Small Business Act (15 U.S.C. 636(b)(3)(E)).

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM of Florida:

S. 2187. A bill to amend the Haitian Refugee Immigration Fairness Act of 1998; to the Committee on the Judiciary.

Mr. GRAHAM of Florida. Mr. President, seven years ago, I introduced the Haitian Refugee Immigration Fairness Act of 1998 (HRIFA). I introduced HRIFA after Congress enacted the Nicaraguan Adjustment and Central American Relief Act (NACARA). NACARA enabled Nicaraguans and Cubans to become permanent residents and permitted many unsuccessful Central American and Eastern European asylum applicants to seek another form of immigration relief. At the time, Haitians were suffering brutal and widespread political persecution by a ruthless dictatorship. Yet lawmakers opted to exclude Haitian asylum seekers from the NACARA legislation.

HRIFA became law with bipartisan support and reversed this grave inequity in U.S. immigration law. It allowed Haitians who had fled political turmoil in their country an opportunity to adjust their status like the opportunity we granted to refuges from other countries. The legislation has been beneficial and nearly 11,000 Haitians have adjusted their status and become legal permanent residents of the United States. However HRIFA contained several flaws that undermine the original intent of the legislation. That is why today I am introducing the HRIFA Improvement Act of 2004. I would like to thank my friend Senator

MIKE DEWINE for taking the lead in cosponsoring this bill and for his continued support and commitment to fairness in our immigration policy.

First, this legislation corrects an oversight that disqualified Haitian refugees who entered the country with falsified papers. Some Haitian refugees, like many who have fled repressive governments, used falsified documents to flee their country when it was impossible for them to get travel documents from their dictatorial government.

If you look at other immigration legislation, it is clear that the exclusion of Haitian refugees who came here with falsified documents is an oversight. NACARA allowed refugees from a long list of countries, including Guatemala, El Salvador, Romania, Hungary, Bulgaria, and a number of others, to adjust their status to legal permanent residence, even if they entered the country with fraudulent documents.

As result of this oversight, many families and up to 5,000 American children face the possible deportation of a spouse, father or mother who has worked for a decade or more to build a life and a family in the United States. There have been media reports, heart-rending stories, of parents facing the choice between forever leaving their American-born children in their safe communities and schools in the United States or taking them back to a strife-torn Haiti where their parents risk political violence and persecution.

I ask unanimous consent to include in the RECORD an Associated Press story from December 29, 2003, called ''Flaw in Law threatens Deportation for Haitian Refugees.'' The piece tells the story of Rigaud Rene, a Haitian political activist now living in Miami. Mr. Rene faces deportation because he fled Haiti in 1994 using doctored documents and is therefore not covered by HRIFA. Since coming here, Mr. Rene has learned English, held down a job and earned his GED degree. He also married and has a one and a half year old American-born son.

If Mr. Rene is deported, he will be forced to take his U.S. citizen son with him or leave him here without any means of support. It is a solomonic choice that Mr. Rene should not have to make, especially because his dilemma is the result of a simple oversight in the law.

The difference between the way we treat Haitians and the way we treat refugees from other nations is inconsistent and unfair. The elimination of this kind of inconsistency and unfairness was the primary motivation for the passage of HRIFA in 1998. Clearly, the exclusion of Haitians who entered with falsified documents was an oversight that must now be corrected.

The second purpose of the Improvement Act is to respond to another legislative oversight that left Haitian children and dependents unprotected from ''aging out'' of HRIFA eligibility. HRIFA allows children and unmarried dependents of approved applicants to adjust to legal permanent residency. However, the Bureau of Citizenship and Immigration Services has taken much longer than was expected to approve the many applicants who had eligible children and dependents when they applied. As a result, many of those who would have been eligible had their parents or guardians been approved earlier have now ''aged out'' of eligibility or gotten married.

Currently, these ''aged out'' individuals face the immediate risk of deportation. Their ineligibility is a result solely of administrative delays and is neither their fault nor the intent of HRIFA. The Improvement Act addresses this unforeseen injustice by permitting these individuals to apply for adjustment of status or move to have their cause reopened.

Finally, the HRIFA Improvement Act of 2004 also ensures fairness by extending the protection from deportation to applicants under this Act. This is consistent with the protection extended to applicants under the 1998 HRIFA legislation.

All those who come to the United States fleeing political persecution and violence deserve to be treated fairly and equally. This country is built on this principle of justice and we should give everyone, regardless of his or her national origin, an equal opportunity. That is what this legislation intends to do.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Associated Press, Dec. 29, 2003]

FLAW IN LAW THREATENS DEPORTATION FOR HAITIAN REFUGEES

(By Ken Thomas)

Nearly a decade after leaving Haiti, Regaud Rene ends each day with a prayer. He gives thanks for his wife and young son and their life in America—and prays that their time together will endure.

Rene, a former political activist on the island, faces deportation following a lengthy legal battle with immigration authorities.

He says deportation would devastate his family, forcing him to take his 1½-year-old American-born son to Haiti and leave behind his wife. He also will lose a job that helps him send about $300 a month to support family members in Haiti.

''Some people pray to Jesus for miracles,'' Rene said during a recent interview. ''They are not more special than me. So I hope that God can help me, too.''

Rene, 41, is one of about 3,000 Haitian migrants ensnarled in what activists call a flaw in a 1998 law to help provide permanent residency—called green cards—to illegal aliens from Haiti who lived in the United States before 1996.

The bill didn't include waivers for Haitian migrants known as ''airplane refugees'' who used forged documents to flee revengeful abuses and killings in the impoverished island after President Jean-Bertrand Aristide, the country's first freely elected leader, was deposed in a 1991 coup by Gen. Raul Cedras.

In Rene's case, immigration officials have maintained that the altered documents make him ineligible to live here legally because he committed fraud to enter the country.

But local activists contend that pro-Aristide Haitians arriving by air had to use altered documents to escape possible harm in Haiti because the U.S. Coast Guard was interdicting refugees who came by sea and returning them.

''All these people knew they were being looked for,'' said Steven Forester, a senior policy advocate for the Haitian Women of Miami, a nonprofit organization. ''If you're being looked for by a regime that's chopping people's faces off, you don't get into a boat.''

Those who worked on the 1998 Haitian bill said the ''airplane refugees'' were not supposed to be left out. Paul Virtue, who served as general counsel at the former INS in 1998–99, said he thought ''it was an oversight that they were excluded.''

''I don't think anyone really thought about the problem that people would face who came by aircraft,'' Virtue said.

The Department of Homeland Security, which oversees immigration, declined comment on Rene's case. But Dan Kane, a department spokesman, stressed that every case is judged on the individual merits of an applicant's arguments.

Rene initially sought asylum when he first entered the United States in 1994 but was ordered deported by an immigration judge for using a forged passport. His appeal was pending when Congress passed the 1998 law to help Haitians. Rene sought a green card under the new law but his claim was rejected in July 2001.

He appealed the decision and Tuesday his case was sent back to be reheard by an immigration judge. But Aristide's return to power has weakened his argument in the past and his lawyer cautions that Rene could be deported at any moment.

''It's very desperate. They could pick him up today,'' said Clarel Cyriaque, a Miami lawyer handling Rene's case.

Rene tried to get a green card through his wife, Sonie Octalus, who came here in 1996 and is a legal permanent resident, but the family failed to demonstrate deporting him would result in an ''extreme hardship.''

U.S. Rep. Kendrick Meek, a Miami Democrat, introduced legislation in October to expand the Haitian law to include those who arrived by air and to prevent the government from deporting anyone with a pending application. But Meek said it faces an uncertain future.

Meek said ''the only real flicker of light'' would come if the Bush administration embraces Homeland Security Secretary Tom Ridge's recent suggestion of support for an amnesty for illegal immigrants.

Thousands of Haitians have applied for green cards under the 1998 Haitian Refugee Immigration Fairness Act. But the majority of the cases have yet to be adjudicated. A U.S. General Accounting Office report in October found that more than 11,000 of the 37,851 applications have been approved.

Rene was an active Aristide supporter when the Haitian priest ran for president in 1990. He led 300 Aristide supporters in his hometown of Le Borgne and joined the pro-Aristide National Front for Change in Democracy. He passed out leaflets and photos supporting Aristide.

A month after the coup, Rene said he was visited at his home by five members of the military. The men, who were carrying revolvers, threatened him and pushed him around, according to court documents. Rene then went into hiding for two years, staying with a friend in the northern city of Cap-Haitien.

''I was scared to go back to Le Borgne. If I go back to Le Borgne, anything could happen,'' he recalled.

He fled Haiti for the Bahamas by boat in early 1994 and then used forged documents to fly to Miami International Airport in May 1994, months before Aristide was returned to power.

Rene has built a new life in America, learning English at a local Catholic church, working as a deli clerk at a Miami Beach grocery store and taking night classes to earn a GED degree.

Rene married Octalus in February 2001. Their son, Rikinson, was born the following year. The family lives in a small one-bedroom apartment, where a small bed sits in a cramped living room cooled by a white box fan.

If Rene is deported, the couple will send Rikinson with him because Octalus doesn't drive, has no other relatives in the area and speaks limited English. But the decision has been wrenching.

''If they send him to Haiti, it's like telling me I might as well go to Haiti, too,'' Octalus said, through a translator in her native Creole.

The couple also wonders how they'll support their families in Haiti if Rene is deported. Rene sends about $300 a month to support two other children, two sisters and his mother. His wife sends $500 a month to six sisters on the island, paying their rent, school tuition and clothing.

The U.S. Agency for International Development estimates Haitians living in the U.S. send between $700 million to $800 million to Haiti every year. Forester, of Haitian Women of Miami, worries about the impact on families in Haiti who lose financial support when relatives are deported.

''If they really want to send a message not to flee, what they're doing by deporting these people is causing the very migration outflow that they say they're trying to prevent,'' Forester said.

A man of faith, Rene says his hopes have been reduced to prayer. Prayer, he quips, is another part of the American experience.

''In God We Trust,'' Rene said with a smile. ''That's what the Americans say.''

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By Mr. FEINGOLD (for himself, Mr. MCCAIN, and Mr. DASCHLE):

S. 2188. A bill to provide for reform of the Corps of Engineers, and for other purposes; to the Committee on Environment and Public Works.

Mr. FEINGOLD. Mr. President, I rise today to introduce the Corps of Engineers Modernization and Improvement Act of 2004. I am pleased to be joined by the senior Senator from Arizona, Mr. MCCAIN, who worked with me in the 107th Congress to reform the Corps. I also thank the senior Senator from South Dakota, Mr. DASCHLE, who, as the Democratic Leader, has long supported Corps reform, for cosponsoring this legislation today.

As we debate the budget resolution this week, we cannot ignore the record-breaking deficits that the Nation faces. Fiscal responsibility has never been so important. This legislation provides Congress with a unique opportunity to underscore our commitment to that goal. Time and time again we have heard that fiscal responsibility and environmental protection are mutually exclusive. Through this legislation, however, we can save taxpayers billions of dollars and protect the environment. As evidence of this unique opportunity, this bill is supported by Taxpayers for Common$ense, the National Taxpayers Union, the National Wildlife Federation, American Rivers, the Corps Reform Network, and Earthjustice.

Reforming the Army Corps of Engineers will be a difficult task for Congress. It involves restoring credibility and accountability to a Federal agency rocked by scandals and constrained by endlessly growing authorizations and a gloomy federal fiscal picture, and yet an agency that Wisconsin, and many other states across the country, have come to rely upon. From the Great Lakes to the mighty Mississippi, the Corps is involved in providing aid to navigation, environmental remediation, water control and a variety of other services in my state alone.

My office has strong working relationships with the Detroit, Rock Island, and St. Paul District Offices that service Wisconsin, and I want the fiscal and management cloud over the Corps to dissipate so that the Corps can continue to contribute to our environment and our economy.

This legislation evolved from my experience in seeking to offer an amendment to the Water Resources Development Act of 2000 to create independent review of Army Corps of Engineers' projects. In response to my initiative, the bill's managers, which included the former Senator from New Hampshire, Senator BOB SMITH, and the senior Senator from Montana, Mr. BAUCUS, adopted an amendment as part of their managers' package to require a National Academy of Sciences study on the issue of peer review of Corps projects.

The bill I introduce today includes many provisions that were included in two bills, one of which I authored and the other I cosponsored, in the 107th Congress. It codifies the idea of independent review of the Corps, which was investigated through the 2000 Water Resources bill. It also provides a mechanism to speed up completion of construction for good Corps projects with large public benefits by deauthorizing low priority and economically wasteful projects.

I will note, however, that this is not the first time that the Congress has realized that the Corps needs to be reformed because of its association with pork projects. In 1836, a House Ways and Means Committee report discovered that at least 25 Corps projects were over budget. In its report, the Committee noted that Congress must ensure that the Corps institutes ''actual reform, in the further prosecution of public works.'' In 1902, Congress created a review board to determine whether Corps projects were justified. The review board was dismantled just over a decade ago, and the Corps is still linked with wasteful spending. Here we are, more than 100 years later, talking about the same issue.

The reality is that the underlying problem is not with the Corps, the problem is with Congress. All too often Members of Congress have seen Corps projects as a way to bring home the bacon, rather than ensuring that taxpayers get the most bang for their federal buck.

This bill puts forth bold, comprehensive reform measures. It modernizes the Corps project planning guidelines, which have not been updated since 1983. It requires the Corps to use sound science in estimating the costs and evaluating the needs for water resources projects. The bill clarifies that the national economic development and environmental protection are coequal goals of the Corps. Furthermore, the Corps must use current discount rates when determining the costs and benefits of projects. Several Corps projects are justified using a discount rate formula established in 1974, not the current government-wide discount rate promulgated by the Office of Management and Budget. By using this outdated discount rate formula, the Corps often overestimates project benefits and underestimates project costs.

This legislation also requires that a water resource project's benefits must be 1.5 times greater than the costs to the taxpayer. According to a 2002 study of the Corps backlog of projects, at least 60 Corps projects, whose combined costs total $4.6 billion, do not meet this 1.5 to 1 benefit-cost ratio. Thus, this benefit-cost ratio will save the taxpayer billions of dollars. The bill also mandates Federal-local cost sharing of inland waterways, flood control, and future beach renourishment projects, and reduces the Federal cost burden of these projects.

While the bill assumes a flat 50 percent cost-share for flood control projects, my home state of Wisconsin has been on the forefront of responsible flood plain management and also happens to be home to the Association of State Flood Plain Managers. As Congress considers the issue of Corps reform and the Water Resources Development Act, I hope my colleagues will take a closer look at the issue of a sliding cost scale. We should explore the possibility of creating incentives for communities with cutting-edge flood plain management practices to reduce their local share for projects.

The bill requires independent review of Corps projects. The National Academy of Sciences, the General Accounting Office, and even the Inspector General of the Army agree that independent review is an essential step to assuring that each Corps project is economically justified. Independent review will apply to projects in the following circumstances: 1. the project has costs greater than $25 million, including mitigation costs; 2. the Governor of a state that is affected by the project requests a panel; 3. the head of a Federal agency charged with reviewing the project determines that the project is likely to have a significant adverse environmental or cultural impact; or 4. the Secretary of the Army determines that the project is controversial. Any party can request that the Secretary make a determination of whether the project is controversial.

This bill also creates a Director of Independent Review within the Office

of the Inspector General of the Department of the Army. The Director is responsible for empaneling experts to review projects. The Secretary is required to respond to the panel's report and explain the extent to which a final report addresses the panel's concerns. The panel report and the underlying data that the Corps uses to justify the project will be made available to the public.

The bill also requires strong environmental protection measures. The Corps is required to mitigate the environmental impacts of its projects in a variety of ways, including by avoiding damaging wetlands in the first place and either holding other lands or constructing wetlands elsewhere when it cannot avoid destroying them. The Corps requires private developers to meet this standard when they construct projects as a condition of receiving a federal permit, and I think the Federal Government should live up to the same standards. Too often, the Corps does not complete required mitigation and enhances environmental risks.

I feel very strongly that mitigation must be completed, that the true costs of mitigation should be accounted for in Corps projects, and that the public should be able to track the progress of mitigation projects. The bill requires the Corps to develop a detailed mitigation plan for each water resources project, and conduct monitoring to demonstrate that the mitigation is working. In addition, the concurrent mitigation requirements of this bill would actually reduce the total mitigation costs by ensuring the purchase of mitigation lands as soon as possible.

This bill streamlines the existing automatic deauthorization process. Estimates of the project backlog runs from $58 billion to $41 billion. Under the bill a project authorized for construction but never started is deauthorized if it is denied appropriations funds towards completion of construction for five straight years. In addition, a project that has begun construction but been denied appropriations funds towards completion for three straight years is deauthorized. The bill also preserves congressional prerogatives over setting the Corps' construction priorities by allowing Congress a chance to reauthorize any of these projects before they are automatically deauthorized. This process will be transparent to all interests, because the bill requires the Corps to make a list of projects in the construction backlog available to Congress and the public at large.

In the past decade, the Corps has routinely strayed from its mission of flood control, navigation, and environmental protection. This legislation also requires that the Corps stick with its primary missions and that any water project that does not have the Corps' primary mission of flood control, navigation, or environmental protection as its main objective will be deauthorized.

This legislation will bring out comprehensive revision of the project review and authorization procedures at the Army Corps of Engineers. My goals for the Corps are to increase transparency and accountability, to ensure fiscal responsibility, and to allow greater stakeholder involvement in their projects. I remain committed to these goals, and to seeing Corps Reform enacted as part of this Congress's Water Resources bill.

I feel that this bill is an important step down the road to a reformed Corps of Engineers. This bill establishes a framework to catch mistakes by Corps planners, deter any potential bad behavior by Corps officials to justify questionable projects, end old unjustified projects, and provide planners desperately needed support against the never ending pressure of project boosters. Those boosters, include congressional interests, which is why I believe that this body needs to champion reform—to end the perception that Corps projects are all pork and no substance.

I wish it were the case that the changes we are proposing today were not needed, but unfortunately, I see that there is need for this bill. I want to make sure that future Corps projects no longer fail to produce predicted benefits, stop costing the taxpayers more than the Corps estimated, do not have unanticipated environmental impacts, and are built in an environmentally compatible way. This bill will help the Corps do a better job, which is what the taxpayers and the environment deserve.

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. 2188

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

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

(a) SHORT TITLE.—This Act may be cited as the ''Corps of Engineers Modernization and Improvement Act of 2004''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—MODERNIZING PROJECT PLANNING

Sec. 101. Modern planning principles.
Sec. 102. Independent review.
Sec. 103. Benefit-cost analysis.
Sec. 104. Benefit-cost ratio.
Sec. 105. Cost sharing.

TITLE II—MITIGATION

Sec. 201. Full mitigation.
Sec. 202. Concurrent mitigation.
Sec. 203. Mitigation tracking system.

TITLE III—ADDRESSING THE PROJECT BACKLOG

Sec. 301. Project backlog.
Sec. 302. Primary mission focus.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) the Corps of Engineers is the primary Federal agency responsible for developing and managing the harbors, waterways, shorelines, and water resources of the United States;

(2) the scarcity of Federal resources requires more efficient use of Corps resources and funding, and greater oversight of Corps analyses;

(3) appropriate cost sharing ensures efficient measures of project demands and enables the Corps to meet more national project needs;

(4) the significant demand for recreation, clean water, and healthy wildlife habitat must be fully reflected in the project planning and construction process of the Corps;

(5) the human health, environmental, and social impacts of dams, levees, shoreline stabilization structures, river training structures, river dredging, and other Corps projects and activities must be adequately considered and, in any case in which adverse impacts cannot be avoided, fully mitigated;

(6) the National Academy of Sciences has concluded that the Principles and Guidelines for water resources projects need to be modernized and updated to reflect current economic practices and environmental laws and planning guidelines; and

(7) affected interests must have access to information that will allow those interests to play a larger and more effective role in the oversight of Corps project development and mitigation.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure that the water resources investments of the United States are economically justified and enhance the environment;

(2) to provide independent review of feasibility studies, general reevaluation studies, and environmental impact statements of the Corps;

(3) to ensure timely, ecologically successful, and cost-effective mitigation for Corps projects;

(4) to ensure appropriate local cost sharing to assist in efficient project planning focused on national needs;

(5) to enhance the involvement of affected interests in feasibility studies, general reevaluation studies, and environmental impact statements of the Corps;

(6) to modernize planning principles of the Corps to meet the economic and environmental needs of riverside and coastal communities and the nation;

(7) to ensure that environmental protection and restoration, and national economic development, are co-equal goals, and given co-equal emphasis, during the evaluation, planning, and construction of Corps projects;

(8) to ensure that project planning, project evaluations, and project recommendations of the Corps are based on sound science and economics and on a full evaluation of the impacts to the health of aquatic ecosystems; and

(9) to ensure that the determination of benefits and costs of Corps projects properly reflects current law and Federal policies designed to protect human health and the environment.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) ACADEMY.—The term ''Academy'' means the National Academy of Sciences.

(2) CORPS.—The term ''Corps'' means the Corps of Engineers.

(3) PRINCIPLES AND GUIDELINES.—The term ''Principles and Guidelines'' means the principles and guidelines of the Corps for water resources projects (consisting of Engineer Regulation 1105–2–100 and Engineer Pamphlet 1165–2–1).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Army.

## TITLE I—MODERNIZING PROJECT PLANNING

**SEC. 101. MODERN PLANNING PRINCIPLES.**

(a) PLANNING PRINCIPLES.—Section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) is amended to read as follows:

**"SEC. 209. CONGRESSIONAL STATEMENT OF OBJECTIVES.**

''(a) IN GENERAL.—It is the intent of Congress that—

''(1) national economic development and environmental protection and restoration are co-equal goals of water resources project planning and management; and

''(2) Federal agencies manage and, if clearly justified, construct water resource projects—

''(A) to meet national economic needs; and

''(B) to protect and restore the environment.

''(b) REVISION OF PLANNING GUIDELINES, REGULATIONS AND CIRCULARS.—Not later than 18 months after the date of enactment of the Corps of Engineers Modernization and Improvement Act of 2004, the Secretary, in collaboration with the National Academy of Sciences, shall develop proposed revisions of, and revise, the planning guidelines, regulations, and circulars of the Corps.

''(c) ADDITIONAL REQUIREMENTS.—Corps planning regulations revised under subsection (b) shall—

''(1) incorporate new and existing analytical techniques that reflect the probability of project benefits and costs;

''(2) apply discount rates provided by the Office of Management and Budget;

''(3) eliminate biases and disincentives that discourage the use of nonstructural approaches to water resources development and management;

''(4) encourage, to the maximum extent practicable, the restoration of ecosystems;

''(5) consider the costs and benefits of protecting or degrading natural systems;

''(6) ensure that projects are justified by benefits that accrue to the public at large;

''(7) ensure that benefit-cost calculations reflect a credible schedule for project construction;

''(8) ensure that each project increment complies with section 104;

''(9) include as a cost any increase in direct Federal payments or subsidies and exclude as a benefit any increase in direct Federal payments or subsidies; and

''(10) provide a mechanism by which, at least once every 5 years, the Secretary shall collaborate with the National Academy of Sciences to review, and if necessary, revise all planning regulations, guidelines, and circulars.

''(d) NATIONAL NAVIGATION AND PORT PLAN.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of the Corps of Engineers Modernization and Improvement Act of 2004, the Corps shall develop and annually update an integrated, national plan to manage, rehabilitate and, if justified, modernize inland waterway and port infrastructure to meet current national economic and environmental needs.

''(2) TOOLS.—To develop the plan, the Corps shall employ economic tools that—

''(A) recognize the importance of alternative transportation destinations and modes; and

''(B) employ practicable, cost-effective congestion management alternatives before constructing and expanding infrastructure to increase waterway and port capacity.

''(3) BENEFITS AND PROXIMITY.—The Corps shall give particular consideration to the benefits and proximity of proposed and existing port, harbor, waterway, rail and other transportation infrastructure in determining whether to construct new water resources projects.

''(e) NOTICE AND COMMENT.—The Secretary shall comply with the notice and comment provisions of chapter 551 of title 5, United States Code, in issuing revised planning regulations, guidelines and circulars.

''(f) APPLICABILITY.—On completion of the revisions required under this section, the Secretary shall apply the revised regulations to projects for which a draft feasibility study or draft reevaluation report has not yet been issued.

''(g) PROJECT REFORMULATION.—Projects of the Corps, and separable elements of projects of the Corps, that have been authorized for 10 years, but for which less than 15 percent of appropriations specifically identified for construction have been obligated, shall not be constructed unless a general reevaluation study demonstrates that the project or separable element meets—

''(1) all project criteria and requirements applicable at the time the study is initiated, including requirements under this section; and

''(2) cost share and mitigation requirements of this Act.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)–17) is repealed.

(2) Section 7(a) of the Department of Transportation Act (Public Law 89–670; 80 Stat. 941) is repealed.

**SEC. 102. INDEPENDENT REVIEW.**

(a) DEFINITIONS.—In this section:

(1) AFFECTED STATE.—The term ''affected State'', with respect to a water resources project, means a State or portion of a State that—

(A) is located, at least partially, within the drainage basin in which the project is carried out; and

(B) would be economically or environmentally affected as a result of the project.

(2) DIRECTOR.—The term ''Director'' means the Director of Independent Review appointed under subsection (c)(1).

(b) PROJECTS SUBJECT TO INDEPENDENT REVIEW.—

(1) IN GENERAL.—The Secretary shall ensure that each feasibility report, general reevaluation report, and environmental impact statement for each water resources project described in paragraph (2) is subject to review by an independent panel of experts established under this section.

(2) PROJECTS SUBJECT TO REVIEW.—A water resources project shall be subject to review under paragraph (1) if—

(A) the project has an estimated total cost of more than $25,000,000, including mitigation costs;

(B) the Governor of an affected State requests the establishment of an independent panel of experts for the project;

(C) the head of a Federal agency charged with reviewing the project determines that the project is likely to have a significant adverse impact on environmental, cultural, or other resources under the jurisdiction of the agency; or

(D) the Secretary determines under paragraph (3) that the project is controversial.

(3) CONTROVERSIAL PROJECTS.—

(A) IN GENERAL.—The Secretary shall determine that a water resources project is controversial for the purpose of paragraph (2)(D) if the Secretary finds that—

(i) there is a significant dispute as to the size, nature, or effects of the project;

(ii) there is a significant dispute as to the economic or environmental costs or benefits of the project; or

(iii) there is a significant dispute as to the benefits to the communities affected by the project of a project alternative that—

(I) was not the focus of the feasibility report, general reevaluation report, or environmental impact statement for the project; or

(II) was not considered in the feasibility report, general reevaluation report, or environmental impact statement for the project.

(B) WRITTEN REQUESTS.—Not later than 30 days after the date on which the Secretary receives a written request of any party, or on the initiative of the Secretary, the Secretary shall determine whether a project is controversial.

(c) DIRECTOR OF INDEPENDENT REVIEW.—

(1) APPOINTMENT.—The Inspector General of the Army shall appoint in the Office of the Inspector General of the Army a Director of Independent Review.

(2) QUALIFICATIONS.—The Inspector General of the Army shall select the Director from among individuals who are distinguished experts in biology, hydrology, engineering, economics, or another discipline relating to water resources management.

(3) LIMITATION ON APPOINTMENTS.—The Inspector General of the Army shall not appoint an individual to serve as the Director if the individual has a financial interest in or close professional association with any entity with a financial interest in a water resources project that, on the date of appointment of the Director, is—

(A) under construction;

(B) in the preconstruction engineering and design phase; or

(C) under feasibility or reconnaissance study by the Corps.

(4) TERMS.—

(A) IN GENERAL.—The term of a Director appointed under this subsection shall be 6 years.

(B) TERM LIMIT.—An individual may serve as the Director for not more than 2 nonconsecutive terms.

(5) DUTIES.—The Director shall establish a panel of experts to review each water resources project that is subject to review under subsection (b).

(d) ESTABLISHMENT OF PANELS.—

(1) IN GENERAL.—After the Secretary selects a preferred alternative for a water resources project subject to review under subsection (b) in a formal draft feasibility report, draft general reevaluation report, or draft environmental impact statement, the Director shall establish a panel of experts to review the project.

(2) MEMBERSHIP.—A panel of experts established by the Director for a project shall be composed of not less than 5 nor more than 9 independent experts (including 1 or more biologists, hydrologists, engineers, and economists) who represent a range of areas of expertise.

(3) LIMITATION ON APPOINTMENTS.—The Director shall not appoint an individual to serve on a panel of experts for a project if the individual has a financial interest in or close professional association with any entity with a financial interest in the project.

(4) CONSULTATION.—The Director shall consult with the Academy in developing lists of individuals to serve on panels of experts under this section.

(5) NOTIFICATION.—

(A) IN GENERAL.—To ensure that the Director is able to effectively carry out the duties of the Director under this section, the Secretary shall notify the Director in writing not later than 90 days before the release of a draft feasibility report, draft general reevaluation report, or draft environmental impact statement, for every water resources project.

(B) CONTENTS.—The notification shall include—

(i) the estimated cost of the project; and

(ii) a preliminary assessment of whether a panel of experts may be required.

(6) COMPENSATION.—An individual serving on a panel of experts under this section shall be compensated at a rate of pay to be determined by the Inspector General of the Army.

(7) TRAVEL EXPENSES.—A member of a panel of experts under this section shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the panel.

(e) DUTIES OF PANELS.—

(1) IN GENERAL.—A panel of experts established for a water resources project under this section shall—

(A) review each draft feasibility report, draft general reevaluation report, and draft environmental impact statement prepared for the project;

(B) assess the adequacy of the economic, scientific, and environmental models used by the Secretary in reviewing the project to ensure that—

(i) the best available economic and scientific methods of analysis have been used;

(ii) the best available economic, scientific, and environmental data have been used; and

(iii) any regional effects on navigation systems have been examined;

(C) receive from the public written and oral comments concerning the project;

(D) not later than the deadline established under subsection (f), submit to the Secretary a report concerning the economic, engineering, and environmental analyses of the project, including the conclusions of the panel, with particular emphasis on areas of public controversy, with respect to the feasibility report, general reevaluation report, or environmental impact statement; and

(E) not later than 30 days after the date of issuance of a final feasibility report, final general reevaluation report, or final environmental impact statement, submit to the Secretary a brief report stating the views of the panel on the extent to which the final analysis adequately addresses issues or concerns raised by each earlier evaluation by the panel.

(2) EXTENSIONS.—

(A) IN GENERAL.—The panel may request from the Director a 30-day extension of the deadline established under paragraph (1)(E).

(B) RECORD OF DECISION.—The Secretary shall not issue a record of decision until after, at the earliest—

(i) the final day of the 30-day period described in paragraph (1)(E); or

(ii) if the Director grants an extension under subparagraph (A), the final day of end of the 60-day period beginning on the date of issuance of a final feasibility report described in paragraph (1)(E) and ending on the final day of the extension granted under subparagraph (A).

(f) DURATION OF PROJECT REVIEWS.—

(1) DEADLINE.—Except as provided in paragraph (2), not later than 180 days after the date of establishment of a panel of experts for a water resources project under this section, the panel shall complete—

(A) each required review of the project; and

(B) all other duties of the panel relating to the project (other than the duties described in subsection (e)(1)(E)).

(2) EXTENSION OF DEADLINE FOR REPORT ON PROJECT REVIEWS.—Not later than 240 days after the date of issuance of a draft feasibility report, draft general reevaluation report, or draft environmental impact statement for a project, if a panel of experts submits to the Director before the end of the 180-day period described in paragraph (1), and the Director approves, a request for a 60-day extension of the deadline established under that paragraph, the panel of experts shall submit to the Secretary a report required under subsection (e)(1)(D).

(g) RECOMMENDATIONS OF PANEL.—

(1) CONSIDERATION BY SECRETARY.—

(A) IN GENERAL.—If the Secretary receives a report on a water resources project from a panel of experts under this section by the applicable deadline under subsection (e)(1)(E) or (f), the Secretary shall, at least 14 days before entering a final record of decision for the water resources project—

(i) take into consideration any recommendations contained in the report; and

(ii) prepare a written explanation for any recommendations not adopted.

(B) INCONSISTENT RECOMMENDATIONS AND FINDINGS.—Recommendations and findings of the Secretary that are inconsistent with the recommendations and findings of a panel of experts under this section shall not be entitled to deference in a judicial proceeding.

(2) PUBLIC REVIEW; SUBMISSION TO CONGRESS.—After receiving a report on a water resources project from a panel of experts under this section (including a report under subsection (e)(1)(E)), the Secretary shall—

(A) immediately make a copy of the report (and, in a case in which any written explanation of the Secretary on recommendations contained in the report is completed, shall immediately make a copy of the response) available for public review; and

(B) include a copy of the report (and any written explanation of the Secretary) in any report submitted to Congress concerning the project.

(h) PUBLIC ACCESS TO INFORMATION.—

(1) IN GENERAL.—Except as provided in paragraph (3), the Secretary shall ensure that information relating to the analysis of any water resources project by the Corps, including all supporting data, analytical documents, and information that the Corps has considered in the analysis, is made available—

(A) to any individual upon request;

(B) to the public on the Internet; and

(C) to an independent review panel, if such a panel is established for the project.

(2) TYPES OF INFORMATION.—Information concerning a project that is available under paragraph (1) shall include—

(A) any information that has been made available to the non-Federal interests with respect to the project; and

(B) all data and information used by the Corps in the justification and analysis of the project.

(3) EXCEPTION FOR TRADE SECRETS.—

(A) IN GENERAL.—The Secretary shall not make information available under paragraph (1) that the Secretary determines to be a trade secret of any person that provided the information to the Corps.

(B) CRITERIA FOR TRADE SECRETS.—The Secretary shall consider information to be a trade secret only if—

(i) the person that provided the information to the Corps—

(I) has not disclosed the information to any person other than—

(aa) an officer or employee of the United States or a State or local government;

(bb) an employee of the person that provided the information to the Corps; or

(cc) a person that is bound by a confidentiality agreement; and

(II) has taken reasonable measures to protect the confidentiality of the information and intends to continue to take the measures;

(ii) the information is not required to be disclosed, or otherwise made available, to the public under any other Federal or State law; and

(iii) disclosure of the information is likely to cause substantial harm to the competitive position of the person that provided the information to the Corps.

(i) COSTS.—

(1) LIMITATION ON COST OF REVIEW.—The cost of conducting a review of a water resources project under this section shall not exceed—

(A) $250,000 for a project, if the total cost of the project in current year dollars is less than $50,000,000; and

(B) 0.5 percent of the total cost of the project in current year dollars, if the total cost is $50,000,000 or more.

(2) TREATMENT.—The cost of conducting a review of a project under this section shall be considered to be part of the total cost of the project.

(3) COST SHARING.—A review of a project under this section shall be subject to section 105(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(a)).

(4) WAIVER OF LIMITATION.—The Secretary may waive a limitation under paragraph (1) if the Secretary determines that the waiver is appropriate.

(j) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to a panel of experts established under this section.

**SEC. 103. BENEFIT-COST ANALYSIS.**

Section 308(a) of the Water Resources Development Act of 1990 (33 U.S.C. 2318(a)) is amended—

(1) in paragraph (1)(B), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) any projected benefit attributable to any change in, or intensification of, land use arising from the draining, reduction, or elimination of wetlands.''.

**SEC. 104. BENEFIT-COST RATIO.**

(a) RECOMMENDATION OF PROJECTS.—Beginning in fiscal year 2004, in the case of a water resources project that is subject to a benefit-cost analysis, the Secretary may recommend the project for authorization by Congress, and may choose the project as a recommended alternative in any record of decision or environmental impact statement, only if the project, in addition to meeting any other criteria required by law, has projected national benefits that are at least 1.5 times as great as the estimated total costs of the project, based on current discount rates provided by the Office of Management and Budget.

(b) REVIEW AND DEAUTHORIZATION OF PROJECTS.—

(1) REVIEW.—Not later than 180 days after the date of enactment of this Act, the Secretary shall review each water resources project described in paragraph (2) to determine whether the projected benefits of the project are less than 1.5 times as great as the estimated total costs of the project.

(2) PROJECTS SUBJECT TO REVIEW.—A water resources project shall be subject to review under paragraph (1) if—

(A) the project was authorized before the date on which the review is commenced;

(B) the project is subject to a benefit-cost analysis; and

(C) an amount that is less than 33 percent of the estimated total costs of the project (excluding costs of preconstruction engineering and design) has been obligated for the project.

(3) DEAUTHORIZATIONS.—

(A) IN GENERAL.—On completion of the review under paragraph (1), the Secretary shall submit to Congress a list that describes each water resources project the projected benefits of which are less than 1.5 times as great as the estimated total costs of the project.

(B) PROJECTS.—A project included on the list under subparagraph (A) shall be deauthorized effective beginning 3 years after the date of submission of the list to Congress unless, during that 3-year period, Congress reauthorizes the project.

(4) DEAUTHORIZED PROJECTS FOR WHICH CONSTRUCTION HAS BEEN COMMENCED.—In the case of a water resources project that is deauthorized under paragraph (3) and for which construction (other than preconstruction engineering and design) has been commenced, the Secretary may take such actions as are necessary with respect to the project to protect public health and safety and the environment.

**SEC. 105. COST SHARING.**

(a) INLAND WATERWAYS.—

(1) CONSTRUCTION.—Section 102(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2212(a)) is amended—

(A) in the first sentence, by striking ''One-half of the costs of construction'' and inserting ''Forty-five percent of the costs of construction''; and

(B) by striking the second sentence and inserting ''Fifty-five percent of those costs shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.''.

(2) OPERATIONS AND MAINTENANCE.—Section 102 of the Water Resources Development Act of 1986 (33 U.S.C. 2212) is amended by striking subsections (b) and (c) and inserting the following:

''(b) OPERATION AND MAINTENANCE.—

''(1) FEDERAL SHARE.—The Federal share of the cost of operation and maintenance shall be 100 percent in the case of—

''(A) a project described in paragraph (1) or (2) of subsection (a); or

''(B) the portion of the project authorized by section 844 that is allocated to inland navigation.

''(2) SOURCE OF FEDERAL SHARE.—

''(A) GENERAL FUND.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is less than or equal to 2 cents per ton mile, or in the case of the portion of the project authorized by section 844 that is allocated to inland navigation, the Federal share under paragraph (1) shall be paid only from amounts appropriated from the general fund of the Treasury.

''(B) GENERAL FUND AND INLAND WATERWAYS TRUST FUND.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 2 but less than or equal to 10 cents per ton mile—

''(i) 75 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the general fund of the Treasury; and

''(ii) 25 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.

''(C) INLAND WATERWAYS TRUST FUND.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 10 cents per ton mile but less than 30 cents per ton mile, 100 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.

''(D) NON-FEDERAL RESPONSIBILITY.—

''(i) IN GENERAL.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 30 cents per ton-mile, the cost of operations and maintenance shall be a non-Federal responsibility.

''(ii) DEAUTHORIZATION.—In a case in which the Secretary determines that the non-Federal interests for a project described in clause (i) are unable to pay for the cost of operations and maintenance of the project, the project is deauthorized as of the date of that determination.''.

(b) FLOOD DAMAGE REDUCTION.—Section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213) is amended—

(1) in subsections (a)(2) and (b), by striking ''35'' each place it appears and inserting ''50'';

(2) in the paragraph heading of subsection (a)(2), by striking ''35 PERCENT MINIMUM''' and inserting ''MINIMUM'''; and

(3) in the paragraph heading of subsection (b), by striking ''35'' and inserting ''50''.

(c) BEACH REPLACEMENT.—Section 103(d)(2)(A) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(d)(2)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

''(B) 2004 AND SUBSEQUENT PROJECTS.—For any project authorized after the date of enactment of the Corps of Engineers Modernization and Improvement Act of 2004, the non-Federal cost of the periodic nourishment of the project, or any measure for shore protection or beach erosion control for the project, shall be 65 percent.''.

## TITLE II—MITIGATION

**SEC. 201. FULL MITIGATION.**

Section 906(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(d)) is amended—

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

''(1) PROJECTS.—

''(A) IN GENERAL.—After November 17, 1986, the Secretary shall not submit to Congress any proposal for the authorization of any water resources project, and shall not choose a project alternative in any final record of decision, environmental impact statement, or environmental assessment, unless the report contains—

''(i) a specific plan to fully mitigate losses of aquatic and terrestrial resources and fish and wildlife created by the project; or

''(ii) a determination by the Secretary that the project will have negligible adverse impact on aquatic and terrestrial resources and fish and wildlife.

''(B) SPECIFIC REQUIREMENTS.—Specific mitigation plans shall ensure that impacts to bottomland hardwood forests and other habitat types are mitigated in kind.

''(C) CONSULTATION.—In carrying out this paragraph, the Secretary shall consult with appropriate Federal and non-Federal agencies.''; and

(2) by adding at the end the following:

''(3) STANDARDS FOR MITIGATION.—

''(A) IN GENERAL.—To fully mitigate losses to fish and wildlife resulting from a water resources project, the Secretary shall, at a minimum—

''(i) acquire and restore 1 acre of superior or equivalent habitat of the same type to replace each acre of habitat adversely affected by the project; and

''(ii) replace the hydrologic functions and characteristics, the ecological functions and characteristics, and the spatial distribution of the habitat adversely affected by the project.

''(B) DETAILED MITIGATION PLAN.—The specific mitigation plan for a water resources project under paragraph (1) shall include, at a minimum—

''(i) a detailed and specific plan to monitor mitigation implementation and ecological success, including the designation of the entities that will be responsible for monitoring;

''(ii) specific ecological success criteria by which the mitigation will be evaluated and determined to be successful, prepared in consultation with the United States Fish and Wildlife Service;

''(iii) a detailed description of the land and interests in land to be acquired for mitigation and the basis for a determination that land and interests are available for acquisition;

''(iv) sufficient detail regarding the chosen mitigation sites and type and amount of restoration activities to permit a thorough evaluation of the plan's likelihood of ecological success and resulting aquatic and terrestrial resource functions and habitat values; and

''(v) a contingency plan for taking corrective actions if monitoring demonstrates that mitigation efforts are not achieving ecological success as described in the ecological success criteria.

''(C) APPLICABLE LAW.—A time period for mitigation monitoring or for the implementation and monitoring of contingency plan actions shall not be subject to the deadlines described in section 202.

''(4) DETERMINATION OF MITIGATION SUCCESS.—

''(A) IN GENERAL.—Mitigation shall be considered to be successful at the time at which monitoring demonstrates that the mitigation has met the ecological success criteria established in the mitigation plan.

''(B) REQUIREMENTS FOR SUCCESS.—To ensure the success of any attempted mitigation, the Secretary shall—

''(i) consult yearly with the United States Fish and Wildlife Service on each water resources project requiring mitigation to determine whether mitigation monitoring for that project demonstrates that the project is achieving, or has achieved, ecological success;

''(ii) ensure that implementation of the mitigation contingency plan for taking corrective action begins not later than 30 days after a finding by the Secretary or the United States Fish and Wildlife Service that the original mitigation efforts likely will not result in, or have not resulted in, ecological success;

''(iii) complete implementation of the contingency plan as expeditiously as practicable; and

''(iv) ensure that monitoring of mitigation efforts, including those implemented through a mitigation contingency plan, continues until the monitoring demonstrates that the mitigation has met the ecological success criteria.

''(5) RECOMMENDATION OF PROJECTS.—The Secretary shall not recommend a water resources project alternative or choose a project alternative in any final record of decision, environmental impact statement, or environmental assessment completed after the date of enactment of this paragraph unless the Secretary determines that the mitigation plan for the alternative will successfully mitigate the adverse impacts of the project on aquatic and terrestrial resources, hydrologic functions, and fish and wildlife.

''(6) COMPLETION OF MITIGATION BEFORE CONSTRUCTION OF NEW PROJECTS.—The Secretary shall complete all promised mitigation for water resources projects in a particular watershed before constructing any new water resources project in that watershed.''.

**SEC. 202. CONCURRENT MITIGATION.**

Section 906(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(a)) is amended—

(1) by striking ''(a)(1) In the case'' and inserting the following:

''(a) MITIGATION.—

''(1) IN GENERAL.—In the case'';

(2) in paragraph (1), by striking ''interests—'' and all that follows through ''losses),'' and inserting the following: ''interests shall be undertaken or acquired—

''(A) before any construction of the project (other than such acquisition) commences; or

''(B) concurrently with the acquisition of land and interests in land for project purposes (other than mitigation of fish and wildlife losses);'';

(3) in paragraph (2), by striking ''(2) For the purposes'' and inserting the following:

''(2) COMMENCEMENT OF CONSTRUCTION.—For the purpose''; and

(4) by adding at the end the following:

''(4) IMPLEMENTATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), to ensure concurrent mitigation, the Secretary shall implement—

''(i) 50 percent of required mitigation before beginning construction of a project; and

''(ii) the remainder of required mitigation as expeditiously as practicable, but not later than the last day of construction of the project or separable element of the project.

''(B) EXCEPTION FOR PHYSICAL IMPRACTICABILITY.—In a case in which the Secretary determines that it is physically impracticable to complete mitigation by the last day of construction of the project or separable element of the project, the Secretary shall reserve or reprogram sufficient funds to ensure that mitigation implementation is completed as expeditiously as practicable, but in no case later than the end of the next fiscal year immediately following the last day of that construction.

''(5) USE OF FUNDS.—Funds made available for preliminary engineering and design, construction, or operations and maintenance shall be available for use in carrying out this section.''.

**SEC. 203. MITIGATION TRACKING SYSTEM.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a recordkeeping system to track each water resources project constructed, operated, or maintained by the Secretary, and for each permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344)—

(1) the quantity and type of wetland and other habitat types affected by the project, project operation, or permitted activity;

(2) the quantity and type of mitigation required for the project, project operation or permitted activity;

(3) the quantity and type of mitigation that has been completed for the project, project operation or permitted activity; and

(4) the status of monitoring for the mitigation carried out for the project, project operation or permitted activity.

(b) REQUIRED INFORMATION AND ORGANIZATION.—The recordkeeping system shall—

(1) include information on impacts and mitigation described in subsection (a) that occur after December 31, 1969; and

(2) be organized by watershed, project, permit application, and zip code.

(c) AVAILABILITY OF INFORMATION.—The Secretary shall make information contained in the recordkeeping system available to the public on the Internet.

## TITLE III—ADDRESSING THE PROJECT BACKLOG

**SEC. 301. PROJECT BACKLOG.**

(a) REVIEW AND REPORT ON WATER RESOURCES CONSTRUCTION BACKLOG.—

(1) DEFINITIONS.—In this subsection:

(A) ACTIVE.—The term ''active'', with respect to a project, means that—

(i) the project is economically justified;

(ii) the project has received funding for—

(I) preconstruction engineering and design; or

(II) construction; and

(iii) the non-Federal interests with respect to the project have demonstrated willingness and the ability to provide the required non-Federal share.

(B) DEFERRED.—The term ''deferred'', with respect to a project, means that the project—

(i) has doubtful economic justification;

(ii) requires reevaluation to determine the economic feasibility of the project; or

(iii) is a project for which the non-Federal interests are unable to provide required cooperation.

(C) INACTIVE.—The term ''inactive'', with respect to a project, means that—

(i) the project is not economically justified;

(ii) the project no longer meets current and prospective needs as described in a feasibility report or general reevaluation report;

(iii) the non-Federal interests with respect to the project have not demonstrated willingness or the ability to provide the required non-Federal share; or

(iv)(I) the project most recently received, under an Act of Congress, authorization or reauthorization of construction more than 25 years before the date of enactment of this Act; and

(II) an amount that is less than 33 percent of the estimated total costs of the project (excluding costs of preconstruction engineering and design) has been obligated for the project as of the date of enactment of this Act.

(D) PROJECT.—The term ''project'' means a water resources project, or a separable element of a water resources project, that is authorized by law for funding from—

(i) the Construction, General, appropriations account; or

(ii) the construction portion of the Flood Control, Mississippi River and Tributaries, appropriations account.

(2) STUDY.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a study consisting of—

(i) the list described in subparagraph (B); and

(ii) the information described in subparagraph (C).

(B) LIST.—The list referred to in subparagraph (A) is a list of all authorized water resources projects—

(i) that have not been commenced; or

(ii) the construction of which has not been completed.

(C) REQUIRED INFORMATION.—Each project on the list described in subparagraph (B) shall be accompanied by information on—

(i) the primary purpose of the project;

(ii) the year in which construction of the project was commenced;

(iii) the total estimated cost of the project in current year dollars;

(iv) the benefit-cost ratio of the project, determined based on current discount rates;

(v) the estimated annual benefits and annual costs of the project;

(vi) the remaining additional benefits and the remaining additional costs to complete construction of the project (including the ratio that remaining benefits bear to remaining costs);

(vii)(I) the year during which the most recent major studies of the feasibility and design of the project were completed; and

(II) the year during which the most recent environmental impact statement or environmental assessment for the project was completed;

(viii) the date of the last year for which economic data that was included in the most recent analysis of the feasibility and justification of the project was collected;

(ix) the status of each project as—

(I) reconnaissance, preconstruction engineering and design, or construction; and

(II) active, deferred, or inactive; and

(x) the information described in paragraph (3) for each particular type of project.

(3) INFORMATION FOR PARTICULAR PROJECT TYPE.—The study under paragraph (2) shall include—

(A) in the case of a flood damage reduction project—

(i) the extent to which the project reflects national flood damage reduction priorities as established by the Federal Emergency Management Agency;

(ii)(I) the level of flood protection provided; and

(II) to the maximum extent practicable, the extent to which the project is based on projected growth and the basis for each projection of growth; and

(iii) the extent to which the project—

(I) restores natural aquatic ecosystem functions; and

(II) avoids adverse environmental impacts and risk before implementation of mitigation activities;

(B) in the case of a navigation project—

(i)(I) the extent to which the economic benefits of the project are based on existing levels of commercial traffic rather than projected growth in commercial traffic; and

(II) to the maximum extent practicable, the extent to which the project is based on projected growth and the basis for each projection of growth; and

(ii) the extent of the likely environmental benefits of the project, including the extent of—

(I) remediation of contaminated sediments, or reuse of dredged material, to restore aquatic habitat; and

(II) adverse environmental impacts and risks of the project; and

(C) in the case of an environmental restoration project—

(i) the extent to which the project—

(I) restores natural hydrologic processes and the spatial extent of aquatic habitat; and

(II) otherwise produces self-sustaining environmental benefits; and

(ii) the extent to which the project addresses critical national conservation priorities, including preservation and protection of endangered and threatened species or habitat of endangered and threatened species.

(4) MEASUREMENT AND REPORTING.—

(A) IN GENERAL.—The Secretary shall use objective and quantifiable standards for measuring and reporting the information required to be submitted under paragraph (3).

(B) ALTERNATIVE METHOD OF REPORTING.—In any case in which the information required to be submitted under subparagraph (B)(ii) or (C) of paragraph (3) cannot be quantified, the information shall be reported through an objective description of the benefits and impacts of the applicable project.

(5) AVAILABILITY TO THE PUBLIC.—The study submitted to Congress under paragraph (2) shall be made available to—

(A) any person on request; and

(B) the public on the Internet.

(b) PROJECT DEAUTHORIZATIONS.—Section 1001 of the Water Resources Development Act of 1986 (33 U.S.C. 579a) is amended to read as follows:

**''SEC. 1001. PROJECT DEAUTHORIZATIONS.**

''(a) DEFINITIONS.—In this section:

''(1) CONSTRUCTION OF A PROJECT.—The term 'construction of a project' means—

''(A) with respect to a flood control project—

''(i) the acquisition of land, an easement, or a right-of-way; or

''(ii) the performance of physical work under a construction contract;

''(B) with respect to an environmental protection and restoration project—

''(i) the acquisition of land, an easement, or a right-of-way primarily to facilitate the restoration of wetland or similar habitat; or

''(ii) the performance of physical work under a construction contract—

''(I) to modify an existing project facility; or

''(II) to construct a new environmental protection or restoration measure;

''(C) with respect to a shore protection project—

''(i) the acquisition of land, an easement, or a right-of-way; or

''(ii) the performance of physical work under a construction contract for a structural or a nonstructural measure; and

''(D) with respect to any project that is not described in subparagraph (A), (B), or (C), the performance of physical work under a construction contract.

''(2) INACTIVE.—The term 'inactive', with respect to a project, means that—

''(A) the project is not economically justified;

''(B) the project no longer meets current and prospective needs as described in a feasibility report or general reevaluation report;

''(C) the non-Federal interests with respect to the project have not demonstrated willingness or the ability to provide the required non-Federal share; or

''(D)(i) the project most recently received, under an Act of Congress, authorization or reauthorization for construction more than 25 years before the date of enactment of this subparagraph; and

''(ii) an amount that is less than 33 percent of the estimated total costs of the project (excluding costs of preconstruction engineering and design) has been obligated for the project as of the date of enactment of this subparagraph.

''(3) PHYSICAL WORK UNDER A CONSTRUCTION CONTRACT.—The term 'physical work under a construction contract' does not include any activity relating to—

''(A) project planning;

''(B) engineering and design;

''(C) relocation; or

''(D) the acquisition of land, an easement, or a right-of-way.

''(4) PROJECT.—The term 'project' means a water resources project, or a separable element of a water resources project, that is authorized by law for funding from—

''(A) the Construction, General, appropriations account; or

''(B) the construction portion of the Flood Control, Mississippi River and Tributaries, appropriations account.

''(b) INACTIVE PROJECTS.—

''(1) LIST.—Not later than December 31, 2004, and biennially thereafter, the Secretary shall submit to Congress a list of inactive projects.

''(2) DEAUTHORIZATION.—An inactive project shall be deauthorized effective beginning 1 year after the date of submission of a list under paragraph (1) that includes the project unless, during that 1-year period, Congress reauthorizes the project in accordance with the Corps of Engineers Modernization and Improvement Act of 2004 and the amendments made by that Act.

''(c) PROJECTS FOR WHICH ACTUAL CONSTRUCTION HAS NOT BEGUN.—

''(1) LIST.—The Secretary shall annually submit to Congress a list of projects that have been authorized for construction, but for which no actual construction has begun and no Federal funds have been obligated for construction during the 3 consecutive fiscal years preceding the fiscal year in which the list is submitted.

''(2) DEAUTHORIZATION.—A project authorized for construction that is not subject to subsection (b) shall be deauthorized effective beginning 5 years after the date of the most recent authorization or reauthorization of the project unless, during that 5-year period, Federal funds are obligated for construction of the project.

''(d) PROJECTS FOR WHICH CONSTRUCTION HAS BEEN SUSPENDED.—

''(1) LIST.—The Secretary shall annually submit to Congress a list of projects—

''(A) that have been authorized for construction; and

''(B) for which no Federal funds have been obligated for construction during the 2 consecutive fiscal years preceding the date of submission of the list.

''(2) DEAUTHORIZATION.—A project that is not subject to subsection (b) but for which Federal funds have been obligated for construction of the project shall be deauthorized if Federal funds appropriated specifically for construction of the project, as indicated in an Act of Congress or in accompanying legislative report language, are not obligated for construction of the project during the period of 3 fiscal years following the last fiscal year in which Federal funds were obligated for construction of the project.

''(e) COMPLETED PROJECTS.—Subsections (b), (c), and (d) shall not apply—

''(1) in the case of a beach nourishment project, after initial construction of the project has been completed; or

''(2) in the case of any other project, after construction of the project has been completed.

''(f) CONGRESSIONAL NOTIFICATIONS.—On submission of a list under subsection (b), (c), or (d), the Secretary shall notify each Senator in whose State, and each Member of the House of Representatives in whose district, a project on the list is or would be located.

''(g) FINAL DEAUTHORIZATION LIST.—The Secretary shall annually publish in the Federal Register a list of all projects deauthorized under subsections (b), (c), and (d).''.

(c) WATERWAYS.—

(1) REPORT BY ACADEMY.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall enter into a contract with the Academy to prepare a report on waterways in the Inland Waterways System.

(B) CONTENTS OF REPORT.—The report shall—

(i) review the Inland Waterways System;

(ii) provide data on the commercial traffic being carried by each waterway in the System as of the date of the report;

(iii) provide an analysis of the extent to which prior projections of the commercial traffic carried by each waterway in the System were accurate; and

(iv) based on the information provided under clauses (ii) and (iii)—

(I) identify underused waterways in the System;

(II) propose new economic and environmental uses for underused waterways;

(III) describe statutory and administrative reforms that are needed to ease the transition from the current authorized uses of the System to new economic and environmental uses of the System; and

(IV) recommend which waterways in the System should be decommissioned.

(2) DECOMMISSIONING MECHANISM FOR UNDERUSED WATERWAYS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall by regulation establish a mechanism for the decommissioning of waterways that—

(A) are no longer economically justified, based on commercial traffic and current discount rates; or

(B) are no longer in the national interest.

**SEC. 302. PRIMARY MISSION FOCUS.**

Any water resources project that does not have as a primary project purpose 1 of the primary Corps missions of environmental protection, flood control, or navigation and that, as of the date of enactment of this section, has no appropriated construction funding, is deauthorized.

Mr. MCCAIN. Madam President, I am pleased to join my friend, Senator FEINGOLD in cosponsoring this important and timely legislation. Today, the Senate is deliberating over the nation's budget priorities in the face of our enormous deficit.

Historically, Congress has considered water projects, costing many billions of taxpayer dollars, as essential expenditures—regardless of the environmental costs or public benefits. The reforms of the Corps of Engineers' procedures in this bill are designed to achieve more cost-effective expenditures for water projects that will yield more environmental, economic, and social benefits. The need for these changes has been acknowledged by many for some time, but never has the need to spend scarce taxpayer dollars wisely been as crucial as it is now.

The Corps procedures for planning and approving projects, as well as the Congressional system for funding projects, are broken, but they can be effectively fixed. In fact, the reforms in this bill are based on thorough program analysis and common sense. I commend Senator FEINGOLD for building on the legislation we introduced with Senator SMITH in the last Congress to provide additional improvements. It is surprising that Congress hasn't already put these procedures in place, but there is no time or need like the present.

Provisions of the legislation we are introducing today would modify the Corps planning and approval procedures to consider both economic and environmental objectives. Independent review of Corps projects and an increase in the cost-benefit factor would ensure that only beneficial projects are constructed. Effective measures for mitigation of environmental and other damage caused by projects would be required and monitored. The existing $56 billion project backlog is addressed and projects that have been suspended or never started for five years would no longer be considered.

Water projects that provide economic and environmental benefits to our state citizens and all federal taxpayers serve the common good and reflect our common interest in fiscal responsibility. I urge my colleagues to support this legislation.

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By Mr. BIDEN:

S. 2189. A bill to establish grants to improve and study the National Domestic Violence Hotline; to the Committee on the Judiciary.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2189

*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 ''Domestic Violence Connections Campaign Act of 2004''.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) More than 500 men and women call the National Domestic Violence Hotline every day to get immediate, informed, and confidential assistance to help deal with family violence.

(2) The National Domestic Violence Hotline service is available, toll-free, 24 hours a day and 7 days a week, with bilingual staff, access to translators in 150 languages, and a TTY line for the hearing-impaired.

(3) With access to over 5,000 shelters and service providers across the United States, Puerto Rico, Alaska, Hawaii, and the United States Virgin Islands, the National Domestic Violence Hotline provides crisis intervention and immediately connects callers with sources of help in their local community.

(4) The National Domestic Violence Hotline, which was created by the Violence Against Women Act and is located in Austin, Texas, answered its first call on February 21, 1996, and answered its one millionth call on August 4, 2003.

(5) Approximately 60 percent of the callers indicate that calling the Hotline is their first attempt to address a domestic violence situation and that they have not called the police or any other support services.

(6) Between 2000 and 2003, there was a 27 percent increase in call volume.

(7) Due to high call volume and limited resources, approximately 26,000 calls to the Hotline went unanswered in 2002 due to long hold times or busy signals.

(8) Widespread demand for the Hotline service continues. The Department of Justice reported that over 18,000 acts of violence were committed by intimate partners in the United States each day during 2001. An average of 3 women are murdered every day in this Country by their husbands or boyfriends.

(9) Working with outdated telephone and computer equipment creates many challenges for the National Domestic Violence Hotline.

(10) Improving technology infrastructure at the National Domestic Violence Hotline and training advocates, volunteers, and other staff on upgraded technology will drastically increase the Hotline's ability to answer more calls quickly and effectively.

(11) Partnerships between the public sector and the private sector are an effective way of providing necessary technology improvements to the National Domestic Violence Hotline.

(12) The Connections Campaign is a project that unites nonprofit organizations, major corporations, and Federal agencies to launch a major new initiative to help ensure that the National Domestic Violence Hotline can answer every call with upgraded, proficient, and sophisticated technology tools.

**SEC. 3. TECHNOLOGY GRANT TO NATIONAL DOMESTIC VIOLENCE HOTLINE.**

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall award a grant to the National Domestic Violence Hotline.

(b) USE OF FUNDS.—The grant awarded under subsection (a) shall be used to provide technology and telecommunication training and assistance for advocates, volunteers, staff, and others affiliated with the Hotline so that such persons are able to effectively use improved equipment made available through the Connections Campaign.

**SEC. 4. RESEARCH GRANT TO STUDY NATIONAL DOMESTIC VIOLENCE HOTLINE.**

(a) GRANT AUTHORIZED.—Not later than 6 months after the date of enactment of this Act, the Attorney General, in consultation with the Secretary of Health and Human Services and the National Domestic Violence Hotline, shall award a grant to a university or other research institution with demonstrated experience and expertise with domestic violence issues to conduct a study of the National Domestic Violence Hotline for the purpose of conducting the research described under subsection (c), and for the input, interpretation, and dissemination of research data.

(b) APPLICATION.—Each university or research institution desiring to receive a grant under this section shall submit an application to the Attorney General, at such time, in such manner, and accompanied by such additional information as the Attorney General, in consultation with the Secretary of Health and Human Services and the National Domestic Violence Hotline, may reasonably require.

(c) ISSUES TO BE STUDIED.—The study described in subsection (a) shall—

(1) compile statistical and substantive information about calls received by the Hotline since its inception, or a representative sample of such calls, while maintaining the confidentiality of Hotline callers;

(2) interpret the data compiled under paragraph (1)—

(A) to determine the trends, gaps in services, and geographical areas of need; and

(B) to assess the trends and gaps in services to underserved communities and the military community; and

(3) gather other important information about domestic violence.

(d) REPORT.—Not later than 3 years after the date of enactment of this Act, the grantee conducting the study under this section shall submit a report on the results of such study to Congress and the Attorney General.

**SEC. 5. GRANT TO RAISE PUBLIC AWARENESS OF DOMESTIC VIOLENCE ISSUES.**

(a) GRANT AUTHORIZED.—Not later than 6 months after the submission of the report required under section 4(d), the Attorney General, in consultation with the Secretary of Health and Human Services and the National Domestic Violence Hotline, shall award a grant to an experienced organization to conduct a public awareness campaign to increase the public's understanding of domestic violence issues and awareness of the National Domestic Violence Hotline.

(b) APPLICATION.—Each organization desiring to receive a grant under this section shall submit an application to the Attorney General, at such time, in such manner, and accompanied by such additional information as the Attorney General, in consultation with the Secretary of Health and Human Services and the National Domestic Violence Hotline, may reasonably require.

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated, for each of the fiscal years 2005 and 2006—

(1) $500,000 to carry out section 3;

(2) $250,000 to carry out section 4; and

(3) $800,000 to carry out section 5.

(b) AVAILABILITY.—Any amounts appropriated pursuant to the authority of subsection (a) shall remain available until expended.

(c) NONEXCLUSIVITY.—Nothing in this section shall be construed to limit or restrict the National Domestic Violence Hotline to apply for and obtain Federal funding from any other agency or department or any other Federal grant program.

(d) NO CONDITION ON APPROPRIATIONS.—Amounts appropriated pursuant to subsection (a) shall not be considered amounts appropriated for purposes of the conditions imposed under section 316(g)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10416(g)(2)).

Mr. BIDEN. Mr. President, I want to relay a telephone number, a number that may not sound familiar but you can be sure is memorized by thousands of women across the country. 1–800–799–SAFE—the number for the National Domestic Violence Hotline. Each month, over 16,000 women and men call the National Domestic Violence Hotline. Open twenty-four hours a day, seven days a week, with a bilingual staff and a TTY-line for the hearing impaired, the National Domestic Violence Hotline provides immediate, informed and confidential assistance to those caught in family violence. Oftentimes, it is the first call a battered woman makes, even before calling the police or a friend.

The Hotline is located in Austin, TX, but answers telephone calls placed anywhere in the United States and the U.S. territories. A distressed caller is connected to a trained advocate who is able to provide crisis intervention counseling, help create a safety plan, directly connect the caller with a local shelter or provide a range of local referral information. Using a massive database listing more than 5,000 services nationally, one of 30 full or part-time advocates puts a caller in touch immediately with local programs offering shelter and direct care.

I want to share with my colleagues two real-life stories from women who have called the Hotline. One caller dialed the Hotline after her boyfriend pulled a gun and threatened to kill her if she left him. Fearing for her life, she fled with her two young children. They ran to a nearby strip mall where she called the Hotline. As she told a Hotline advocate her story, she watched her abuser search for her in every store in the mall. Once a local shelter was contacted, arrangements were made to rescue the woman and her children from their hiding spot in a back alley behind the restaurant.

An immigrant woman who spoke no English called from a community clinic. She had learned that for the past year her abusive husband had been raping their 15-year-old daughter. Her husband had no idea she was calling the Hotline. He had kept her so isolated on the ranch where they lived that she didn't even know her address. While the woman stayed on the line, an advocate contacted the sheriff's office and together they pieced together enough information to figure out her address. The sheriff made plans to confirm the child abuse at the daughter's school, after which the husband would be arrested immediately. After completing the exchange with the sheriff's office, the advocate contacted the nearest shelter and arranged to pick up the woman and her daughter at the clinic.

These are real women who we see every day at work, at the grocery store

and at the school parking lot whose lives have been dramatically changed, in part, by that first call to the National Domestic Violence Hotline. Created by the Violence Against Women Act, the Hotline answered its first call on February 21, 1996, and its one millionth call on August 4, 2003. In the past decade we've witnessed a sea of change in how Americans view domestic violence. It is no longer treated as a private, family matter, but as a public crime. As public awareness has grown—as the Hotline's telephone number is posted on bus billboards and websites, in school offices and doctor's waiting rooms—there has been a dramatic increase in calls. Between 2000 and 2001 alone, call volume increased by 18.5 percent. In 2002, the Hotline answered almost 180,000 calls, an increase of 7.5 percent from the previous year. The Department of Defense recently requested that the Hotline accept calls from military personnel—a move that will certainly increase the call volume substantially.

While the majority of the Hotline's day-to-day operating costs are paid with Federal dollars designated in annual spending bills, funding has not kept pace with the growing call volume and the Hotline's technology and telecommunication needs. This year, the spending bill appropriated only three million dollars to the Hotline. Older equipment, coupled with increased usage, has set the Hotline up to experience frequent problems with the network, data corruption and the lurking threat of a crash in the entire system. The Hotline tries to answer almost 500 calls a day with old computers and servers. Because the system is outdated and the staff is stretched thin, over 26,000 calls last year went unanswered due to long hold times or busy signals.

We need to answer each and every one of the calls to the Hotline. Today I am launching an innovative and far-reaching solution to the Hotline's problems, the Connections Campaign. The Connections Campaign is a public/private partnership that teams up private telecommunication and technology companies with the Federal Government to solve the Hotline's crisis. Under the Connections Campaign, the same companies—Microsoft, Sony, BellSouth, Verizon Wireless, IBM, Nortel Networks, Dell and others—that supply Americans with home computers, cell phones and telephone service are donating hardware and software to the Hotline. Items like mapping software, networked computers, servers, flat-screened monitors and telephone airtime are being pledged to the Hotline. This is just the beginning of a multi-year, multi-million dollar initiative to place the Hotline squarely in the twenty-first century.

On the public side of the partnership, I am proud to introduce the Domestic Violence Connections Campaign Act of 2004 which will provide a million dollars to train and assist the Hotline's advocates so that they may effectively use the improved equipment provided by the Connections Campaign. In addition, the Act creates a new research grant program to be administered by the Attorney General that will review and analyze data generated by the Hotline. Taking into consideration needs for caller confidentiality and security, researchers will study Hotline data to determine the trends, potential gaps in service and geographical areas of need. Within three years of enactment, researchers will release a comprehensive Hotline study to Congress and the Attorney General. Finally, my bill provides an $800,000 grant program for the Hotline to increase public awareness about domestic violence and the Hotline's services.

One hand clapping simply does not make enough noise. Federal, State and local government cannot always supply all the answers and resources to resolve our communities' pressing problems. Today's Connections Campaign recognizes that big problems warrant grand, collaborative solutions. Cooperation between the Federal Government and the private sector is critical to enhance the National Domestic Violence Hotline.

A cornerstone of the Violence Against Women Act was my conviction that ending domestic violence and sexual assault required a coordinated, community response. We worked hard to ensure that emergency room personnel, police officers, victim advocates, shelter directors and court clerks worked together to implement the many mandates of the Violence Against Women Act. The Connections Campaign is Act Two. We are now asking that the corporate community get actively involved to strengthen a key safety net for women and their families, the National Domestic Violence Hotline.

Today's legislation and the kick-off is just the beginning of what I envision to be a lasting connection between the Hotline and the technology and telecommunications community. I look forward to coming back to the Senate floor to inform my colleagues about the new computers, wireless headsets, upgraded software and other technology that could be provided to the Hotline through the Connections Campaign. In the meantime, let me close by commending and expressing my gratitude to Sheryl Cates, the director of the Hotline and her dedicated staff who are providing the first step to safe, new lives for millions of battered women. They are truly doing God's work.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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By Mr. INHOFE:

S. 2190. A bill to implement equal protection under the 14th article of amendment to the Constitution for the right to life of each born and preborn human person; to the Committee on the Judiciary.

Mr. INHOFE. Madam President, I rise today to introduce the Life at Conception Act. This bill is of utmost importance to future generations in America. Quite simply, it implements equal protection under the Fourteenth Amendment of the Constitution for every born and pre-born person. It protects Americans' right to life by defining the term ''human person'' as an individual at all stages of life, including, but not limited to, the moment of conception.

The Constitution's Fourteenth Amendment grants that no ''state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.'' Furthermore, it grants ''Congress shall have power to enforce, by appropriate legislation, the provisions of this article.'' It is time that we, the Congress, start enforcing this provision, start defending the Constitution, and start defending American lives.

Even the Justices in the 1973 Roe v. Wade decision conceded this point by making the admission: ''If this suggestion of personhood is established, the appellant's case [Roe], of course, collapses, for the fetus' right to life is then guaranteed specifically by the [Fourteenth] Amendment.'' Our Constitution is designed to protect the rights of all Americans, and give them the right to live and succeed. Right now, significant portions of Americans, who have no voice, are being killed, despite the explicit protections in the Fourteenth Amendment. Since 1973, more than 44 million babies have been sentenced to death without trial. We cannot tolerate this atrocity.

Additionally, a 1999 Wirthlin poll found that 62 percent of Americans support legal abortion only in cases of rape, incest, or if the mother's life is in danger. How can we stand by and let so many children die even when public opinion is on our side? It is our role as legislators to uphold and enforce the Constitution, and it is our role as humans to defend those who cannot defend themselves. I urge my colleagues to follow their conscience, support this bill, and do what is right for America and for humanity.

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By Mr. HATCH (for himself, Mr. LEAHY, Mr. KOHL, and Mr. FEINGOLD):

S. 2192. A bill to amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise to introduce the Cooperative Research and Technology Enhancement Act of 2004 (the CREATE Act). This bill makes a narrow, but important change in our patent laws to ensure that the American public will benefit from the results of collaborative research efforts that combine the erudition of great public universities with the entrepreneurial savvy of private enterprises.

Together, our universities and private enterprises have created a culture of innovation that has become America's greatest asset in an increasingly global economy. This culture of innovation encourages fundamental research—knowledge for its own sake. It also encourages the hard work needed to incorporate new advances in technology into actual products that reach the market and benefit consumers.

While universities and private entrepreneurs can play complementary roles in our innovation economy, new opportunities to innovate arise when public institutions and private entrepreneurs combine their respective forms of expertise in collaborative, joint research efforts. President Lincoln would surely agree that this type of joint private-public research effort is well-suited to add ''the fuel of interest to the fire of genius in the production of new and useful things.''

As a result, we have long realized the enormous value of these joint research efforts, and we have long realized that their potential cannot be realized unless their participants can benefit from the intellectual property rights generated by such research. Unfortunately, the literal language of Section 102(g) of the Patent Act suggests that non-public information known to some members of a private-public research team can constitute ''prior art'' that may make the final results of the team research obvious, and thus not patentable. Because non-public information does not usually constitute ''prior art'' under the Patent Act, the potentially disparate treatment of such information crates a disincentive for entrepreneurs and public institutions to collaborate in joint research efforts.

I believe that we must encourage—not discourage—public institutions and private entrepreneurs to combine their respective talents in joint research efforts. Indeed, Congress committed itself to this principle when it passed the Bayh-Dole Amendments to the Patent Act. The CREATE Act will simply conform the present language of the Patent Act to the intent that has always animated it.

For the above reasons, I urge my colleagues to support the Cooperative Research and Technology Enhancement Act of 2004. I also thank my colleagues in the House Committee on the Judiciary, particularly Subcommittee Chairman LAMAR SMITH and Chairman JAMES SENSENBRENNER, for their groundbreaking work on this important issue.

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. 2192

*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 ''Cooperative Research and Technology Enhancement (CREATE) Act of 2004''.

**SEC. 2. COLLABORATIVE EFFORTS ON CLAIMED INVENTIONS.**

Section 103(c) of title 35, United States Code, is amended to read as follows:

''(c)(1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

''(2) For purposes of this subsection, subject matter developed by another person and a claimed invention shall be deemed to have been owned by the same person or subject to an obligation of assignment to the same person if—

''(A) the claimed invention was made by or on behalf of parties to a joint research agreement that was in effect on or before the date the claimed invention was made;

''(B) the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement; and

''(C) the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the joint research agreement.

''(3) For purposes of paragraph (2), the term 'joint research agreement' means a written contract, grant, or cooperative agreement entered into by two or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention.''.

**SEC. 3. EFFECTIVE DATE.**

(a) IN GENERAL.—The amendments made by this Act shall apply to any patent granted on or after the date of the enactment of this Act.

(b) SPECIAL RULE.—The amendments made by this Act shall not affect any final decision of a court or the United States Patent and Trademark Office rendered before the date of the enactment of this Act, and shall not affect the right of any party in any action pending before the United States Patent and Trademark Office or a court on the date of the enactment of this Act to have that party's rights determined on the basis of the provisions of title 35, United States Code, in effect on the day before the date of the enactment of this Act.

Mr. LEAHY. Madam President, the United States has from its inception recognized the importance of intellectual property laws in fostering innovation, and vested in Congress the responsibility of crafting laws that ensure that those who produce inventions are able to reap economic rewards for their efforts. Today, Senator HATCH, Senator KOHL, Senator FEINGOLD, and I introduce the ''Cooperative Research and Technology Enhancement, CREATE, Act of 2004,'' legislation that will provide a needed remedy to one aspect of our nation's patent laws.

When Congress passed the Bayh-Dole Act in 1980, the law encouraged private entities and not-for-profits such as universities to form collaborative partnerships in order to spur innovation. Prior to the enactment of this law, universities were issued fewer than 250 patents each year. That this number has in recent years surpassed two thousand is owed in large measure to the Bayh-Dole Act. The innovation this law encouraged has contributed billions of dollars annually to the United States economy and has produced hundreds of thousands of jobs.

However, one component of the Bayh-Dole Act, when read literally, runs contrary to the intent of that legislation. In 1999, the United States Court of Appeal for the Federal Circuit ruled, in Oddzon Products, Inc. v. Just Toys, Inc., that non-public information may in certain cases be considered ''prior art'' a standard which generally prevents an inventor from obtaining a patent. Thus some collaborative teams that the Bayh-Dole Act was intended to encourage have been unable to obtain patents for their efforts. The result is a disincentive to form this type of partnership, which could have a negative impact on the U.S. economy and hamper the development of new creations.

However, the Federal circuit in its ruling invited Congress to better conform the language of the Bayh-Dole Act to the intent of the legislation. The ''CREATE Act'' does exactly that by ensuring that non-public information is not considered ''prior art'' when the information is used in a collaborative partnership under the Bayh-Dole Act. The bill that my colleagues and I are today offering also includes strict evidentiary burdens to ensure that the legislation is tailored narrowly in order to solely fulfill the intent of the Bayh-Dole Act. I ask that my colleagues support the ''Cooperative Research and Technology Enhancement Act of 2004.''

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By Ms. SNOWE (for herself and Mr. BOND):

S. 2193. A bill to improve small business loan programs, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise to introduce a bill to revitalize a loan program crucial to the growth of small businesses in this country, and therefore crucial to our country's economy. This bill, the ''Smart Business Loan Revitalization Act of 2004,'' provides improvements to the Small Business Administration's largest business loan program, the ''Section 7(a)'' program.

This program proves that a small amount of government backing can greatly enhance private-sector financing for small businesses, and that the economic benefits can reverberate throughout the economy at large. More than $46.6 billion in 7(a) loans have been provided to small businesses over the last five Fiscal Years. This financing has helped small businesses to create or retain nearly 2 million more jobs over this five-year period.

Today, we are losing thousands of American jobs to outsourcing and offshore manufacturing. We measure net job increases in the ''few thousands.'' Given these circumstances, it is clearly to our advantage, and to the advantage

of the American people, to support improvements to any program that has already demonstrated an ability to create or retain nearly 400,000 American jobs a year.

Last year this program provided $11.2 billion in loans to small business owners and employees in towns and communities across America. This year, however, the SBA only requested a program size of $9.3 billion. The fact that the SBA received a larger appropriation than the $9.3 billion it requested is powerful testament to the popularity of this program among small businesses. The SBA received sufficient appropriations, $79 million, coupled with $22 million in carried-over funds, to allow for a $9.55 billion program.

Like last year, however, the demand for program funds in the first few months of Fiscal Year 2004 suggested that requests for the entire year would most likely exceed $11 billion. As a result, in January, 2004, the SBA shut the program down, and then reopened it with a diminished loan cap of $750,000—37.5 percent of the $2 million maximum previously available. Faced with these restrictions, small businesses have urged Congress and the Administration to make the program fully operational for the rest of 2004.

To this end, I have worked with a coalition of small businesses and lenders to construct a plan to improve the program for the remainder of this Fiscal Year. The plan would allow lenders to help alleviate the funding shortfall. It would benefit small businesses and lenders by allowing loans larger than $750,000, and by allowing loans with multiple participations.

The bill would achieve these goals in three ways. First, lenders would return to the SBA a fee of 0.25 percent (or one-quarter of one percent) of new loans under $150,000, a fee that lenders are currently permitted to retain. Lenders may only retain this fee for loans of $150,000 or less—for loans greater than that size, lenders must return the fee to the SBA, as they have been required to do since the inception of the program. This proposal was first made by the SBA, as part of a larger plan the SBA recently submitted to Congress.

Second, a lender fee on new loans would be increased from 0.25 percent, one-quarter of one percent, to 0.35 percent. Finally, lenders would be permitted to provide small businesses with financing packages that include a 7(a) loan portion and a non-7(a), a strictly commercial portion, if the lenders paid the normal fees on the 7(a) loan portion and a 0.50 percent fee on the non-7(a) portion. Prior to January 2004, the SBA permitted this type of financing, but without receiving any fee income for the non-7(a) portion, and without an upper limit on the total financing, which I have set at $4 million.

The ability of small businesses to receive loans larger than $750,000 is a prerequisite to reviving the American economy. These loans provide needed capital for significant purchases and development by small businesses. More 7(a) loans represent longer-term loans than similar products available in the private capital market, and this allows small businesses to repay their 7(a) loans more gradually. I applaud the SBA for its desire to make more small loans to entrepreneurs without large capital needs, but I also urge the SBA to remember those entrepreneurs and small businesses who need more financing to strengthen and grow their enterprise, and to hire more employees. After encouraging entrepreneurs to start new small businesses, we cannot afford to forget their small businesses, or profess an inability to assist them when they need additional financing to grow.

The benefits of this program are clear. It has the ability to help entrepreneurs to create jobs, to fulfill their dreams, and to support their families—all of this while building the kinds of energetic businesses our economy so desperately needs. The demands for this program is also clear. Small businesses have submitted more applications than the program could handle so far this year. The willingness of lenders to pay increased fees to meet the demand from small businesses for 7(a) loans is clear evidence the program works and remains attractive to lenders.

The question we must answer now is whether we are willing to respond to small businesses and lenders and implement a solution which they have asked for, and which promises dividends for all involved, or whether we will ignore their requests, and miss an opportunity to transform a loan program that sustains almost 400,000 jobs a year into an initiative capable of creating two, three, four or even five times that amount. I don't want to miss that opportunity, my constituents in Maine can't afford to miss that opportunity, and I don't believe that your constituents can either. Almost every company listed today on the American Stock Exchange began as a small business. In the short term, this bill may save American jobs. But in the long term, it may save the American economy.

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. 2193

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Small Business Loan Revitalization Act'' .

**SEC. 2. COMBINATION FINANCING.**

(a) IN GENERAL.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

''(31) COMBINATION FINANCING.—

''(A) DEFINITIONS.—In this paragraph—

''(i) the term 'combination financing' means financing comprised of a loan guaranteed under this subsection and a commercial loan; and

''(ii) the term 'commercial loan' means a loan of which no portion is guaranteed by the Federal government.

''(B) APPLICATION.—A loan guarantee under this subsection on behalf of a small business concern, which is approved within 120 days of the date on which a commercial loan is obtained by the same small business concern, shall be subject to the provisions of this paragraph.

''(C) COMMERCIAL LOAN AMOUNT.—A small business concern shall not be eligible to receive combination financing under this paragraph unless the commercial loan obtained by the small business concern does not exceed $2,000,000.

''(D) COMMERCIAL LOAN PROVISIONS.—The commercial loan obtained by the small business concern—

''(i) may be made by the participating lender that is providing financing under this subsection or by a different lender;

''(ii) may be secured by a senior lien; and

''(iii) may be made by a lender in the Preferred Lenders Program, if applicable.

''(E) COMMERCIAL LOAN FEE.—A one-time fee in an amount equal to 0.5 percent of the amount of the commercial loan shall be paid by the lender to the Administration if the commercial loan has a senior credit position to that of the loan guaranteed under this subsection. All proceeds from the loan guaranteed under this subsection shall be used to offset the cost (as defined in section 502 of the Credit Reform Act of 1990) to the Administration of guaranteeing loans under this subsection.

''(F) DEFERRED PARTICIPATION LOAN ELIGIBILITY.—

''(i) MAXIMUM AMOUNT.—A small business concern may not receive combination financing under this paragraph in an amount greater than $4,000,000.

''(ii) NET AMOUNT.—The net amount of the deferred participation share shall not exceed the maximum amount of a net guarantee provided under paragraph (3)(A).

''(G) DEFERRED PARTICIPATION LOAN SECURITY.—A loan guaranteed under this subsection may be secured by a subordinated lien.

''(H) AVAILABILITY.—Combination financing shall be available under this paragraph notwithstanding any maximum limitation on loans imposed by the Administration.''.

(b) SUNSET DATE.—The amendment made by subsection (a) shall take effect on the first day after the date of enactment of this Act and is repealed on October 1, 2004.

**SEC. 3. LOAN GUARANTEE FEES.**

(a) IN GENERAL.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (18)(B), by adding at the end the following: ''This subparagraph shall not apply to any loan approved during the period beginning on the first day after the date of enactment of paragraph (23)(A)(iii) and ending on September 30, 2004.''; and

(2) in paragraph (23), by amending subparagraph (A) to read as follows:

''(A) PERCENTAGE.—

''(i) IN GENERAL.—With respect to each loan guaranteed under this subsection, the Administrator shall, in accordance with such terms and procedures as the Administrator shall establish by regulation, assess and collect an annual fee in an amount equal to 0.5 percent of the outstanding balance of the deferred participation share of the loan.

''(ii) FIRST TEMPORARY PERCENTAGE.—With respect to loans approved during the period beginning on October 1, 2002 and ending on the date of enactment of this clause, the annual fee assessed and collected under clause (i) shall be equal to 0.25 percent of the outstanding balance of the deferred participation share of the loan.

''(iii) SECOND TEMPORARY PERCENTAGE.—During the period beginning on the first day after the date of enactment of this clause and ending on September 30, 2004, the annual fee assessed and collected under clause (i) shall be equal to 0.35 percent of the outstanding balance of the deferred participation share of the loan.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day after the date of enactment of this Act and are repealed on October 1, 2004.

**SEC. 4. RECONSIDERATION OF LOAN APPLICATIONS REJECTED BASED ON LOAN AMOUNT.**

(a) CONSIDERATION OF LOAN APPLICATION SUBMITTED BEFORE JANUARY 8, 2004.—Beginning on the first day after the date of enactment of this Act, the Small Business Administration shall reconsider any application submitted on or after December 23, 2003 and before January 8, 2004, under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) that was rejected based on the loan amount requested before considering any other application if the applicant is otherwise eligible for financial assistance under that section.

(b) EXPORT WORKING CAPITAL.—Any small business that received financing under section 7(a)(14) of the Small Business Act (15 U.S.C. 636(a)(14)) before January 1, 2004, and requests a renewal of such financing, shall have their request approved regardless of the size of such financing (subject to the limitations in section 7(a)(3) of such Act) if the small business is otherwise eligible for such financing under that section.

(c) MAXIMUM LOAN AMOUNT.—Ten days after the date of enactment of this Act, the Small Business Administration shall allow loans under section 7 of the Small Business Act (15 U.S.C. 636) up to the maximum amount permitted under the Small Business Act.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 317—RECOGNIZING THE IMPORTANCE OF INCREASING AWARENESS OF AUTISM SPECTRUM DISORDERS, SUPPORTING PROGRAMS FOR INCREASED RESEARCH AND IMPROVED TREATMENT OF AUTISM, AND IMPROVING TRAINING AND SUPPORT FOR INDIVIDUALS WITH AUTISM AND THOSE WHO CARE FOR INDIVIDUALS WITH AUTISM

Mr. HAGEL submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 317

Whereas the Autism Society of America, Cure Autism Now, the National Alliance for Autism Research, Unlocking Autism, and numerous other organizations commemorate April as National Autism Awareness Month;

Whereas autism is a developmental disorder that is typically diagnosed during the first 3 years of life, robbing individuals of their ability to communicate and interact with others;

Whereas autism affects an estimated 1 in every 250 children in America;

Whereas autism is 4 times more likely in boys than in girls, and can affect anyone, regardless of race, ethnicity, or other factors;

Whereas the cost of specialized treatment in a developmental center for people with autism is approximately $80,000 per individual per year;

Whereas the cost of special education programs for school-aged children with autism is often more than $30,000 per individual per year;

Whereas the cost nationally of caring for persons affected by autism is estimated at more than $90,000,000,000 per year; and

Whereas despite the fact that autism is one of the most common developmental disorders, many professionals in the medical and educational fields are still unaware of the best methods to diagnose and treat the disorder: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the establishment of April as National Autism Awareness Month;

(2) recognizes and commends the parents and relatives of children with autism for their sacrifice and dedication in providing for the special needs of children with autism and for absorbing significant financial costs for specialized education and support services;

(3) supports the goal of increasing Federal funding for aggressive research to learn the root causes of autism, identify the best methods of early intervention and treatment, expand programs for individuals with autism across their lifespan, and promote understanding of the special needs of people with autism;

(4) commends the Department of Health and Human Services for the swift implementation of the Children's Health Act of 2000, particularly for establishing 4 ''Centers of Excellence'' at the Centers for Disease Control and Prevention to study the epidemiology of autism and related disorders and the proposed ''Centers of Excellence'' at the National Institutes of Health for autism research;

(5) stresses the need to begin early intervention services soon after a child has been diagnosed with autism, noting that early intervention strategies are the primary therapeutic options for young people with autism, and early intervention significantly improves outcomes for people with autism and can reduce the level of funding and services needed later in life;

(6) supports the Federal Government's nearly 30-year-old commitment to provide States with 40 percent of the costs needed to educate children with disabilities under part B of the Individuals with Disabilities Education Act (IDEA);

(7) recognizes the shortage of appropriately trained teachers who have the skills and support necessary to teach, assist, and respond to special needs students, including those with autism, in our school systems; and

(8) recognizes the importance of worker training programs that are tailored to the needs of developmentally disabled persons, including those with autism, and notes that people with autism can be, and are, productive members of the workforce if they are given appropriate support, training, and early intervention services.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 2719. Mrs. MURRAY (for herself, Mr. KENNEDY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. CORZINE, Mr. LEVIN, Mr. DODD, Ms. STABENOW, Mrs. CLINTON, Mr. KERRY, Mr. HARKIN, Mr. SCHUMER, Mr. PRYOR, Mr. REED, Mr. KOHL , Mr. DAYTON, Ms. LANDRIEU, Mr. SARBANES, Mr . BINGAMAN, and Mrs. LINCOLN) proposed an amendment to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

SA 2720. Mr. BIDEN (for himself, Mr. LEAHY, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. KENNEDY, Mr. SARBANES, Mr. ROCKEFELLER, Mr. CORZINE, Ms. STABENOW, Mr. HARKIN, Mrs. BOXER, Mr. DURBIN, and Mr. KOHL) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2721. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2722. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2723. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2724. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2725. Mr. KENNEDY (for himself, Mr. DODD, Mrs. CLINTON, Mr. CORZINE, Ms. STABENOW, Mr. LAUTENBERG, Mr. SCHUMER, Mr. REED, Ms. MIKULSKI, Mr. KOHL, Mrs. LINCOLN, Mr. LEVIN, Mr. LIEBERMAN, and Mr. REID) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2726. Mr. BIDEN (for himself, Mr. LEAHY, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. KENNEDY, Mr. SARBANES, Mr. ROCKEFELLER, Mr. CORZINE, Ms. STABENOW, Mr. HARKIN, Mrs. BOXER, Mr. DURBIN, Mr. KOHL, and Mr. DODD) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2727. Mr. SANTORUM (for himself, Mr. CONRAD, and Mr. BUNNING) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 2728. Mr. STEVENS (for himself, Mr. INOUYE, and Mr. WARNER) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table.

SA 2729. Mr. LEVIN (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2730. Mr. LEVIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2731. Mr. GRAHAM of South Carolina (for himself, Mr. DASCHLE, Mr. BUNNING, Mr. LEAHY, Mrs. CLINTON, Mr. DEWINE, Mr. CHAMBLISS, Mr. ALLEN, Mrs. MURRAY, Mr. KENNEDY, Mrs. LINCOLN, Mr. DAYTON, Ms. MURKOWSKI, Ms. MIKULSKI, Mr. FEINGOLD, and Mr. MILLER) proposed an amendment to the concurrent resolution S. Con. Res. 95, supra.

SA 2732. Mrs. HUTCHISON (for herself, Ms. LANDRIEU, Mr. BREAUX, and Mr. LOTT) submitted an amendment intended to be proposed by her to the concurrent resolution S.

Con. Res. 95, supra; which was ordered to lie on the table.

SA 2733. Mr. SESSIONS (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2734. Mr. REID (for himself, Mrs. LINCOLN, Mr. SCHUMER, Ms. CANTWELL, Mr. DAYTON, Mr. KERRY, Mr. ROCKEFELLER, Mr. DASCHLE, Ms. LANDRIEU, Mr. CORZINE, Mr. NELSON of Florida, Mr. BIDEN, Mr. JEFFORDS, Mr. GRAHAM of Florida, Mrs. MURRAY, Mr. BINGAMAN, Mr. AKAKA, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2735. Mr. BYRD (for himself, Mr. CONRAD, Mr. BAUCUS, and Mr. HARKIN) proposed an amendment to the concurrent resolution S. Con. Res. 95, supra.

SA 2736. Mr. DORGAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2737. Ms. CANTWELL (for herself, Mr. KENNEDY, and Mr. SARBANES) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2738. Ms. CANTWELL (for herself, Mr. KENNEDY, and Mr. SARBANES) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2739. Mr. SPECTER (for himself, Mr. COCHRAN, Mr. HARKIN, and Mr. BYRD) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2740. Mr. SPECTER (for himself and Mr. HARKIN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2741. Mr. SPECTER submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2742. Mr. WARNER (for himself, Mr. STEVENS, Mr. MCCAIN, Mr. INHOFE, Mr. ROBERTS, Ms. COLLINS, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, Mr. TALENT, Mr. CRAIG, and Mr. ALLEN) proposed an amendment to the concurrent resolution S. Con. Res. 95, supra.

SA 2743. Mr. ROCKEFELLER (for himself, Mr. WYDEN, Mr. KENNEDY, Mrs. MURRAY, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2744. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2745. Mr. NELSON of Florida (for himself, Mr. CORZINE, Ms. MIKULSKI, Mr. SCHUMER, and Mr. NELSON, of Nebraska) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra.

SA 2746. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2747. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2748. Mr. FEINGOLD (for himself, Mr. CHAFEE, Mr. BAUCUS, Ms. CANTWELL, Mr. CARPER, and Mr. GRAHAM, of Florida) proposed an amendment to the concurrent resolution S. Con. Res. 95, supra.

SA 2749. Mr. GRAHAM of Florida (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2750. Mr. FEINGOLD (for himself, Mr. CORZINE, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2751. Mr. BAUCUS (for himself, Mr. DASCHLE, Mr. LIEBERMAN, Mr. JEFFORDS, Mrs. FEINSTEIN, Mr. BINGAMAN, Mrs. MURRAY, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra.

SA 2752. Mr. PRYOR submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2753. Mrs. FEINSTEIN (for herself, Mr. HOLLINGS, Mr. CORZINE, Mr. BREAUX, Mr. SCHUMER, Mr. DODD, Mr. BIDEN, Ms. MIKULSKI, Mrs. MURRAY, and Mr. GRAHAM of Florida) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2754. Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. BINGAMAN, Mrs. HUTCHISON, Mr. KENNEDY, Mr. CORNYN, Mrs. BOXER, Mr. DOMENICI, Mrs. CLINTON, Mr. MCCAIN, Mr. SCHUMER, Mr. GRAHAM of Florida, Mr. LAUTENBERG, Ms. CANTWELL, Mr. CORZINE, Mr. FEINGOLD, Mr. EDWARDS, and Mr. ALEXANDER) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2755. Mr. HATCH (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 2756. Mr. HATCH (for himself, Mr. BREAUX, and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2757. Mr. FEINGOLD (for himself, Mr. CORZINE, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table.

SA 2758. Mr. LAUTENBERG (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2759. Mr. KOHL (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2760. Mr. DORGAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2761. Mr. DODD (for himself, Mrs. MURRAY, Mr. CORZINE, Ms. MIKULSKI, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2762. Mr. DODD (for himself, Mrs. MURRAY, Mr. CORZINE, Ms. STABENOW, and Mr. KOHL) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2763. Mr. BREAUX (for himself and Mr. LOTT) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 2764. Mr. BREAUX (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2765. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table.

SA 2766. Mr. BINGAMAN (for himself, Mr. HATCH, Mr. BREAUX, and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 2767. Mr. BINGAMAN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2768. Mr. LIEBERMAN (for himself, Mr. SCHUMER, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. BIDEN, Mrs. MURRAY, Mr. KENNEDY, Mr. CORZINE, Mr. LEVIN, Mr. KOHL, Mrs. BOXER, Mr. DODD, Mr. JOHNSON, Mr. AKAKA, Mr. DURBIN, Mr. LEAHY, and Mr. KERRY) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table.

SA 2769. Mr. BYRD submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2770. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2771. Mr. HATCH (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2772. Mr. DURBIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2773. Mr. DURBIN (for himself, Mr. LEVIN, Mr. KERRY, Mrs. MURRAY, Mr. KOHL, Mrs. CLINTON, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2774. Mr. DASCHLE (for himself, Mr. DORGAN, Mrs. MURRAY, Mr. BINGAMAN, Mr. JOHNSON, Mr. WYDEN, Ms. STABENOW, Mr. AKAKA, Ms. CANTWELL, Mr. INOUYE, and Mr. REID) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2775. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2776. Mr. McCAIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2777. Mr. CORZINE proposed an amendment to the concurrent resolution S. Con. Res. 95, supra.

SA 2778. Mr. DORGAN (for himself, Mr. HAGEL, Mr. BROWNBACK, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2779. Mr. DORGAN (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2780. Mrs. CLINTON (for herself, Mr. KENNEDY, Mr. DASCHLE, and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2781. Mr. LEAHY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2782. Ms. COLLINS (for herself, Mr. KENNEDY, Ms. MURKOWSKI, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 2719.** Mrs. MURRAY (for herself, Mr. KENNEDY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. CORZINE, Mr. LEVIN, Mr. DODD, Ms. STABENOW, Mrs. CLINTON, Mr. KERRY, Mr. HARKIN, Mr. SCHUMER, Mr. PRYOR, Mr. REED, Mr. KOHL, Mr. DAYTON, Ms. LANDRIEU, Mr. SARBANES, Mr. BINGAMAN, and Mrs. LINCOLN) proposed an amendment to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; as follows:

On page 3, line 9, increase the amount by $516,000,000.

On page 3, line 10, increase the amount by $13,244,000,000.

On page 3, line 11, increase the amount by $2,924,000,000.

On page 3, line 12, increase the amount by $516,000,000.

On page 3, line 17 , increase the amount by $516,000,000.

On page 3, line 18, increase the amount by $13,244,000,000.

On page 3, line 19, increase the amount by $2,924,000,000.

On page 3, line 20, increase the amount by $516,000,000.

On page 4, line 20, increase the amount by $516,000,000.

On page 4, line 21, increase the amount by $13,244,000,000.

On page 4, line 22, increase the amount by $2,924,000,000.

On page 4, line 23, increase the amount by $516,000,000.

On page 5, line 3, decrease the amount by $516,000,000.

On page 5, line 4, decrease the amount by $13,760,000,000.

On page 5, line 5, decrease the amount by $16,684,000,000.

On page 5, line 6, decrease the amount by $17,200,000,000.

On page 5, line 7, decrease the amount by $17,200,000,000.

On page 5, line 11, decrease the amount by $516,000,000.

On page 5, line 12, decrease the amount by $13,760,000,000.

On page 5, line 13, decrease the amount by $16,684,000,000.

On page 5, line 14, decrease the amount by $17,200,000,000.

On page 5, line 15, decrease the amount by $17,200,000,000.

At the end of Title III, insert the following:

**SEC. . RESERVE FUND FOR NO CHILD LEFT BEHIND ACT EDUCATION PROGRAMS.**

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $8,600,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for Department of Education programs in the No Child Left Behind Act (P.L. 107–110).

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**SA 2720.** Mr. BIDEN (for himself, Mr. LEAHY, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. KENNEDY, Mr. SARBANES, Mr. ROCKEFELLER, Mr. CORZINE, Ms. STABENOW, Mr. HARKIN, Mrs. BOXER, Mr. DURBIN, and Mr. KOHL) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $300,000,000.

On page 3, line 10, increase the amount by $572,000,000.

On page 3, line 11, increase the amount by $470,000,000.

On page 3, line 12, increase the amount by $580,000,000.

On page 3, line 13, increase the amount by $78,000,000.

On page 3, line 17, increase the amount by $300,000,000.

On page 3, line 18, increase the amount by $572,000,000.

On page 3, line 19, increase the amount by $470,000,000.

On page 3, line 20, increase the amount by $580,000,000.

On page 3, line 21, increase the amount by $78,000,000.

On page 4 line 4, increase the amount by $1,000,000,000.

On page 4 line 12, increase the amount by $150,000,000.

On page 4 line 13, increase the amount by $286,000,000.

On page 4 line 14, increase the amount by $235,000,000.

On page 4 line 15, increase the amount by $290,000,000.

On page 4 line 16, increase the amount by $39,000,000.

On page 4 line 2, increase the amount by $150,000,000.

On page 4 line 21, increase the amount by $286,000,000.

On page 4 line 22, increase the amount by $235,000,000.

On page 4 line 23, increase the amount by $290,000,000.

On page 4 line 24, increase the amount by $39,000,000.

On page 5 line 3, decrease the amount by $150,000,000.

On page 5 line 4, decrease the amount by $436,000,000.

On page 5 line 5, decrease the amount by $671,000,000.

On page 5 line 6, decrease the amount by $961,000,000.

On page 5 line 7, decrease the amount by $1,000,000,000.

On page 5 line 11, decrease the amount by $150,000,000.

On page 5 line 12, decrease the amount by $436,000,000.

On page 5 line 13, decrease the amount by $671,000,000.

On page 5 line 14, decrease the amount by $961,000,000.

On page 5 line 15, decrease the amount by $1,000,000,000.

On page 20 line 17, increase the amount by $1,000,000,000.

On page 20 line 18, increase the amount by $150,000,000.

On page 20 line 22, increase the amount by $286,000,000.

On page 21 line 1, increase the amount by $235,000,000.

On page 21 line 5, increase the amount by $290,000,000.

On page 21 line 6, increase the amount by $39,000,000.

On page 39 line 18, increase the amount by $1,000,000,000.

On page 39 line 19, increase the amount by $150,000,000.

On page 40 line 2, increase the amount by $286,000,000.

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**SA 2721.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $764,000,000.

On page 3, line 10, increase the amount by $ 392,000,000.

On page 3, line 11, increase the amount by $76,000,000.

On page 3, line 12, increase the amount by $18,000,000.

On page 3, line 13, increase the amount by $6,000,000.

On page 3, line 17, increase the amount by $764,000,000.

On page 3, line 18, increase the amount by $392,000,000.

On page 3, line 19, increase the amount by $76,000,000.

On page 3, line 20, increase the amount by $18,000,000.

On page 3, line 21, increase the amount by $6,000,000.

On page 4, line 20, increase the amount by $382,000,000.

On page 4, line 21, increase the amount by $196,000,000.

On page 4, line 22, increase the amount by $38,000,000.

On page 4, line 23, increase the amount by $9,000,000.

On page 4, line 24, increase the amount by $3,000,000.

On page 5, line 3, increase the amount by $382,000,000.

On page 5, line 4, decrease the amount by $578,000,000.

On page 5, line 5, decrease the amount by $616,000,000.

On page 5, line 6, decrease the amount by $625,000,000.

On page 5, line 7, decrease the amount by $628,000,000.

On page 5, line 11, decrease the amount by $382,000,000.

On page 5, line 12, decrease the amount by $578,000,000.

On page 5, line 13, decrease the amount by $616,000,000.

On page 5, line 14, decrease the amount by $625,000,000.

On page 5, line 15, decrease the amount by $628,000,000.

At the end of Title III, insert the following:

**SEC. . RESERVE FUND FOR NASA.**

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $631,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for the National Aeronautics and Space Administration.

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**SA 2722.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $60,000,000.

On page 3, line 10, increase the amount by $1,300,000,000.

On page 3, line 11, increase the amount by $540,000,000.

On page 3, line 12, increase the amount by $100,000,000.

On page 3, line 17, increase the amount by $60,000,000.

On page 3, line 18, increase the amount by $1,300,000,000.

On page 3, line 19, increase the amount by $540,000,000.

On page 3, line 20, increase the amount by $100,000,000.

On page 4, line 4, increase the amount by $1,000,000,000.

On page 4, line 12, increase the amount by $30,000,000.

On page 4, line 13, increase the amount by $650,000,000.

On page 4, line 14, increase the amount by $270,000,000.

On page 4, line 15, increase the amount by $50,000,000.

On page 4, line 20, increase the amount by $30,000,000.

On page 4, line 21, increase the amount by $650,000,000.

On page 4, line 22, increase the amount by $270,000,000.

On page 4, line 23, increase the amount by $50,000,000.

On page 5, line 3, decrease the amount by $30,000,000.

On page 5, line 4, decrease the amount by $680,000,000.

On page 5, line 5, decrease the amount by $950,000,000.

On page 5, line 6, decrease the amount by $1,000,000,000.

On page 5, line 7, decrease the amount by $1,000,000,000.

On page 5, line 11, decrease the amount by $30,000,000.

On page 5, line 12, decrease the amount by $680,000,000.

On page 5, line 13, decrease the amount by $950,000,000.

On page 5, line 14, decrease the amount by $1,000,000,000.

On page 5, line 15, decrease the amount by $1,000,000,000.

On page 15, line 16, increase the amount by $1,000,000,000.

On page 15, line 17, increase the amount by $30,000,000.

On page 15, line 21, increase the amount by $650,000,000.

On page 15, line 25, increase the amount by $270,000,000.

On page 16, line 4, increase the amount by $50,000,000.

On page 39, line 18, increase the amount by $1,000,000,000.

On page 39, line 19, increase the amount by $30,000,000.

On page 40, line 2, increase the amount by $650,000,000.

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**SA 2723.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $4,000,000.

On page 3, line 10, increase the amount by $76,000,000.

On page 3, line 11, increase the amount by $32,000,000.

On page 3, line 12, increase the amount by $6,000,000.

On page 3, line 17, increase the amount by $4,000,000.

On page 3, line 18, increase the amount by $76,000,000.

On page 3, line 19, increase the amount by $32,000,000.

On page 3, line 20, increase the amount by $6,000,000.

On page 4, line 20, increase the amount by $4,000,000.

On page 4, line 21, increase the amount by $76,000,000.

On page 4, line 22, increase the amount by $32,000,000.

On page 4, line 23, increase the amount by $6,000,000.

On page 5, line 3, decrease the amount by $4,000,000.

On page 5, line 4, decrease the amount by $80,000,000.

On page 5, line 5, decrease the amount by $112,000,000.

On page 5, line 6, decrease the amount by $118,000,000.

On page 5, line 7, decrease the amount by $118,000,000.

On page 5, line 11, decrease the amount by $4,000,000.

On page 5, line 12, decrease the amount by $80,000,000.

On page 5, line 13, decrease the amount by $112,000,000.

On page 5, line 14, decrease the amount by $118,000,000.

On page 5, line 15, decrease the amount by $118,000,000.

At the end of Title III, insert the following:

**SEC. . RESERVE FUND FOR THE LOCAL FAMILY INFORMATION CENTERS PROGRAM.**

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $58,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for the Local Family Information Centers program in the Department of Education.

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**SA 2724.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $3,240,000,000.

On page 3, line 10, increase the amount by $324,000,000.

On page 3, line 11, increase the amount by $14,000,000.

On page 3, line 12, increase the amount by $4,000,000.

On page 3, line 17, increase the amount by $3,240,000,000.

On page 3, line 18, increase the amount by $324,000,000.

On page 3, line 19, increase the amount by $14,000,000.

On page 3, line 20, increase the amount by $4,000,000.

On page 4, line 20, increase the amount by $3,240,000,000.

On page 4, line 21, increase the amount by $324,000,000.

On page 4, line 22, increase the amount by $14,000,000.

On page 4, line 23, increase the amount by $4,000,000.

On page 5, line 3, decrease the amount by $3,240,000,000.

On page 5, line 4, decrease the amount by $3,564,000,000.

On page 5, line 5, decrease the amount by $3,578,000,000.

On page 5, line 6, decrease the amount by $3,582,000,000.

On page 5, line 7, decrease the amount by $3,582,000,000.

On page 5, line 11, decrease the amount by $3,240,000,000.

On page 5, line 12, decrease the amount by $3,564,000,000.

On page 5, line 13, decrease the amount by $3,578,000,000.

On page 5, line 14, decrease the amount by $3,582,000,000.

On page 5, line 15, decrease the amount by $3,582,000,000.

At the end of Title III, insert the following:

**SEC. . RESERVE FUND FOR VETERANS' MEDICAL CARE.**

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $1,800,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels

provided in this resolution, for veterans' medical programs, included in this resolution for the Department of Veterans Affairs.

**SA 2725.** Mr. KENNEDY (for himself, Mr. DODD, Mrs. CLINTON, Mr. CORZINE, Ms. STABENOW, Mr. LAUTENBERG, Mr. SCHUMER, Mr. REED, Ms. MIKULSKI, Mr. KOHL, Mrs. LINCOLN, Mr. LEVIN, Mr. LIEBERMAN, and Mr. REID) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $2,352,000,000.

On page 3, line 10, increase the amount by $7,253,000,000.

On page 3, line 11, increase the amount by $196,000,000.

On page 3, line 17, increase the amount by $2,352,000,000.

On page 3, line 18, increase the amount by $7,253,000,000.

On page 3, line 19, increase the amount by $196,000,000.

On page 4, line 20, increase the amount by $2,352,000,000.

On page 4, line 21, increase the amount by $7,253,000,000.

On page 4, line 22, increase the amount by $196,000,000.

On page 5, line 3, decrease the amount by $2,352,000,000.

On page 5, line 4, decrease the amount by $9,606,000,000.

On page 5, line 5, decrease the amount by $9,802,000,000.

On page 5, line 6, decrease the amount by $9,802,000,000.

On page 5, line 7, decrease the amount by $9,802,000,000.

On page 5, line 11, decrease the amount by $2,352,000,000.

On page 5, line 12, decrease the amount by $9,606,000,000.

On page 5, line 13, decrease the amount by $9,802,000,000.

On page 5, line 14, decrease the amount by $9,802,000,000.

On page 5, line 15, decrease the amount by $9,802,000,000.

At the end of Title III, insert the following:

**SEC. _____. RESERVE FUND FOR THE PELL GRANT PROGRAM.**

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $4,900,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for the Pell Grant program.

**SA 2726.** Mr. BIDEN (for himself, Mr. LEAHY, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. KENNEDY, Mr. SARBANES, Mr. ROCKEFELLER, Mr. CORZINE, Ms. STABENOW, Mr. HARKIN, Mrs. BOXER, Mr. DURBIN, Mr. KOHL, and Mr. DODD) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $300,000,000.

On page 3, line 10, increase the amount by $572,000,000.

On page 3, line 11 , increase the amount by $470,000,000.

On page 3, line 12 , increase the amount by $580,000,000.

On page 3, line 13 , increase the amount by $78,000,000.

On page 3, line 17, increase the amount by $300,000,000.

On page 3, line 18, increase the amount by $572,000,000.

On page 3, line 19, increase the amount by $470,000,000.

On page 3, line 20, increase the amount by $580,000,000.

On page 3, line 21, increase the amount by $78,000,000.

On page 4, line 4, increase the amount by $1,000,000,000.

On page 4, line 12, increase the amount by $150,000,000.

On page 4, line 13, increase the amount by $286,000,000.

On page 4, line 14, increase the amount by $235,000,000.

On page 4, line 15, increase the amount by $290,000,000.

On page 4, line 16, increase the amount by $39,000,000.

On page 4, line 20, increase the amount by $150,000,000.

On page 4, line 21, increase the amount by $286,000,000.

On page 4, line 22, increase the amount by $235,000,000.

On page 4, line 23, increase the amount by $290,000,000.

On page 4, line 24, increase the amount by $39,000,000.

On page 5, line 3, decrease the amount by $150,000,000.

On page 5, line 4, decrease the amount by $436,000,000.

On page 5, line 5, decrease the amount by $671,000,000.

On page 5, line 6, decrease the amount by $961,000,000.

On page 5, line 7, decrease the amount by $1,000,000,000.

On page 5, line 11, decrease the amount by $150,000,000.

On page 5, line 12, decrease the amount by $436,000,000.

On page 5, line 13, decrease the amount by $671,000,000.

On page 5, line 14, decrease the amount by $961,000,000.

On page 5, line 15, decrease the amount by $1,000,000,000.

On page 20, line 17, increase the amount by $1,000,000,000.

On page 20, line 18, increase the amount by $150,000,000.

On page 20, line 22, increase the amount by $286,000,000.

On page 21, line 1, increase the amount by $235,000,000.

On page 21, line 5, increase the amount by $290,000,000.

On page 21, line 9, increase the amount by $39,000,000.

On page 39, line 18, increase the amount by $1,000,000,000.

On page 39, line 19, increase the amount by $150,000,000.

On page 40, line 2, increase the amount by $286,000,000.

**SA 2727.** Mr. SANTORUM (for himself, Mr. CONRAD, and Mr. BUNNING) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, insert the following:

**SEC. ___. SUSPENSION OF POLICYHOLDERS SURPLUS ACCOUNT PROVISIONS.**

(a) IN GENERAL.—Section 815 (relating to distributions to shareholders from pre-1984 policyholders surplus account) is amended by adding at the end the following new subsection:

''(g) APPLICATION OF SECTION.—This section shall not apply to stock life insurance companies for taxable years beginning after December 31, 2003, and beginning before January 1, 2006.''.

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

**SA 2728.** Mr. STEVENS (for himself, Mr. INOUYE, and Mr. WARNER) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 30, strike line 21 and all that follows through page 31, line 9, and insert the following:

**SEC. 312. SUPPLEMENTAL FUNDING FOR IRAQ, AFGHANISTAN, HAITI AND FOR THE GLOBAL WAR ON TERRORISM.**

If the Committee on Appropriations of the Senate reports legislation providing additional discretionary appropriations in excess of the levels assumed in this resolution for defense-related activities in Iraq, Afghanistan, Haiti and for the global war on terrorism for fiscal year 2005, the chairman of the Committee on the Budget shall revise the allocations (and all other appropriate levels and aggregates set out in this resolution) for that committee for such purpose but not to exceed $50,000,000,000 in new budget authority for fiscal year 2005 and the outlays that flow therefrom.

**SA 2729.** Mr. LEVIN (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal year 2006 through 2009; which was ordered to lie on the table; as follows:

On page 54, after line 22, insert the following:

**SEC. _____. SENSE OF THE SENATE TO MAKE MORE EFFICIENT, FISCALLY RESPONSIBLE APPROPRIATIONS AND REVENUE DECISIONS.**

(a) FINDINGS.—The Senate finds the following:

(1) Federal programs and policies directly influence local growth patterns through the location of Federal facilities, spending on

public infrastructure, tax incentives, and Federal regulations.

(2) This Federal influence on local land use decisions results in both positive and negative effects.

(3) Unplanned and random growth results in increased commuting times, traffic congestion, impaired air quality, loss of open space and environmentally sensitive areas, public health problems, and poor accessibility to critical services such as schools and hospitals.

(4) Investing in existing infrastructure is a fiscally responsible use of resources. When not properly planned, local development decisions may actually burden the Federal budget by requiring the construction of new water, sewer, and transportation infrastructure in low-density areas, rather than funding the maintenance of existing infrastructure.

(5) Planned growth, important in sustaining community development and a healthy economy, has positive effects, reflected, for example, in increased home ownership, higher consumer savings, lower energy consumption, and strong business advantages.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the budgetary levels in this resolution assume that in making appropriations and revenue decisions, the Senate should—

(1) support Federal policies that encourage growth patterns that make efficient use of available housing, transportation, and infrastructure resources; and

(2) address the unintended consequences of urban and suburban sprawl resulting from specific Federal programs and policies through the use of additional resources and the allocation of budgetary authority to provide incentives for sustainable growth.

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**SA 2730.** Mr. LEVIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $54,000,000.

On page 3, line 10, increase the amount by $250,000,000.

On page 3, line 11, increase the amount by $54,000,000.

On page 3, line 17, increase the amount by $54,000,000.

On page 3, line 18, increase the amount by $250,000,000.

On page 3, line 19, increase the amount by $54,000,000.

On page 4, line 4, increase the amount by $179,000,000.

On page 4, line 12, increase the amount by $27,000,000.

On page 4, line 13, increase the amount by $125,000,000.

On page 4, line 14, increase the amount by $27,000,000.

On page 4, line 20, increase the amount by $27,000,000.

On page 4, line 21, increase the amount by $125,000,000.

On page 4, line 22, increase the amount by $27,000,000.

On page 5, line 3, decrease the amount by $27,000,000.

On page 5, line 4, decrease the amount by $152,000,000.

On page 5, line 5, decrease the amount by $179,000,000.

On page 5, line 6, decrease the amount by $179,000,000.

On page 5, line 7, decrease the amount by $179,000,000.

On page 5, line 11, decrease the amount by $27,000,000.

On page 5, line 12, decrease the amount by $152,000,000.

On page 5, line 13, decrease the amount by $179,000,000.

On page 5, line 14, decrease the amount by $179,000,000.

On page 5, line 15, decrease the amount by $179,000,000.

On page 13, line 2, increase the amount by $179,000,000.

On page 13, line 3, increase the amount by $27,000,000.

On page 13, line 7, increase the amount by $125,000,000.

On page 13, line 11, increase the amount by $27,000,000.

On page 39, line 18, increase the amount by $179,000,000.

On page 39, line 19, increase the amount by $27,000,000.

On page 40, line 2, increase the amount by $125,000,000.

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**SA 2731.** Mr. GRAHAM of South Carolina (for himself, Mr. DASCHLE, Mr. BUNNING, Mr. LEAHY, Mrs. CLINTON, Mr. DEWINE, Mr. CHAMBLISS, Mr. ALLEN, Mrs. MURRAY, Mr. KENNEDY, Mrs. LINCOLN, Mr. DAYTON, Ms. MURKOWSKI, Ms. MIKULSKI. Mr. FEINGOLD, and Mr. MILLER) proposed an amendment to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; as follows:

On page 28, after line 7, insert the following:

**SEC. 304. RESERVE FUND FOR GUARD AND RESERVE HEALTH CARE.**

If the Committee on Armed Services or the Committee on Appropriations reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted that expands access to health care for members of the reserve component, the Chairman of the Committee on the Budget may revise allocations of new budget authority and outlays, the revenue aggregates, other appropriate aggregates, and the discretionary spending limits to reflect such legislation, providing that such legislation—

(1) would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009, or would offset such deficit increases through reduction of unobligated balances from Iraqi reconstruction;

(2) does not exceed $5,600,000,000 for the period of fiscal years 2005 through 2009.

**SEC. 305. RESERVE FUND FOR MONGOMERY GI BILL BENEFITS.**

If the Committee on Armed Services or the Committee on Appropriations reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that increases benefit levels under the Montgomery GI Bill for members of the Selected Reserves, the Chairman of the Committee on the Budget may revise allocations of new budget authority and outlays, the revenue aggregates, other appropriate aggregates, and the discretionary spending limits to reflect such legislation, providing that such legislation—

(1) would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009;

(2) does not exceed $1,200,000,000 for the period of fiscal years 2005 through 2009.

**SA 2732.** Mrs. HUTCHISON (for herself, Ms. LANDRIEU, Mr. BREAUX, and Mr. LOTT) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 11, line 9, increase the amount by $200,000,000.

On page 11, line 10, increase the amount by $200,000,000.

On page 23, line 5, increase the amount by $200,000,000.

On page 23, line 6, increase the amount by $200,000,000.

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**SA 2733.** Mr. SESSIONS (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

On page 21, line 13, decrease the amount $600,000,000.

On page 21, line 14, decrease the amount $600,000,000.

On page 9, line 17, increase the amount $600,000,000.

On page 9, line 18, increase the amount $600,000,000.

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**SA 2734.** Mr. REID (for himself, Mrs. LINCOLN, Mr. SCHUMER, Ms. CANTWELL, Mr. DAYTON, Mr. KERRY, Mr. ROCKEFELLER, Mr. DASCHLE, Ms. LANDRIEU, Mr. CORZINE, Mr. NELSON of Florida, Mr. BIDEN, Mr. JEFFORDS, Mr. GRAHAM of Florida, Mrs. MURRAY, Mr. BINGAMAN, Mr. AKAKA, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $2,427,000,000.

On page 3, line 10, increase the amount by $2,416,000,000.

On page 3, line 11, increase the amount by $2,334,000,000.

On page 3, line 12, increase the amount by $2,218,000,000.

On page 3, line 13, increase the amount by $2,045,000,000.

On page 3, line 17, increase the amount by $2,427,000,000.

On page 3, line 18, increase the amount by $2,416,000,000.

On page 3, line 19, increase the amount by $2,334,000,000.

On page 3, line 20, increase the amount by $2,218,000,000.

On page 3, line 21, increase the amount by $2,045,000,000.

On page 4, line 20, increase the amount by $2,427,000,000.

On page 4, line 21, increase the amount by $2,416,000,000.

On page 4, line 22, increase the amount by $2,334,000,000.

On page 4, line 23, increase the amount by $2,218,000,000.

On page 4, line 24, increase the amount by $2,045,000,000.

On page 5, line 3, decrease the amount by $2,427,000,000.

On page 5, line 4, decrease the amount by $4,843,000,000.

On page 5, line 5, decrease the amount by $7,177,000,000.

On page 5, line 6, decrease the amount by $9,395,000,000.

On page 5, line 7, decrease the amount by $11,440,000,000.

On page 5, line 11, decrease the amount by $2,427,000,000.

On page 5, line 12, decrease the amount by $4,843,000,000.

On page 5, line 13, decrease the amount by $7,177,000,000.

On page 5, line 14, decrease the amount by $9,395,000,000.

On page 5, line 15, decrease the amount by $11,440,000,000.

At the end of title III insert the following:

**SEC. . RESERVE FUND FOR CONCURRENT RECEIPT.**

If the Committee on Armed Services or the Committee on Appropriations reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that provides for an extension of eligibility for concurrent receipt of military retirement pay and veterans' disability compensation under that section to military retirees with service-connected disabilities rated between 40 percent and zero percent, the Chairman of the Committee on the Budget shall revise the aggregates, functional totals, allocations, discretionary caps, and other appropriate levels and limits in this resolution by up to $11,440,000,000 in budget authority and $11,440,000,000 in outlays over the total of fiscal years 2005 through 2009.

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**SA 2735.** Mr. BYRD (for himself, Mr. CONRAD, Mr. BAUCUS, and Mr. HARKIN) proposed an amendment to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; as follows:

Strike Section 201(a) of the committee-reported resolution, on page 24 line 21 through page 25 line 3.

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**SA 2736.** Mr. DORGAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 4, line 4, decrease the amount by $3,332,000,000.

On page 4, line 5, increase the amount by $658,000,000.

On page 4, line 6, increase the amount by $742,000,000.

On page 4, line 7, increase the amount by $692,000,000.

On page 4, line 8, increase the amount by $727,000,000.

On page 4, line 12, decrease the amount by $713,000,000.

On page 4, line 13, decrease the amount by $964,000,000.

On page 4, line 14, decrease the amount by $176,000,000.

On page 4, line 15, increase the amount by $374,000,000.

On page 4, 1ine 16, increase the amount by $607,000,000.

On page 4, line 20, increase the amount by $713,000,000.

On page 4, line 21, increase the amount by $964,000,000.

On page 4, line 22, increase the amount by $176,000,000,

On page 4, 1ine 23, decrease the amount by $374,000,000.

On page 4, line 24, decrease the amount by $607,000,000.

On page 5, line 3, decrease the amount by $713,000,000.

On page 5, line 4, decrease the amount by $1,677,000,000.

On page 5, line 5, decrease the amount by $1,853,000,000.

On page 5, line 6, decrease the amount by $1,479,000,000.

On page 5, line 7, decrease the amount by $872,000,000.

On page 5, line 11, decrease the amount by $713,000,000.

On page 5, line 12, decrease the amount by $1,677,000,000.

On page 5, line 13, decrease the amount by $1,853,000,000.

On page 5, line 14, decrease the amount by $1,479,000,000.

On page 5, line 15, decrease the amount by $872,000,000.

On page 8, line 21, decrease the amount by $3,332,000,000.

On page 8, line 22, decrease the amount by $713,000,000.

On page 9, line 1, decrease the amount by $1,260,000,000.

On page 9, line 5, decrease the amount by $773,000,000.

On page 9, line 9, decrease the amount by $300,000,000.

On page 9, line 13, decrease the amount by $104,000,000.

On page 10, line 17, increase the amount by $658,000,000.

On page 10, line 18, increase the amount by $296,000,000.

On page 10, line 21, increase the amount by $742,000,000.

On page 10, line 22, increase the amount by $597,000,000.

On page 10, line 25, increase the amount by $692,000,000.

On page 11, line 1, increase the amount by $674,000,000.

On page 11, line 4, increase the amount by $727,000,000.

On page 11, line 5, increase the amount by $711,000,000.

At the end of Section 303, insert:

**SEC. . RESERVE FUND FOR HYDROGEN FUEL CELL RESEARCH AND DEVELOPMENT.**

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $513,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for Hydrogen Fuel Cell Research and Development, included in this resolution for the Department of Energy.

On page 40 line 1, increase the amount by $658,000,000.

On page 40 line 2, increase the amount by $296,000,000.

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**SA 2737.** Ms. CANTWELL (for herself, Mr. KENNEDY, and Mr. SARBANES) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 33, after line 25, insert the following:

**SEC. 314. SPECIAL RULE FOR FISCAL YEAR 2004.**

If additional funding to extend expired unemployment insurance benefits for fiscal year 2004 is provided in a bill, joint resolution, amendment, motion, or conference report, and its cost is fully offset in the year provided and would not increase the on-budget deficit, then such funding shall not be counted for purposes of Senate enforcement of the Congressional Budget Act of 1974 and this resolution.

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**SA 2738.** Ms. CANTWELL (for herself, Mr. KENNEDY, and Mr. SARBANES) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 54, after line 22, insert the following:

**SEC. ___. SENSE OF THE SENATE ON TEMPORARY EMERGENCY UNEMPLOYMENT COMPENSATION.**

(a) FINDINGS.—The Senate finds the following:

(1) There are currently 8,200,000 unemployed Americans.

(2) An additional 1,700,000 discouraged workers have given up looking for work.

(3) Another 4,700,000 individuals are working part time, but want a full-time job and cannot find one.

(4) For every job opening, there are 3 laid-off workers fighting for that job.

(5) Since January 2001, the economy has lost 2,200,000 jobs.

(6) Reinstating the Federal Temporary Unemployment Insurance Compensation program would reinstate benefits for 90,000 laid-off workers each week who began exhausting State benefits when that program ended.

(7) For the first 6 months of 2004, reinstating the Temporary Unemployment Insurance Compensation program would benefit 2,000,000 laid-off workers.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the levels in this concurrent resolution assume that Congress and the President will enact legislation reinstating the program established by the Temporary Emergency Unemployment Compensation Act of 2002 (Public Law 107–147) through June 30, 2004.

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**SA 2739.** Mr. SPECTER (for himself, Mr. COCHRAN, Mr. HARKIN, and Mr. BYRD) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

Strike section 404.

**SA 2740.** Mr. SPECTER (for himself and Mr. HARKIN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

Strike subsection 404(a).

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**SA 2741.** Mr. SPECTER submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 16, line 12, increase the amount by $2,000,000,000.

On page 16, line 13, increase the amount by $2,000,000,000.

On page 23, line 5, decrease the amount by $2,000,000,000.

On page 23, line 6, decrease the amount by $2,000,000,000.

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**SA 2742.** Mr. WARNER (for himself, Mr. STEVENS, Mr. MCCAIN, Mr. INHOFE, Mr. ROBERTS, Ms. COLLINS, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, Mr. TALENT, Mr. CRAIG, and Mr. ALLEN) proposed an amendment to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; as follows:

On page 4, line 4, increase the amount by $6,997,000,000.

On page 4, line 5, increase the amount by $262,000,000.

On page 4, line 6, increase the amount by $358,000,000.

On page 4, line 7, increase the amount by $405,000,000.

On page 4, line 8, increase the amount by $432,000,000.

On page 4, line 12, increase the amount by $5,506,000,000.

On page 4, line 13, increase the amount by $1,855,000,000.

On page 4, line 14, increase the amount by $799,000,000.

On page 4, line 15, increase the amount by $550,000,000.

On page 4, line 16, increase the amount by $480,000,000.

On page 4, line 20, decrease the amount by $5,506,000,000.

On page 4, line 21, decrease the amount by $1,855,000,000.

On page 4, line 22, decrease the amount by $799,000,000.

On page 4, line 23, decrease the amount by $550,000,000.

On page 4, line 24, decrease the amount by $480,000,000.

On page 5, line 3, increase the amount by $5,506,000,000.

On page 5, line 4, increase the amount by $7,362,000,000.

On page 5, line 5, increase the amount by $8,161,000,000.

On page 5, line 6, increase the amount by $8,711,000,000.

On page 5, line 7, increase the amount by $9,191,000,000.

On page 5, line 11, increase the amount by $5,506,000,000.

On page 5, line 12, increase the amount by $7,362,000,000.

On page 5, line 13, increase the amount by $8,161,000,000.

On page 5, line 14, increase the amount by $8,711,000,000.

On page 5, line 15, increase the amount by $9,191,000,000.

On page 7, line 25, increase the amount by $6,900,000,000.

On page 8, line 1, increase the amount by $5,409,000,000.

On page 8, line 5, increase the amount by $1,594,000,000.

On page 8, line 9, increase the amount by $442,000,000.

On page 8, line 13, increase the amount by $145,000,000.

On page 8, line 17, increase the amount by $48,000,000.

On page 22, line 9, increase the amount by $97,000,000.

On page 22, line 10, increase the amount by $97,000,000.

On page 22, line 13, increase the amount by $262,000,000.

On page 22, line 14, increase the amount by $262,000,000.

On page 22, line 17, increase the amount by $358,000,000.

On page 22, line 18, increase the amount by $358,000,000.

On page 22, line 21, increase the amount by $405,000,000.

On page 22, line 22, increase the amount by $405,000,000.

On page 22, line 25, increase the amount by $432,000,000.

On page 23, line 1, increase the amount by $432,000,000.

On page 39, line 18, increase the amount by $6,900,000,000.

On page 39, line 19, increase the amount by $5,409,000,000.

On page 40, line 2, increase the amount by $1,594,000,000.

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**SA 2743.** Mr. ROCKEFELLER (for himself, Mr. WYDEN, Mr. KENNEDY, Mrs. MURRAY, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 28, after line 7, insert the following:

**SEC. ___. RESERVE FUND TO PROTECT STATES.**

If the Committee on Finance of the Senate reports a bill or joint resolution that extends increased Federal Medical Assistance Percentage (FMAP) payments to States and that legislation would not increase the deficit for fiscal year 2005 or for the period of fiscal years 2005 through 2009, the budgetary effects of that legislation shall not count for purposes of the Congressional Budget Act or provisions of the concurrent resolutions on the budget for fiscal year 2004 or 2005. If an amendment, motion, or conference report is offered that extends increased Federal Medical Assistance Percentage payments to States and would not increase the deficit for fiscal year 2005 or for the period of fiscal years 2005 through 2009, that amendment, motion, or conference report shall not count for those purposes.

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**SA 2744.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $2,000,000.

On page 3, line 10, increase the amount by $38,000,000.

On page 3, line 11, increase the amount by $16,000,000.

On page 3, line 12, increase the amount by $3,000,000.

On page 3, line 17 , increase the amount by $2,000,000.

On page 3, line 18, increase the amount by $38,000,000.

On page 3, line 19, increase the amount by $16,000,000.

On page 3, line 20, increase the amount by $3,000,000.

On page 4, line 20, increase the amount by $2,000,000.

On page 4, line 21, increase the amount by $38,000,000.

On page 4, line 22, increase the amount by $16,000,000.

On page 4, line 23, increase the amount by $3,000,000.

On page 5, line 3, decrease the amount by $2,000,000.

On page 5, line 4, decrease the amount by $40,000,000.

On page 5, line 5, decrease the amount by $56,000,000.

On page 5, line 6, decrease the amount by $59,000,000.

On page 5, line 7, decrease the amount by $59,000,000.

On page 5, line 11, decrease the amount by $2,000,000.

On page 5, line 12, decrease the amount by $40,000,000.

On page 5, line 13, decrease the amount by $56,000,000.

On page 5, line 14, decrease the amount by $59,000,000.

On page 5, line 15, decrease the amount by $59,000,000.

At the end of Title III, insert the following:

**SEC. . RESERVE FUND FOR THE LOCAL FAMILY INFORMATION CENTERS PROGRAM.**

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $58,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for the Local Family Information Centers program in the Department of Education.

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**SA 2745.** Mr. NELSON of Florida (for himself, Mr. CORZINE, Ms. MIKULSKI, Mr. SCHUMER, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; as follows:

On page 3, line 9, increase the amount by $1,620,000,000.

On page 3, line 10, increase the amount by $162,000,000.

On page 3, line 11, increase the amount by $7,000,000.

On page 3, line 12, increase the amount by $2,000,000.

On page 3, line 17, increase the amount by $1,620,000,000.

On page 3, line 18, increase the amount by $162,000,000.

On page 3, line 19, increase the amount by $7,000,000.

On page 3, line 20, increase the amount by $2,000,000.

On page 4, line 20, increase the amount by $1,620,000,000.

On page 4, line 21, increase the amount by $162,000,000.

On page 4, line 22, increase the amount by $7,000,000.

On page 4, line 23, increase the amount, by $2,000,000.

On page 5, line 3, decrease the amount by $1,620,000,000.

On page 5, line 4, decrease the amount by $1,782,000,000.

On page 5, line 5, decrease the amount by $1,789,000,000.

On page 5, line 6, decrease the amount by $1,791,000,000.

On page 5, line 7, decrease the amount by $1,791,000,000.

On page 5, line 11, decrease the amount by $1,620,000,000.

On page 5, line 12, decrease the amount by $1,782,000,000.

On page 5, line 13, decrease the amount by $1,789,000,000.

On page 5, line 14, decrease the amount by $1,791,000,000.

On page 5, line 15, decrease the amount by $1,791,000,000.

At the end of Title III, insert the following:

**SEC. . RESERVE FUND FOR VETERANS' MEDICAL CARE.**

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $1,800,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for veterans' medical programs, included in this resolution for the Department of Veterans Affairs.

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**SA 2746**. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $2,000,000.

On page 3, line 10, increase the amount by $7,000,000.

On page 3, line 11, increase the amount by $13,000,000.

On page 3, line 12, increase the amount by $15,000,000.

On page 3, line 13, increase the amount by $4,000,000.

On page 3, line 17, increase the amount by $2,000,000.

On page 3, line 18, increase the amount by $7,000,000.

On page 3, line 19, increase the amount by $13,000,000.

On page 3, line 20, increase the amount by $15,000,000.

On page 3, line 21, increase the amount by $4,000,000.

On page 4, line 20, increase the amount by $2,000,000.

On page 4, line 21, increase the amount by $7,000,000.

On page 4, line 22, increase the amount by $13,000,000.

On page 4, line 23, increase the amount by $15,000,000.

On page 4, line 24, increase the amount by $4,000,000.

On page 5, line 3, decrease the amount by $2,000,000.

On page 5, line 4, decrease the amount by $9,000,000.

On page 5, line 5, decrease the amount by $22,000,000.

On page 5, line 6, decrease the amount by $37,000,000.

On page 5, line 7, decrease the amount by $41,000,000.

On page 5, line 11, decrease the amount by $2,000,000.

On page 5, line 12, decrease the amount by $9,000,000.

On page 5, line 13, decrease the amount by $22,000,000.

On page 5, line 14, decrease the amount by $37,000,000.

On page 5, line 15, decrease the amount by $41,000,000.

At the end of Title III, insert the following:

**SEC. . RESERVE FUND FOR THE DEPARTMENT OF DEFENSE COOPERATIVE THREAT REDUCTION PROGRAMS.**

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $41,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for the Cooperative Threat Reduction Program in the Department of Defense.

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**SA 2747.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $382,000,000.

On page 3, line 10, increase the amount by $196,000,000.

On page 3, line 11, increase the amount by $38,000,000.

On page 3, line 12, increase the amount by $9,000,000.

On page 3, line 13, increase the amount by $3,000,000.

On page 3, line 17, increase the amount by $382,000,000.

On page 3, line 18, increase the amount by $196,000,000.

On page 3, line 19, increase the amount by $38,000,000.

On page 3, line 20, increase the amount by $9,000,000.

On page 3, line 21, increase the amount by $3,000,000.

On page 4, line 20, increase the amount by $382,000,000.

On page 4, line 21, increase the amount by $196,000,000.

On page 4, line 22, increase the amount by $38,000,000.

On page 4, line 23, increase the amount by $9,000,000.

On page 4, line 24, increase the amount by $3,000,000.

On page 5, line 3, decrease the amount by $382,000,000.

On page 5, line 4, decrease the amount by $578,000,000.

On page 5, line 5, decrease the amount by $616,000,000.

On page 5, line 6, decrease the amount by $625,500,000.

On page 5, line 7, decrease the amount by $628,000,000.

On page 5, line 11, decrease the amount by $382,000,000.

On page 5, line 12, decrease the amount by $578,000,000.

On page 5, line 13, decrease the amount by $616,000,000.

On page 5, line 14, decrease the amount by $625,500,000.

On page 5, line 15, decrease the amount by $628,000,000.

At the end of Title III, insert the following:

**SEC. . RESERVE FUND FOR THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.**

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $631,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for the National Aeronautics and Space Administration.

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**SA 2748.** Mr. FEINGOLD (for himself, Mr. CHAFEE, Mr. BAUCUS, Ms. CANTWELL, Mr. CARPER, and Mr. GRAHAM of Florida) proposed an amendment to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; as follows:

On page 46, between lines 2 and 3, insert the following:

**SEC. 408. PAY-AS-YOU-GO POINT OF ORDER IN THE SENATE.**

(a) POINT OF ORDER.—

(1) IN GENERAL.—It shall not be in order in the Senate to consider any direct spending or revenue legislation that would increase the on-budget deficit or cause an on-budget deficit for any one of the three applicable time periods as measured in paragraphs (5) and (6).

(2) APPLICABLE TIME PERIODS.—For purposes of this subsection, the term ''applicable time period'' means any 1 of the 3 following periods:

(A) The first year covered by the most recently adopted concurrent resolution on the budget.

(B) The period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget.

(C) The period of the 5 fiscal years following the first 5 fiscal years covered in the most recently adopted concurrent resolution on the budget.

(3) DIRECT-SPENDING LEGISLATION.—For purposes of this subsection and except as

provided in paragraph (4), the term ''direct-spending legislation'' means any bill, joint resolution, amendment, motion, or conference report that affects direct spending as that term is defined by, and interpreted for purposes of, the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) EXCLUSION.—For purposes of this subsection, the terms ''direct-spending legislation'' and ''revenue legislation'' do not include—

(A) any concurrent resolution on the budget; or

(B) any provision of legislation that affects the full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990.

(5) BASELINE.—Estimates prepared pursuant to this section shall—

(A) use the baseline surplus or deficit used for the most recently adopted concurrent resolution on the budget; and

(B) be calculated under the requirements of subsections (b) through (d) of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal years beyond those covered by that concurrent resolution on the budget.

(6) PRIOR SURPLUS.—If direct spending or revenue legislation increases the on-budget deficit or causes an on-budget deficit when taken individually, it must also increase the on-budget deficit or cause an on-budget deficit when taken together with all direct spending and revenue legislation enacted since the beginning of the calendar year not accounted for in the baseline under paragraph (5)(A), except that direct spending or revenue effects resulting in net deficit reduction enacted pursuant to reconciliation instructions since the beginning of that same calendar year shall not be available.

(b) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(e) SUNSET.—This section shall expire on September 30, 2009.

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**SA 2749.** Mr. GRAHAM of Florida (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by 3,087,000,000.

On page 3, line 10, increase the amount by 5,408,000,000.

On page 3, line 11, increase the amount by 7,415,000,000.

On page 3, line 12, increase the amount by 9,901,000,000.

On page 3, line 13, increase the amount by 18,082,000,000.

On page 3, line 17, increase the amount by 3,087,000,000.

On page 3, line 18, increase the amount by 5,408,000,000.

On page 3, line 19, increase the amount by 7,415,000,000.

On page 3, line 20, increase the amount by 9,901,000,000.

On page 3, line 21, increase the amount by 18,082,000,000.

On page 4, line 20, increase the amount by 3,087,000,000.

On page 4, line 21, increase the amount by 5,408,000,000.

On page 4, line 22, increase the amount by 7,415,000,000.

On page 4, line 23, increase the amount by 9,901,000,000.

On page 4, line 24, increase the amount by 18,082,000,000.

On page 5, line 3, decrease the amount by 3,087,000,000.

On page 5, line 4, decrease the amount by 8,495,000,000.

On page 5, line 5, decrease the amount by 15,910,000,000.

On page 5, line 6, decrease the amount by 25,811,000,000.

On page 5, line 7, decrease the amount by 43,893,000,000.

On page 5, line 11, decrease the amount by 3,087,000,000.

On page 5, line 12, decrease the amount by 8,495,000,000.

On page 5, line 13, decrease the amount by 15,910,000,000.

On page 5, line 14, decrease the amount by 25,811,000,000.

On page 5, line 15, decrease the amount by 43,893,000,000.

At the end of title III, insert the following:

**SEC. . RESERVE FUND FOR IMPROVEMENTS TO PELL GRANT PROGRAM TO ASSIST NONTRADITIONAL STUDENTS.**

The Chairman of the Committee on Budget of the Senate shall revise aggregates, function totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $1,786,000,000 in budget authority for fiscal years 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, to expand the maximum Pell Grant award, make grants available year-round, increase the income protection for independent students, increase funding for student support services, and increase funding for campus child care.

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**SA 2750.** Mr. FEINGOLD (for himself, Mr. CORZINE, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $9,936,000,000.

On page 3, line 10, increase the amount by $7,446,000,000.

On page 3, line 11, increase the amount by $2,032,000,000.

On page 3, line 12, increase the amount by $390,000,000.

On page 3, line 13, increase the amount by $90,000,000.

On page 3, line 17, increase the amount by $9,936,000,000.

On page 3, line 18, increase the amount by $7,446,000,000.

On page 3, line 19, increase the amount by $2,032,000,000.

On page 3, line 20, increase the amount by $390,000,000.

On page 3, line 21, increase the amount by $90,000,000.

On page 4, line 20, increase the amount by $9,936,000,000.

On page 4, line 21, increase the amount by $7,446,000,000.

On page 4, line 22, increase the amount by $2,032,000,000.

On page 4, line 23, increase the amount by $390,000,000.

On page 4, line 24, increase the amount by $90,000,000.

On page 5, line 3, decrease the amount by $9,936,000,000.

On page 5, line 4, decrease the amount by $19,414,000,000.

On page 5, line 6, decrease the amount by $19,804,000,000.

On page 5, line 7, decrease the amount by $19,894,000,000.

On page 5, line 11, decrease the amount by $9,936,000,000.

On page 5, line 12, decrease the amount by $17,382,000,000.

On page 5, line 13, decrease the amount by $19,414,000,000.

On page 5, line 14, decrease the amount by $19,804,000,000.

On page 5, line 15, decrease the amount by $19,894,000,000.

On page 31, line 7, strike $30,000,000,000 and replace with $50,000,000,000.

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**SA 2751.** Mr. BAUCUS (for himself, Mr. DASCHLE, Mr. LIEBERMAN, Mr. JEFFORDS, Mrs. FEINSTEIN, Mr. BINGAMAN, Mrs. MURRAY and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; as follows:

Strike section 201(c).

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**SA 2752.** Mr. PRYOR submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

At the end of title V, insert the following:

**SEC. ___. FINDINGS AND SENSE OF THE SENATE.**

(a) FINDINGS.—The Senate finds that—

(1) the United States is in the grip of pervasively higher natural gas prices;

(2) high natural gas prices are, in general, having an effect that is rippling through the United States economy and are, in particular, impacting home energy bills;

(3) while persons in many sectors can adapt to gas price increases, persons in some sectors simply cannot;

(4) elderly and disabled citizens who are living on fixed incomes, low-income individuals, and the working poor face hardships wrought by natural gas prices;

(5) the energy burden for persons among the working poor often exceeds 40 percent of those persons' incomes under normal conditions;

(6) under current circumstances, natural gas prices are unnaturally high, and those are not normal circumstances;

(7) while critically important and encouraged, State energy assistance and charitable assistance funds have been overwhelmed by the crisis caused by the high gas prices;

(8) the Federal Low-Income Home Energy Assistance Program (referred to in this section as ''LIHEAP'') and the companion weatherization assistance program (referred to in this section as ''WAP''), are the Federal Government's primary means to assist eligible low-income individuals in the United States to shoulder the burdens caused by their home heating and cooling needs;

(9) in 2003, LIHEAP reached only 15 percent of the persons in the United States who were eligible for assistance under the program;

(10) since LIHEAP's inception, its inflation-adjusted buying power has eroded by 58 percent;

(11) the aggressive draw-down of Federal funds from LIHEAP to address legitimate winter heating demands has led to a subsequent cooling crisis that will be manifest later this year; and

(12) more individuals in the United States succumb to extreme heat than all other weather phenomena combined.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the levels in this concurrent resolution assume—

(1) an authorization of $3,400,000,000 for each of fiscal years 2004 through 2006 to carry out the LIHEAP program;

(2) an authorization of $325,000,000 for fiscal year 2004, $400,000,000 for fiscal year 2005, and $500,000,000 for fiscal year 2006 to carry out the WAP program;

(3) appropriations, for those programs, of sufficient additional funds to realistically address the immediate heating crisis, and the cooling crisis that awaits the United States this summer, as well as the systemic shortfalls that have plagued those programs and the eligible individuals that the programs are designed to assist; and

(4) advance appropriations of the necessary funds to ensure the smooth operation of those programs during times of peak demand.

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**SA 2753.** Mrs. FEINSTEIN (for herself, Mr. HOLLINGS, Mr. CORZINE, Mr. BREAUX, Mr. SCHUMER, Mr. DODD, Mr. BIDEN, Ms. MIKULSKI, Mrs. MURRAY, and Mr. GRAHAM) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 54, after line 22, insert the following new section:

**SEC. 510. SENSE OF THE SENATE REGARDING FUNDING FOR PORT SECURITY.**

(a) FINDINGS.—The Senate makes the following findings:

(1) In the United States, the system of maritime commerce, including seaports and other ports, is a critical element of the United States economic, social, and environmental infrastructure.

(2) In 2001, ports in the United States handled approximately 5,400 ships, the majority of which were owned by foreign persons and crewed by nationals of foreign countries, that made a total of more than 60,000 calls at such ports.

(3) In a typical year, more than 17,000,000 cargo containers are handled at ports in the United States.

(4) Maritime commerce is the primary mode of transportation for international trade, with ships carrying more than 80 percent of such trade, by volume.

(5) Disruption of trade flowing through United States ports could have a catastrophic impact on both the United States and the world economies.

(6) In addition to the economic importance of United States ports, such ports form a critical link in the United States national security structure, and are necessary to ensure that United States military material can be effectively and quickly shipped to any location where such material is needed.

(7) Terrorist groups, including extremist groups such as al Qaeda, are likely to consider, formulate, and execute plans to conduct a terrorist strike against one or more of the ports in the United States.

(8) Terrorists have conducted attacks against maritime commerce in the past, including the October 2002 attack on the French oil tanker LIMBERG and the October 2000 attack on the USS COLE in Yemen.

(9) It is critical that port security be enhanced and improved through the adoption of better formulated security procedures, the adoption of new regulations and law, and investment in long-term capital improvements to the structure of the United States most critical ports.

(10) Effective funding to provide adequate security at United States ports requires a commitment to provide Federal funds over multiple years to fund long-term capital improvement projects.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the budget of the United States should provide adequate funding for port security projects and not less than the amount of such funding that is adequate to implement an effective port security plan;

(2) the implementation of the budget of the United States should permit the provision of Federal funds over multiple years to fund long-term security improvement projects at ports in the United States; and

(3) the Secretary of Homeland Security should, as soon as practicable, develop a funding plan for port security that permits funding over multiple years for such projects.

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**SA 2754.** Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. BINGAMAN, Mrs. HUTCHISON, Mr. KENNEDY, Mr. CORNYN, Mrs. BOXER, Mr. DOMENICI, Mrs. CLINTON, Mr. MCCAIN, Mr. SCHUMER, Mr. GRAHAM of Florida, Mr. LAUTENBERG, Ms. CANTWELL, Mr. CORZINE, Mr. FEINGOLD, Mr. EDWARDS, and Mr. ALEXANDER) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . SENSE OF THE SENATE ON THE STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.**

(a) FINDINGS.—The Senate finds the following:

(1) Control of illegal immigration is a Federal responsibility.

(2) The State Criminal Alien Assistance Program (SCAAP) provides critical funding to States and localities for reimbursement of costs incurred as a result of housing undocumented criminal aliens.

(3) In fiscal year 2003, however, State and local governments spent at least $14,000,000,000 in costs associated with the incarceration of undocumented criminal aliens.

(4) The Federal Government provided $248,000,000 in appropriated funding to the State Criminal Alien Assistance Program (SCAAP) to re imburse State and local governments for these costs in fiscal year 2003.

(5) The Federal Govermnent provided $300,000,000 in appropriated funding to the State Criminal Alien Assistance Program (SCAAP) to reimburse State and local governments for these costs in fiscal year 2004.

(6) In fiscal years 2003 and 2004, the Administration did not request funding for the SCAAP program.

(7) The Administration did not request funding for SCAAP in its fiscal year 2005 budget.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the levels in this concurrent resolution assume that—

(1) Congress fund the SCAAP program for $850,000,000 for fiscal year 2005; and

(2) Congress enact the long-term reauthorization of the SCAAP program to reimburse State and local governments for the burdens undocumented criminal aliens have placed on the local criminal justice system.

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**SA 2755.** Mr. HATCH (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . EXCLUSION OF INCENTIVE STOCK OPTIONS AND EMPLOYEE STOCK PURCHASE PLAN STOCK OPTIONS FROM WAGES.**

(a) EXCLUSION FROM EMPLOYMENT TAXES.—

(1) SOCIAL SECURITY TAXES.—

(A) Section 3121(a) of the Internal Revenue Code of 1986 (relating to definition of wages) is amended by striking ''or'' at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ''; or'', and by inserting after paragraph (21) the following new paragraph:

''(22) remuneration on account of—

''(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b)) or under an employee stock purchase plan (as defined in section 423(b)), or

''(B) any disposition by the individual of such stock.''

(B) Section 209(a) of the Social Security Act is amended by striking ''or'' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting ''; or'', and by inserting after paragraph (18) the following new paragraph:

''(19) Remuneration on account of—

''(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b) of the Internal Revenue Code of 1986) or under an employee stock purchase plan (as defined in section 423(b) of such Code), or

''(B) any disposition by the individual of such stock.''

(2) RAILROAD RETIREMENT TAXES.—Subsection (e) of section 3231 of such Code is amended by adding at the end the following new paragraph:

''(12) QUALIFIED STOCK OPTIONS.—The term 'compensation' shall not include any remuneration on account of—

''(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b)) or under an employee stock purchase plan (as defined in section 423(b)), or

''(B) any disposition by the individual of such stock.''

(3) UNEMPLOYMENT TAXES.—Section 3306(b) of such Code (relating to definition of wages) is amended by striking ''or'' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting ''; or'', and by inserting after paragraph (18) the following new paragraph:

''(19) remuneration on account of—

''(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b)) or under an employee stock purchase plan (as defined in section 423(b)), or

''(B) any disposition by the individual of such stock.''

(b) WAGE WITHHOLDING NOT REQUIRED ON DISQUALIFYING DISPOSITIONS.—Section 421(b) of the Internal Revenue Code of 1986 (relating to effect of disqualifying dispositions) is amended by adding at the end the following new sentence: ''No amount shall be required to be deducted and withheld under chapter 24 with respect to any increase in income attributable to a disposition described in the preceding sentence.''

(c) WAGE WITHHOLDING NOT REQUIRED ON COMPENSATION WHERE OPTION PRICE IS BETWEEN 85 PERCENT AND 100 PERCENT OF VALUE OF STOCK.—Section 423(c) of the Internal Revenue Code of 1986 (relating to special rule where option price is between 85 percent and 100 percent of value of stock) is amended by adding at the end the following new sentence: ''No amount shall be required to be deducted and withheld under chapter 24 with respect to any amount treated as compensation under this subsection.''

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**SA 2756.** Mr. HATCH (for himself, Mr. BREAUX, and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Subtitle —Provisions Relating To S Corporation Reform and Simplification

PART I—MAXIMUM NUMBER OF SHAREHOLDERS OF AN S CORPORATION

**SEC. . MEMBERS OF FAMILY TREATED AS 1 SHAREHOLDER.**

(a) IN GENERAL.—Paragraph (1) of section 1361 (c) (relating to special rules for applying subsection (b)) is amended to read as follows:

''(1) MEMBERS OF FAMILY TREATED AS 1 SHAREHOLDER.—

''(A) IN GENERAL.—For purpose of subsection (b)(1)(A)—

''(i) except as provided in clause (ii), a husband and wife (and their estates) shall be treated as 1 shareholder, and

''(ii) in the case of a family with respect to which an election is in effect under subparagraph (E), all members of the family shall be treated as 1 shareholder.

''(B) MEMBERS OF THE FAMILY.—For purpose of subparagraph (A)(ii), the term 'members of the family' means the common ancestor, lineal descendants of the common ancestor and the spouses of such lineal descendants or common ancestor.

''(C) COMMON ANCESTOR.—For purposes of this paragraph, an individual shall not be considered a common ancestor if, as of the later of the effective date of this paragraph or the time the election under section 1362(a) is made, the individual is more than 6 generations removed from the youngest generation of shareholders.

''(D) EFFECT OF ADOPTION, ETC.—In determining whether any relationship specified in subparagraph (B) or (C) exists, the rules of section 152(b)(2) shall apply.

''(E) ELECTION.—An election under subparagraph (A)(ii)—

''(i) must be made with the consent of all persons who are shareholders (including those that are family members) in the corporation on the day the election is made,

''(ii) in the case of—

''(I) an electing small business trust, shall be made by the trustee of the trust, and

''(II) a qualified subchapter S trust, shall be made by the beneficiary of the trust,

''(iii) under regulations, shall remain in effect until terminated, and

''(iv) shall apply only with respect to 1 family in any corporation.''.

(b) RELIEF FROM INADVERTENT INVALID ELECTION OR TERMINATION.— Section 1362(f) (relating to inadvertent invalid elections or terminations), as amended by this Act, is amended—

(1) by inserting ''or under section 1361(c)(1)(A)(ii)'' after ''section 1361(b)(3)(B)(ii)'' in paragraph (1), and

(2) by inserting ''or under section 1361(c)(1)(E)(iii)'' after ''section 1361(b)(3)(C)'' in paragraph (1)(B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

**SEC. . INCREASE IN NUMBER OF ELIGIBLE SHAREHOLDERS TO 100.**

(a) IN GENERAL.—Section 1361(b)(1)(A) (defining small business corporation) is amended by striking ''75'' and inserting ''100''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

**SEC. . NONRESIDENT ALIENS ALLOWED AS BENEFICIARIES OF AN ELECTING SMALL BUSINESS TRUST.**

(a) IN GENERAL.—Section 1361(e)(1)(A)(i)(I) is amended by inserting ''(including a nonresident alien individual)'' after ''individual''.

(b) CONFORMING AMENDMENT.—Clause (v) of section 1361(c)(2)(B) is amended by adding at the end the following new sentence: ''This clause shall not apply for purposes of subsection (b)(1)(C).''.

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

PART II—TERMINATION OF ELECTION AND ADDITIONS TO TAX DUE TO PASSIVE INVESTMENT INCOME

**SEC. . MODIFICATIONS TO PASSIVE INCOME RULES.**

(a) INCREASED PERCENTAGE LIMIT.—

(1) IN GENERAL.—Subsection (a)(2) of section 1375 (relating to tax imposed when passive investment income of corporation having accumulated earnings and profits exceeds 25 percent of gross receipts) is amended by striking ''25 percent'' and inserting ''60 percent''.

(2) CONFORMING AMENDMENTS.—

(A) Section 26(b)(2)(J) is amended by striking ''25 percent'' and inserting ''60 percent''.

(B) Section 1362(d)(3)(A)(i)(II) is amended by striking ''25 percent'' and inserting ''60 percent''.

(C) The heading for paragraph (3) of section 1362(d) is amended by striking ''25 PERCENT'' and inserting ''60 PERCENT''.

(D) Section 1375(b)(1)(A)(i) is amended by striking ''25 percent'' and inserting ''60 percent''.

(E) The heading for section 1375 is amended by striking ''25 percent'' and inserting ''60 percent.''

(F) The table of sections for part III of subchapter S of chapter 1 is amended by striking ''25 percent'' in the item relating to section 1375 and inserting ''60 percent''.

(b) CAPITAL GAIN NOT TREATED AS PASSIVE INVESTMENT INCOME.—Section 1362(d)(3) is amended—

(1) by striking ''annuities,'' and all that follows in subparagraph (C)(i) and inserting ''and annuities.'', and

(2) by striking subparagraphs (C)(iv) and (D) and by redesignating subparagraph (E) as subparagraph (D).

(c) CONFORMING AMENDMENTS.—Section 1375(d) is amended by striking ''subchapter C'' both places it appears and inserting ''accumulated''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

PART III—TREATMENT OF S CORPORATION SHAREHOLDERS

**SEC. . TRANSFER OF SUSPENDED LOSSES INCIDENT TO DIVORCE.**

(a) IN GENERAL.—Section 1366(d) (relating to special rules for losses and deductions) is amended by adding at the end the following new paragraph:

''(4) TRANSFER OF SUSPENDED LOSSES AND DEDUCTIONS WHEN STOCK IS TRANSFERRED INCIDENT TO DIVORCE.—For purposes of paragraph (2), the transfer of any shareholder's stock in an S corporation incident to a decree of divorce shall include any loss or deduction described in such paragraph attributable to such stock.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transfers in taxable years beginning after December 31, 2004.

**SEC. . USE OF PASSIVE ACTIVITY LOSS AND AT-RISK AMOUNTS BY QUALIFIED SUBCHAPTER S TRUST INCOME BENEFICIARIES.**

(a) IN GENERAL.—Section 1361(d)(1) (relating to special rule for qualified subchapter S trust) is amended—

(1) by striking ''and'' at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting '', and'', and

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

''(C) for purposes of applying sections 465 and 469(g) to the beneficiary of the trust, the disposition of the S corporation stock by the trust shall be treated as a disposition by such beneficiary.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 2004.

**SEC. . DISREGARD OF UNEXERCISED POWERS OF APPOINTMENT IN DETERMINING POTENTIAL CURRENT BENEFICIARIES OF ESBT.**

(a) IN GENERAL.—Section 1361(e)(2) (defining potential current beneficiary) is amended by inserting ''(determined without regard to any unexercised (in whole or in part) power of appointment during such period)'' after ''of the trust'' in the first sentence.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

**SEC. . CLARIFICATION OF ELECTING SMALL BUSINESS TRUST DISTRIBUTION RULES.**

(a) IN GENERAL.—Section 641(c)(1) (relating to special rules for taxation of electing small business trusts) is amended—

(1) by striking ''and'' at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

''(B) any distribution attributable to the portion treated as a separate trust shall be treated separately from any distribution attributable to the portion not so treated, and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

PART IV—PROVISIONS RELATING TO BANKS

**SEC. . SALE OF STOCK IN IRA RELATING TO S CORPORATION ELECTION EXEMPT FROM PROHIBITED TRANSACTION RULES.**

(a) IN GENERAL.—Section 4975(d) (relating to exemptions) is amended by striking ''or'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ''; or'', and by adding at the end the following new paragraph:

''(16) a sale of stock held by a trust which constitutes an individual retirement account under section 408(a) to the individual for whose benefit such account is established if such sale is pursuant to an election under section 1362(a).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of stock held by individual retirement accounts on the date of the enactment of this Act.

**SEC. . EXCLUSION OF INVESTMENT SECURITIES INCOME FROM PASSIVE INCOME TEST FOR BANK S CORPORATIONS.**

(a) IN GENERAL.—Section 1362(d)(3) (relating to where passive investment income exceeds certain percentage of gross receipts for 3 consecutive taxable years and corporation has accumulated earnings and profits), as amended by this Act, is amended by adding at the end the following new subparagraph:

''(E) EXCEPTION FOR BANKS; ETC.—In the case of a bank (as defined in section 581), a bank holding company (as defined in section 246A(c)(3)(B)(ii)), or a qualified subchapter S subsidiary which is a bank, the term 'passive investment income' shall not include—

''(i) interest income earned by such bank, bank holding company, or qualified subchapter S subsidiary, or

''(ii) dividends on assets required to be held by such bank, bank holding company, or qualified subchapter S subsidiary to conduct a banking business, including stock in the Federal Reserve Bank, the Federal Home Loan Bank, or the Federal Agricultural Mortgage Bank or participation certificates issued by a Federal Intermediate Credit Bank.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

**SEC. . TREATMENT OF QUALIFYING DIRECTOR SHARES.**

(a) IN GENERAL.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

''(f) TREATMENT OF QUALIFYING DIRECTOR SHARES.—

''(1) IN GENERAL.—For purposes of this subchapter—

''(A) qualifying director shares shall not be treated as a second class of stock, and

''(B) no person shall be treated as a shareholder of the corporation by reason of holding qualifying director shares.

''(2) QUALIFYING DIRECTOR SHARES DEFINED.—For purposes of this subsection, the term 'qualifying director shares' means any shares of stock in a bank (as defined in section 581) or in a bank holding company registered as such with the Federal Reserve System—

''(i) which are held by an individual solely by reason of status as a director of such bank or company or its controlled subsidiary; and

''(ii) which are subject to an agreement pursuant to which the holder is required to dispose of the shares of stock upon termination of the holder's status as a director at the same price as the individual acquired such shares of stock.

''(3) DISTRIBUTIONS.—A distribution (not in part or full payment in exchange for stock) made by the corporation with respect to qualifying director shares shall be includable as ordinary income of the holder and deductible to the corporation as an expense in computing taxable income under section 1363(b) in the year such distribution is received.''.

(b) CONFORMING AMENDMENT.—Section 1366(a) is amended by adding at the end the following new paragraph:

''(3) ALLOCATION WITH RESPECT TO QUALIFYING DIRECTOR SHARES.—The holders of qualifying director shares (as defined in section 1361(f)) shall not, with respect to such shares of stock, be allocated any of the items described in paragraph (1).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

PART V—QUALIFIED SUBCHAPTER S SUBSIDIARIES

**SEC. . RELIEF FROM INADVERTENTLY INVALID QUALIFIED SUBCHAPTER S SUBSIDIARY ELECTIONS AND TERMINATIONS.**

(a) IN GENERAL.—Section 1362(f) (relating to inadvertent invalid elections or terminations) is amended—

(1) by inserting ''or under section 1361(b)(3)(B)(ii)'' after ''subsection (a)'' in paragraph (1),

(2) by inserting ''or under section 1361(b)(3)(C)'' after ''subsection (d)'' in paragraph (1)(B),

(3) by inserting ''or a qualified subchapter S subsidiary, as the case may be'' after ''small business corporation'' in paragraph (3)(A),

(4) by inserting ''or a qualified subchapter S subsidiary, as the case may be'' after ''S corporation'' in paragraph (4), and

(5) by inserting ''or a qualified subchapter S subsidiary, as the case may be'' after ''S corporation'' in the matter following paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

**SEC. . INFORMATION RETURNS FOR QUALIFIED SUBCHAPTER S SUBSIDIARIES.**

(a) IN GENERAL.—Section 1361(b)(3)(A) (relating to treatment of certain wholly owned subsidiaries) is amended by inserting ''and in the case of information returns required under part III of subchapter A of chapter 61'' after ''Secretary''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

PART VI—ADDITIONAL PROVISIONS

**SEC. . ELIMINATION OF ALL EARNINGS AND PROFITS ATTRIBUTABLE TO PRE-1983 YEARS.**

(a) IN GENERAL.—Subsection (a) of section 1311 of the Small Business Job Protection Act of 1996 is amended to read as follows:

''(a) IN GENERAL.—If a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, the amount of such corporation's accumulated earnings and profits (as of the beginning of the first taxable year beginning after December 31, 2003) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

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**SA 2757.** Mr. FEINGOLD (for himself, Mr. CORZINE, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $9,936,000,000.

On page 3, line 10, increase the amount by $7,446,000,000.

On page 3, line 11, increase the amount by $2,032,000,000.

On page 3, line 12, increase the amount by $390,000,000.

On page 3, line 13, increase the amount by $90,000,000.

On page 3, line 17, increase the amount by $9,936,000,000.

On page 3, line 18, increase the amount by $7,446,000,000.

On page 3, line 19, increase the amount by $2,032,000,000.

On page 3, line 20, increase the amount by $390,000,000.

On page 3, line 21, increase the amount by $90,000,000.

On page 4, line 20, increase the amount by $9,936,000,000.

On page 4, line 21, increase the amount by $7,446,000,000.

On page 4, line 22, increase the amount by $2,032,000,000.

On page 4, line 23, increase the amount by $390,000,000.

On page 4, line 24, increase the amount by $90,000,000.

On page 5, line 3, increase the amount by $9,936,000,000.

On page 5, line 4, increase the amount by $17,382,000,000.

On page 5, line 5, increase the amount by $19,414,000,000.

On page 5, line 6, increase the amount by $19,804,000,000.

On page 5, line 7, increase the amount by $19,894,000,000.

On page 5, line 11, increase the amount by $9,936,000,000.

On page 5, line 12, increase the amount by $17,382,000,000.

On page 5, line 13, increase the amount by $19,414,000,000.

On page 5, line 14, increase the amount by $19,804,000,000.

On page 5, line 15, increase the amount by $19,894,000,000.

On page 31, line 7, strike $30,000,000,000 and replace with $50,000,000,000.

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**SA 2758.** Mr. LAUTENBERG (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 45, after line 13, insert the following:

**SEC. _____. POINT OF ORDER REQUIRING OFFSET FOR SUPPLEMENTAL APPROPRIATIONS FOR IRAQ RECONSTRUCTION.**

(a) POINT OF ORDER.—It shall not be in order in the Senate to consider any supplemental appropriations bill (or any motion, amendment, or conference report on any supplemental appropriation bill) providing additional resources for rehabilitation and reconstruction in Iraq unless the resources provided in the bill, motion, amendment, or conference report for such activities are fully offset in that fiscal year.

(b) WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the chair on a point of order raised under this section.

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**SA 2759.** Mr. KOHL (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 20, line 17, increase the amount by $122,000,000.

On page 20, line 18, increase the amount by $15,000,000.

On page 20, line 22, increase the amount by $34,000,000.

On page 21, line 1, increase the amount by $31,000,000.

On page 21, line 5, increase the amount by $24,000,000.

On page 21, line 9, increase the amount by $18,000,000.

On page 23, line 5, decrease the amount by $122,000,000.

On page 23, line 6, decrease the amount by $15,000,000.

On page 23 line 10, decrease the amount by $34,000,000.

On page 23, line 14, decrease the amount by $31,000,000.

On page 23, line 18, decrease the amount by $24,000,000.

On page 23, line 22, decrease the amount by $18,000,000.

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**SA 2760.** Mr. DORGAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $344,000,000.

On page 3, line 10, increase the amount by $632,000,000.

On page 3, line 11, increase the amount by $510,000,000.

On page 3, line 12, increase the amount by $610,000,000.

On page 3, line 13, increase the amount by $104,000,000.

On page 3, line 17, increase the amount by $344,000,000.

On page 3, line 18, increase the amount by $632,000,000.

On page 3, line 19, increase the amount by $510,000,000.

On page 3, line 20, increase the amount by $610,000,000.

On page 3, line 21, increase the amount by $104,000,000.

On page 4, line 4, increase the amount by $1,100,000,000.

On page 4, line 12, increase the amount by $172,000,000.

On page 4, line 13, increase the amount by $316,000,000.

On page 4, line 14, increase the amount by $255,000,000.

On page 4, line 15, increase the amount by $305,000,000.

On page 4, line 16, increase the amount by $52,000,000.

On page 4, line 20, increase the amount by $172,000,000.

On page 4, line 21, increase the amount by $316,000,000.

On page 4, line 22, increase the amount by $255,000,000.

On page 4, line 23, increase the amount by $305,000,000.

On page 4, line 24, increase the amount by $52,000,000.

On page 5, line 3, increase the amount by $172,000,000.

On page 5, line 4, decrease the amount by $488,000,000.

On page 5, line 5, decrease the amount by $743,000,000.

On page 5, line 6, decrease the amount by $1,048,000,000.

On page 5, line 7, decrease the amount by $1,100,000,000.

On page 5, line 11, decrease the amount by $172,000,000.

On page 5, line 12, decrease the amount by $488,000,000.

On page 5, line 13, decrease the amount by $743,000,000.

On page 5, line 14, decrease the amount by $1,048,000,000.

On page 5, line 15, decrease the amount by $1,000,000,000.

On page 20, line 17, increase the amount by $1,100,000,000.

On page 20, line 18, increase the amount by $172,000,000.

On page 20, line 22, increase the amount by $316,000,000.

On page 21, line 1, increase the amount by $255,000,000.

On page 21, line 5, increase the amount by $305,000,000.

On page 21, line 9, increase the amount by $52,000,000.

On page 39, line 18, increase the amount by $1,100,000,000.

On page 39, line 19, increase the amount by $172,000,000.

On page 40, line 2, increase the amount by $316,000,000.

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**SA 2761.** Mr. DODD (for himself, Mrs. MURRAY, Mr. CORZINE, Ms. MIKULSKI, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On pace 3, line 9, increase the amount by $120;000,000.

On page 3, line 10, increase the amount by $98,000,000.

On page 3, line 11, increase the amount by $14,000,000.

On page 3, line 12, increase the amount by $5,000,000.

On page 3, line 17, increase the amount by $120,000,000.

On page 3, line 18, increase the amount by $98,000,000.

On page 3, line 19, increase the amount by $14,000,000.

On page 3, line 20, increase the amount by $5,000,000.

On page 4, line 20, increase the amount by $120,000,000.

On page 4, line 21, increase the amount by $98.000,000.

On page 4, line 22, increase the amount by $14,000,000.

On page 4, line 23, increase the amount by $5,000,000.

On page 5, line 3, decrease the amount by $120,000,000.

On page 5, line 4, decrease the amount by $218,000,000.

On page 5, line 5, decrease the amount by $232,000,000.

On page 5, line 6, decrease the amount by $237,000,000.

On page 5, line 7, decrease the amount by $237,000,000.

On page 5, line 11, decrease the amount by $120,000,000.

On page 5, line 12, decrease the amount by $218,000,000.

On page 5, line 13, decrease the amount by $232,000,000.

On page 5, line 14, decrease the amount by $237,000,000.

On page 5, line 15, decrease the amount by $237,000,000.

At the end of Title III, insert the following:

**SEC. _____. RESERVE FUND FOR THE MATERNAL AND CHILD HEALTH BLOCK GRANT.**

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $120 million in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for the Maternal and Child Health Block Grant, included in this resolution for the Department of Health and Human Services.

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**SA 2762.** Mr. DODD (for himself, Mrs. MURRAY, Mr. CORZINE, Ms. STABENOW, and Mr. KOHL) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $60,000,000.

On page 3, line 10, increase the amount by $1,301,000,000.

On page 3, line 11, increase the amount by $541,000,000.

On page 3, line 12, increase the amount by $100,000,000.

On page 3, line 17, increase the amount by $60,000,000.

On page 3, line 18, increase the amount by $1,301,000,000.

On page 3, line 19, increase the amount by $541,000,000.

On page 3, line 20, increase the amount by $100,000,000.

On page 4, line 20, increase the amount by $60,000,000.

On page 4, line 21, increase the amount by $1,301,000,000.

On page 4, line 22, increase the amount by $541,000,000.

On page 4, line 23, increase the amount by $100,000,000.

On page 5, line 3, decrease the amount by $60,000,000.

On page 5, line 4, decrease the amount by $1,361,000,000.

On page 5, line 5, decrease the amount by $1,902,000,000.

On page 5, line 6, decrease the amount by $2,002,000,000.

On page 5, line 7, decrease the amount by $2,002,000,000.

On page 5; line 11, decrease the amount by $60,000,000.

On page 5, line 12, decrease the amount by $1,361,000,000.

On page 5, line 13, decrease the amount by $1,902,000,000.

On page 5, line 14, decrease the amount by $2,002,000,000.

On page 5, line 15, decrease the amount by $2,002,000,000.

At the end of Title III, insert the following:

**SEC. _____. RESERVE FUND FOR THE 21ST CENTURY COMMUNITY LEARNING CENTERS PROGRAM.**

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates; functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits; and other appropriate levels and limits in this resolution by up to $1,000,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for the 21st Century Community Learning Centers program in the Department of Education.

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**SA 2763.** Mr. BREAUX (for himself and Mr. LOTT) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 146, after line 23, add the following:

**SEC. ___. REPEAL OF FOREIGN BASE COMPANY SHIPPING INCOME FOR QUALIFIED U.S. FLAG FLEETS AND CARIBBEAN BASIN SHIPPING CORPORATIONS.**

(a) IN GENERAL.—Subsection (f) of section 954 is amended to read as follows:

''(f) FOREIGN BASE COMPANY SHIPPING INCOME.—For purposes of subsection (a)(4)—

''(1) IN GENERAL.—The term 'foreign base company shipping income' means income derived from, or in connection with, the use (or hiring or leasing for use) of any aircraft or vessel in foreign commerce, or from, or in connection with, the performance of services directly related to the use of any such aircraft, or vessel, or from the sale, exchange, or other disposition of any such aircraft or vessel. Such term includes, but is not limited to—

''(A) dividends and interest received from a foreign corporation in respect of which taxes are deemed paid under section 902, and gain from the sale, exchange, or other disposition of stock or obligations of such a foreign corporation to the extent that such dividends, interest, and gains are attributable to foreign base company shipping income, and

''(B) that portion of the distributive share of the income of a partnership attributable to foreign base company shipping income.

Such term includes any income derived from a space or ocean activity (as defined in section 863(d)(2)). Except as provided in subparagraph (A), such term shall not include any dividend or interest income which is foreign personal holding company income (as defined in subsection (c)).

''(2) EXCEPTIONS.—

''(A) IN GENERAL.—Such term shall not include income attributable to a qualified U.S.-flag fleet or a Caribbean Basin shipping corporation.

''(B) QUALIFIED U.S.-FLAG FLEET.—For purposes of this subsection, the term 'qualified U.S.-flag fleet' means a fleet or 2 or vessels each of which—

''(i) is documented under the laws of the United States,

''(ii) has a deadweight tonnage of not less than 10,000 deadweight tons,

''(iii) are owned by a member of the controlled group (within the meaning of section 1563) of the controlled foreign corporation, and

''(iv) has been in operation for not less than 320 days during the preceding taxable year.

For purposes of clause (iv), days during which a vessel is dry docked or undergoing survey, inspection, or repair shall be considered to be days during which the vessel is operated.

''(C) CARIBBEAN BASIN SHIPPING CORPORATION.—For purposes of this subsection—

''(i) IN GENERAL.—The term 'Caribbean Basin shipping corporation' means a corporation of which 75 percent of the foreign base company shipping income (as defined in paragraph (1)) for the taxable year is Caribbean Basin shipping income.

''(ii) CARIBBEAN BASIN SHIPPING INCOME.—The term 'Caribbean Basin shipping income' means foreign base company shipping income (as defined in paragraph (1)) derived from or in connection with the operation of any nonpassenger vessel in foreign commerce—

''(I) within any Caribbean Basin country,

''(II) among Caribbean Basin countries, or

''(III) between any Caribbean Basin country and the United States.

Such term includes any such foreign base company shipping income derived from that portion of any transshipping originating or terminating in any country which is not a Carribean Basin country if such transshipping otherwise satisfies the requirements of this clause.

''(iii) CARIBBEAN BASIN COUNTRY.—The term 'Caribbean Basin country' means any beneficiary country (within the meaning of section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act), except that such term shall also include Anguilla, Colombia, Mexico, the United States Virgin Islands, and Venezuela.''.

**SEC. ___. INCOME OF MERCHANT SEAMAN EXCLUDABLE FROM GROSS INCOME AS FOREIGN EARNED INCOME.**

(a) IN GENERAL.—Chapter 1 is amended by inserting after subchapter Q the following new subchapter:

**''Subchapter R—Election to Determine Taxable Income From Certain International Shipping Activities Using per Ton Rate**

''Sec. 1352. Alternative tax on qualifying shipping activities.

''Sec. 1353. Taxable income from qualifying shipping activities.

''Sec. 1354. Qualifying shipping tax election; revocation; termination.

''Sec. 1355. Definitions and special rules.

''Sec. 1356. Qualifying shipping activities.

''Sec. 1357. Items not subject to regular tax; depreciation; interest.

''Sec. 1358. Allocation of credits, income, and deductions.

''Sec. 1359. Disposition of qualifying shipping assets.

**''SEC. 1352. ALTERNATIVE TAX ON QUALIFYING SHIPPING ACTIVITIES.**

''(a) IN GENERAL.—In the case of an electing corporation—

''(1) the taxable income of such corporation from qualifying shipping activities shall be the amount determined under this subchapter, and

''(2) the corporate percentages of the items of income, gain, loss, deduction, or credit of such corporation and of other members of the electing group of such corporation which would otherwise be taken into account by reason of its qualifying shipping activities shall be taken into account to the extent provided in section 1357.

''(b) ALTERNATIVE TAX.—The taxable income of an electing corporation from qualifying shipping activities, if otherwise taxable under section 11, 882, or 887, shall be subject to tax only under this section at the maximum rate specified in section 11(b).

''(c) TRANSFERS TO FEDERAL VESSEL FINANCING FUND.—The Secretary of the Treasury shall transfer to the Federal Vessel Financing Fund created under title XI of the Merchant Marine Act, 1936, the taxes collected under subsection (b). Notwithstanding the preceding sentence, the income of a foreign corporation shall not be subject to tax under this subchapter to the extent its income is excludable from gross income under section 883(a)(1) or section 894(a).

**''SEC. 1353. TAXABLE INCOME FROM QUALIFYING SHIPPING ACTIVITIES.**

''(a) IN GENERAL.—For purposes of this subchapter, the taxable income of an electing corporation from qualifying shipping activities shall be its corporate income percentage of the sum of the amounts determined under subsection (b) for each qualifying vessel operated by such electing corporation or other electing entity.

''(b) AMOUNTS.—For purposes of subsection (a), the amount of taxable income of an electing entity for each qualifying vessel shall equal the product of—

''(1) the daily notional taxable income from the operation of the qualifying vessel in United States foreign trade, and

''(2) the number of days during the taxable year that the electing entity operated such vessel as a qualifying vessel in United States foreign trade.

''(c) DAILY NOTIONAL TAXABLE INCOME.—For purposes of subsection (b), the daily notional taxable income from the operation of a qualifying vessel is—

''(1) 40 cents for each 100 tons of the net tonnage of the vessel below 25,001 net tons, and

''(2) 20 cents for each 100 tons of the net tonnage of the vessel in excess of 25,000 net tons.

''(d) MULTIPLE OPERATORS OF VESSEL.—If 2 or more persons have a joint interest in a qualifying vessel and are considered as operators of that vessel, the taxable income from the operation of such vessel for that time (as determined under this section) shall be allocated among such persons on the basis of their ownership and charter interests in such vessel or on such other basis as the Secretary may prescribe by regulations.

''(e) NONCORPORATE PERCENTAGE.—Notwithstanding any contrary provision of this subchapter, the noncorporate percentage of any item of income, gain, loss, deduction, or credit of any member of an electing group shall be taken into account for all purposes of this subtitle as if this subchapter were not in effect.

**"SEC. 1354. QUALIFYING SHIPPING TAX ELECTION; REVOCATION; TERMINATION.**

''(a) IN GENERAL.—Except as provided in subsections (b) and (f), a qualifying shipping tax election may be made in respect of any qualifying entity.

''(b) CONDITION OF ELECTION.—An election may be made by a member of a controlled group under this subsection for any taxable year only if all qualifying entities that are members of the controlled group join in the election.

''(c) WHEN MADE.—An election under subsection (a) may be made by a qualifying entity in such form as prescribed by the Secretary. Such election shall be filed with the qualifying entity's return for the first taxable year to which the election shall apply, by the due date for such return (including any applicable extensions).

''(d) YEARS FOR WHICH EFFECTIVE.—An election under subsection (a) shall be effective for the taxable year of the qualifying entity for which it is made and for all succeeding taxable years of the entity, until such election is terminated under subsection (e).

''(e) TERMINATION.—

''(1) BY REVOCATION.—

''(A) IN GENERAL.—An election under subsection (a) may be terminated by revocation.

''(B) WHEN EFFECTIVE.—Except as provided in subparagraph (C)—

''(i) a revocation made during the taxable year and on or before the fifteenth day of the third month thereof shall be effective on the 1st day of such taxable year, and

''(ii) a revocation made during the taxable year but after such fifteenth day shall be effective on the first day of the following taxable year.

''(C) REVOCATION MAY SPECIFY PROSPECTIVE DATE.—If the revocation specifies a date for revocation which is on or after the day on which the revocation is made, the revocation shall be effective on and after the date so specified.

''(2) BY ENTITY CEASING TO BE QUALIFYING ENTITY.—

''(A) IN GENERAL.—An election under subsection (a) shall be terminated whenever (at any time on or after the first day of the first taxable year for which the entity is an electing entity) such entity ceases to be a qualifying entity.

''(B) WHEN EFFECTIVE.—Any termination under this paragraph shall be effective on and after the date of cessation.

''(f) ELECTION AFTER TERMINATION.—If a qualifying entity has made an election under subsection (a) and if such election has been terminated under subsection (e), such entity (and any successor entity) shall not be eligible to make an election under subsection (a) for any taxable year before its fifth taxable year which begins after the first taxable year for which such termination is effective, unless the Secretary consents to such election.

**"SEC. 1355. DEFINITIONS AND SPECIAL RULES.**

''(a) DEFINITIONS.—For purposes of this subchapter:

''(1) CONTROLLED GROUP.—The term 'controlled group' means any group of trusts and business entities whose members would be treated as a single employer under the rules of section 52(a) (without regard to paragraphs (1) and (2) thereof) and section 52(b)(1).

''(2) CORPORATE INCOME PERCENTAGE.—The term 'corporate income percentage' means the least aggregate share, expressed as a percentage, of any item of income or gain of an electing corporation or electing group of which such corporation is a member from qualifying shipping activities that would, but for an election in effect under this subchapter, be required to be reported on the Federal income tax return of an electing corporation during any taxable period. In the case of an electing group which includes 2 or more electing corporations, the corporate income percentage of each such corporation shall be determined on the basis of such corporation's direct and indirect ownership and charter interests in qualifying vessels of the electing group or on such other basis as the Secretary may prescribe by regulations.

''(3) CORPORATE LOSS PERCENTAGE.—The term 'corporate loss percentage' means the greatest aggregate share, expressed as a percentage, of any item of loss, deduction, or credit of an electing corporation or electing group of which such corporation is a member from qualifying shipping activities that would, but for an election in effect under this subchapter, be required to be reported on the Federal income tax return of an electing corporation during any taxable period.

''(4) CORPORATE PERCENTAGES.—The term 'corporate percentages' means the corporate income percentage and the corporate loss percentage.

''(5) ELECTING CORPORATION.—The term 'electing corporation' means any C corporation that is an electing entity or that would, but for an election in effect under this subchapter, be required to report any item of income, gain, loss, deduction, or credit of an electing entity on its Federal income tax return.

''(6) ELECTING ENTITY.—The term 'electing entity' means any qualifying entity for which an election is in effect under this subchapter.

''(7) ELECTING GROUP.—The term 'electing group' means a controlled group of which one or more members is an electing entity.

''(8) NONCORPORATE PERCENTAGE.—The term 'noncorporate percentage' means the difference between 100 percent and the corporate income percentage or corporate loss percentage, as applicable.

''(9) QUALIFYING ENTITY.—The term 'qualifying entity' means a trust or business entity that—

''(A) operates 1 or more qualifying vessels, and

''(B) meets the shipping activity requirement in subsection (c).

''(10) QUALIFYING SHIPPING ASSETS.—The term 'qualifying shipping assets' means any qualifying vessel and other assets which are used in core qualifying activities as described in section 1356(b).

''(11) QUALIFYING VESSEL.—The term 'qualifying vessel' means a self-propelled (or a combination self-propelled and non-self-propelled) United States flag vessel of not less than 10,000 deadweight tons used in the United States foreign trade.

''(12) UNITED STATES DOMESTIC TRADE.—The term 'United States domestic trade' means the transportation of goods or passengers between places in the United States.

''(13) UNITED STATES FLAG VESSEL.—The term 'United States flag vessel' means any vessel documented under the laws of the United States.

''(14) UNITED STATES FOREIGN TRADE.—The term 'United States foreign trade' means the transportation of goods or passengers between a place in the United States and a foreign place or between foreign places.

''(b) OPERATING A VESSEL.—For purposes of this subchapter:

''(1) Except as provided in paragraph (2), an entity is treated as operating any vessel owned by, or chartered (including a time charter) to, the entity.

''(2) An entity is treated as operating a vessel that it has chartered out on bareboat charter terms only if—

''(A) the vessel is temporarily surplus to the entity's requirements and the term of the charter does not exceed 3 years; or

''(B) the vessel is bareboat chartered to a member of a controlled group which includes such entity or to an unrelated third party that sub-bareboats or time charters the vessel to a member of such controlled group (including the owner).

''(c) SHIPPING ACTIVITY REQUIREMENT.—For purposes of this section, the shipping activity requirement is met for a taxable year only by an entity described in paragraph (1), (2), or (3).

''(1) An entity in the first taxable year of its qualifying shipping tax election if, for the preceding taxable year, the test in paragraph (4) is met.

''(2) An entity in the second or any subsequent taxable year of its qualifying shipping tax election if, for each of the 2 preceding taxable years, the test in paragraph (4) is met.

''(3) An entity that would be described in paragraph (1) or (2) if the test in paragraph (4) were applied on an aggregate basis to the controlled group of which such entity is a member, and vessel charters between members of the controlled group were disregarded.

''(4) The test in this paragraph is met if on average at least 25 percent of the aggregate tonnage of qualifying vessels operated by the entity were owned by the entity or chartered to the entity on bareboat charter terms. For purposes of the preceding sentence, vessels chartered (including time chartered) to an entity by a member of a controlled group which includes the entity, or by a third party that bareboat charters the vessels from the entity or a member of the entity's controlled group, shall be treated as chartered to the entity on bareboat charter terms.

''(d) EFFECT OF TEMPORARILY CEASING TO OPERATE A QUALIFYING VESSEL.—

''(1) A temporary cessation by an electing entity, in operation of a qualifying vessel shall be disregarded for purposes of subsections (b) and (c) until an occurrence described in paragraph (3) if the electing entity gives timely notice to the Secretary stating—

''(A) that it has temporarily ceased to operate the qualifying vessel, and

''(B) its intention to resume operating the qualifying vessel.

''(2) Notice shall be deemed timely if given not later than the due date (including extensions) for the electing entity's tax return (as set forth in section 6072(b)) for the taxable year in which the temporary cessation begins.

''(3) The disregard provided by paragraph (1) continues until the earlier to occur of—

''(A) the electing entity abandoning its intention to resume operation of the qualifying vessel, or

''(B) the electing entity resuming operation of the qualifying vessel.

''(e) EFFECT OF TEMPORARILY OPERATING A QUALIFYING VESSEL IN THE UNITED STATES DOMESTIC TRADE.—

''(1) The temporary operation in the United States domestic trade of any qualifying vessel which had been used in the United States foreign trade shall be disregarded for purposes of this subchapter until an occurrence described in paragraph (3) if the electing entity gives timely notice to the Secretary stating—

''(A) that it temporarily operates or has operated in the United States domestic trade a qualifying vessel which had been used in the United States foreign trade, and

''(B) its intention to resume operation of the vessel in the United States foreign trade.

''(2) Notice shall be deemed timely if given not later than the due date (including extensions) for the electing entity's tax return (as set forth in section 6072(b)) for the taxable

year in which the temporary cessation begins.

''(3) The disregard provided by paragraph (1) continues until the earlier to occur of—

''(A) the electing entity abandoning its intention to resume operations of the vessel in the United States foreign trade, or

''(B) the electing entity resuming operation of the vessel in the United States foreign trade.

''(f) EFFECT OF CHANGE IN USE.—

''(1) Except as provided in subsection (e), a vessel that is used other than for operations in the United States foreign trade on other than a temporary basis ceases to be a qualifying vessel when such use begins.

''(2) For purposes of this subsection, a change in use of a vessel, other than a commencement of operation in the United States domestic trade, is taken to be permanent unless there are circumstances indicating that it is temporary.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

**''SEC. 1356. QUALIFYING SHIPPING ACTIVITIES.**

''(a) QUALIFYING SHIPPING ACTIVITIES.—For purposes of this subchapter, the term 'qualifying shipping activities' means the activities of an electing entity which consist of—

''(1) its core qualifying activities,

''(2) its qualifying secondary activities, and

''(3) its qualifying incidental activities.

''(b) CORE QUALIFYING ACTIVITIES.—

''(1) The core qualifying activities of an electing entity are—

''(A) its activities in operating qualifying vessels in United States foreign trade, and

''(B) other activities of the electing entity and other members of its electing group that are an integral part of its business of operating qualifying vessels in United States foreign trade, including ownership or operation of barges, containers, chassis, and other equipment that are the complement of, or used in connection with, a qualifying vessel in United States foreign trade, the inland haulage of cargo shipped, or to be shipped, on qualifying vessels in United States foreign trade, and the provision of terminal, maintenance, repair, logistical, or other vessel, container, or cargo-related services that are an integral part of operating qualifying vessels in United States foreign trade.

''(2) Core qualifying activities do not include the provision by an entity of facilities or services to any person, other than—

''(A) another member of such entity's electing group,

''(B) a consignor, consignee, or other customer of such entity's business of operating qualifying vessels in United States foreign trade, or

''(C) a member of an alliance, joint venture, pool, partnership, or similar undertaking involving the operation of qualifying vessels in United States foreign trade of which such entity is a member.

''(c) QUALIFYING SECONDARY ACTIVITIES.—For purposes of this subsection—

''(1) the term 'secondary activities' means activities that are not core qualifying activities, and—

''(A) are the active management or operation of vessels in the United States foreign trade,

''(B) the provision of vessel, container, or cargo-related facilities or services to any person, or

''(C) such other activities as may be prescribed by the Secretary pursuant to regulations, and

''(2) the qualified secondary activities of an electing entity are its secondary activities and the secondary activities of other members of its electing group, but only to the extent that, without regard to this subchapter, the aggregate gross income derived by the electing entity and the other members of its electing group from such activities does not exceed 20 percent of the aggregate gross income derived by the electing entity and the other members of its electing group from their core qualifying activities.

''(d) QUALIFYING INCIDENTAL ACTIVITIES.—Shipping-related activities carried on by an electing entity or another member of its electing group are qualified incidental activities of the electing entity if—

''(1) they are incidental to its core qualifying activities,

''(2) they are not qualifying secondary activities, and

''(3) without regard to this subchapter, the aggregate gross income derived by the electing entity and other members of its electing group from such activities does not exceed 0.1 percent of such entities' aggregate gross income from their core qualifying activities.

**''SEC. 1357. ITEMS NOT SUBJECT TO REGULAR TAX; DEPRECIATION; INTEREST.**

''(a) EXCLUSION FROM GROSS INCOME.—Gross income of an electing entity shall not include the corporate income percentage of—

''(1) its income from qualifying shipping activities in the United States foreign trade,

''(2) its income from money, bank deposits, and other temporary investments which are reasonably necessary to meet the working capital requirements of its qualifying shipping activities, and

''(3) its income from money or other intangible assets accumulated pursuant to a plan to purchase qualifying shipping assets.

''(b) ELECTING GROUP MEMBER.—Gross income of a member of an electing group that is not an electing entity shall not include the corporate income percentage of its income from qualifying shipping activities that are taken into account under this subchapter as qualifying shipping activities of an electing entity.

''(c) DENIAL OF LOSSES, DEDUCTIONS, AND CREDITS.—

''(1) GENERAL RULE.—Subject to paragraph (2), the corporate loss percentage of each item of loss, deduction (other than for interest expense), or credit of any taxpayer with respect to any activity the income from which is excluded from gross income under this section shall be disallowed.

''(2) DEPRECIATION.—Notwithstanding paragraph (1), the deduction for depreciation of a qualifying shipping asset shall be allowed in determining the adjusted basis of such asset for purposes of determining gain from its disposition.

''(A) Except as provided in subparagraph (B), the straight line method of depreciation shall apply to the corporate income percentage of qualifying shipping assets the income from operation of which is excluded from gross income under this section.

''(B) Subparagraph (A) shall not apply to any qualifying shipping asset which is subject to a charter entered into prior to the effective date of this subchapter.

''(3) INTEREST.—The corporate loss percentage of an electing entity's interest expense shall be disallowed in the ratio that the fair market value of its qualifying vessel assets bears to the fair market value of its total assets.

''(d) SECTION INAPPLICABLE TO UNRELATED PERSONS.—This section shall not apply to a taxpayer that is not a member of an electing group.

**''SEC. 1358. ALLOCATION OF CREDITS, INCOME, AND DEDUCTIONS.**

''(a) QUALIFYING SHIPPING ACTIVITIES.—For purposes of this chapter the qualifying shipping activities of an electing entity shall be treated as a separate trade or business activity distinct from all other activities conducted by the entity.

''(b) EXCLUSION OF CREDITS OR DEDUCTIONS.—

''(1) No deduction shall be allowed against the taxable income of an electing corporation from qualifying shipping activities, and no credit shall be allowed against the tax imposed by section 1352(b).

''(2) No deduction shall be allowed for any net operating loss attributable to the qualifying shipping activities of a corporation to the extent that such loss is carried forward by the corporation from a taxable year preceding the first taxable year for which such corporation was an electing corporation.

''(c) TRANSACTIONS NOT AT ARM'S LENGTH.—Section 482 applies in accordance with this subsection to a transaction or series of transactions—

''(1) as between an electing entity and another person, or

''(2) as between an entity's qualifying shipping activities and other activities carried on by it.

**''SEC. 1359. DISPOSITION OF QUALIFYING SHIPPING ASSETS.**

''(a) IN GENERAL.—If an electing entity sells or disposes of qualifying shipping assets (as defined in subsection (c)) in an otherwise taxable transaction, at the election of the entity no gain shall be recognized if replacement qualifying shipping assets are acquired during the period specified in subsection (b), except to the extent that the amount realized upon such sale or disposition exceeds the cost of the replacement qualifying shipping assets.

''(b) PERIOD WITHIN WHICH PROPERTY MUST BE REPLACED.—The period referred to in subsection (a) shall be the period beginning 1 year prior to the disposition of the qualifying shipping assets and ending—

''(1) 3 years after the close of the first taxable year in which the gain is realized, or

''(2) subject to such terms and conditions as may be specified by the Secretary, on such later date as the Secretary may designate on application by the taxpayer. Such application shall be made at such time and in such manner as the Secretary may by regulations prescribe.

''(c) TIME FOR ASSESSMENT OF DEFICIENCY ATTRIBUTABLE TO GAIN.—If an electing entity has made the election provided in subsection (a), then—

''(1) the statutory period for the assessment of any deficiency, for any taxable year in which any part of the gain is realized, attributable to such gain shall not expire prior to the expiration of 3 years from the date the Secretary is notified by the entity (in such manner as the Secretary may by regulations prescribe) of the replacement tonnage tax property or of an intention not to replace, and

''(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of section 6212(c) or the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(d) BASIS OF REPLACEMENT QUALIFYING SHIPPING ASSETS.—In the case of replacement qualifying shipping assets purchased by an electing entity which resulted in the nonrecognition of any part of the gain realized as the result of a sale or other disposition of qualifying shipping assets, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of more than 1 piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.

''(e) REPLACEMENT QUALIFYING SHIPPING ASSETS MUST BE ACQUIRED FROM UNRELATED PERSON IN CERTAIN CASES.—

''(1) IN GENERAL.—Subsection (a) shall not apply if the replacement qualifying shipping assets are acquired from a related person except to the extent that the related person acquired the replacement qualifying shipping assets from an unrelated person during the period applicable under subsection (b).

''(2) RELATED PERSON.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The second sentence of section 56(g)(4)(B)(i) is amended by striking ''or under section 114.'' and inserting '', under section 114 or under section 1357.''.

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter Q the following new item:

''SUBCHAPTER A. Election To Determine Taxable Income From Certain International Shipping Activities Using per Ton Rate.''.

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

**SEC. ___. INCOME OF MERCHANT SEAMAN EXCLUDABLE FROM GROSS INCOME AS FOREIGN EARNED INCOME.**

(a) IN GENERAL.—Section 911(d) (relating to citizens or residents of the United States living abroad) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following:

''(9) APPLICATION TO CERTAIN MERCHANT MARINE CREWS.—In applying this section to an individual who is a citizen or resident of the United States and who is employed for a minimum of 90 days during a taxable year as a regular member of the crew of a qualified vessel (as defined in section 1355)—

''(A) the individual shall be treated as a qualified individual without regard to the requirements of paragraph (1), and

''(B) any earned income attributable to services performed by that individual so employed on such a vessel while it is engaged in transportation between the United States and a foreign country or possession of the United States shall be treated (except as provided by subsection (b)(1)(B)) as foreign earned income regardless of the source of such income.''.

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

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**SA 2764.** Mr. BREAUX (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

**SEC. ___. REPEAL OF 10 YEAR RULE FOR QUALIFIED MORTGAGE BONDS; HOLIDAY FOR USE OF CERTAIN REPAYMENTS.**

(a) REPEAL.—Subparagraph (A) of section 143(a)(2) (relating to qualified mortgage issue defined) is amended by striking the last sentence thereof.

(b) HOLIDAY FOR PREPAYMENTS.—Subparagraph (A) of section 143(a)(2) is amended by adding at the end the following flush sentence: ''Clause (iv) shall not apply to amounts received during 2004, 2005, and 2006.''.

(c) EFFECTIVE DATES.—

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

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to amounts received after December 31, 2003.

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**SA 2765.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 45, after line 13, insert the following:

**SEC. ____. POINT OF ORDER REQUIRING THAT INCREASES THE NUMBER OF TAXPAYERS AFFECTED BY THE ALTERNATIVE MINIMUM TAX AGAINST LEGISLATION.**

(a) POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider a bill, amendment, motion, joint resolution, or conference report that increases the number of taxpayers affected by the alternative minimum tax, except for a measure that extends expiring provisions relating to the child audit, the 10 percent tax bracket, and the marriage penalty.

(b) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

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**SA 2766.** Mr. BINGAMAN (for himself, Mr. HATCH, Mr. BREAUX, and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 378, after line 12, add the following:

**SEC. ___. MOTOR VEHICLE DEALER TRANSITIONAL ASSISTANCE.**

(a) IN GENERAL.—For purposes of subtitle A of the Internal Revenue Code of 1986, in the case of a taxpayer who elects the application of this section and who was a party to a motor vehicle sales and service agreement with a motor vehicle manufacturer who announced in December 2000 that it would phase-out the motor vehicle brand to which such agreement relates—

(1) amounts received by such taxpayer from such manufacturer on account of the termination of such agreement (hereafter in this section referred to as ''termination payment'') are considered to be received for property used in the trade or business of a motor vehicle retail sales and service dealership, and

(2) to the extent such termination payment is reinvested in property used in a motor vehicle retail sales and service dealership located within the United States, such property shall qualify as like-kind replacement property to which section 1031 of the Internal Revenue Code of 1986 shall apply with the following modifications:

(A) Such section shall be applied without regard to subparagraphs (A) and (B)(ii) of subsection (a)(3).

(B) The period described in section 1031(a)(3)(B) of such Code shall be applied by substituting ''2 years'' for ''180 days''.

(b) RULES FOR ELECTION.—

(1) FORM OF ELECTION.—The taxpayer shall make an election under this section in such form and manner as the Secretary of the Treasury may prescribe and shall include in such election the amount of the termination payment received, the identification of the replacement property purchased, and such other information as the Secretary may prescribe.

(2) ELECTION ON AMENDED RETURN.—The Secretary of the Treasury shall permit an election under this section on an amended tax return for taxable years beginning before the date of the enactment of this Act.

(c) STATUTE OF LIMITATIONS.—Notwithstanding the provisions of any other law or rule of law, the statutory period for the assessment for any deficiency attributable to any termination payment gain shall be extended until 3 years after the date the Secretary of the Treasury is notified by the taxpayer of the like-kind replacement property or an intention not to replace.

(d) EFFECTIVE DATE.—This section shall apply to amounts received after December 12, 2000, in taxable years ending after such date.

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**SA 2767.** Mr. BINGAMAN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, insert the following:

**SEC. ___. DISTRIBUTIONS FROM PUBLICLY TRADED PARTNERSHIPS TREATED AS QUALIFYING INCOME OF REGULATED INVESTMENT COMPANIES.**

(a) IN GENERAL.—Paragraph (2) of section 851(b) (defining regulated investment company) is amended to read as follows:

''(2) at least 90 percent of its gross income is derived from—

''(A) dividends, interest, payments with respect to securities loans (as defined in section 512(a)(5)), and gains from the sale or other disposition of stock or securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended) or foreign currencies, or other income (including but not limited to gains from options, futures or forward contracts) derived with respect to its business of investing in such stock, securities, or currencies, and

''(B) distributions or other income derived from an interest in a qualified publicly traded partnership (as defined in subsection (h)); and''

(b) SOURCE FLOW-THROUGH RULE NOT TO APPLY.—The last sentence of section 851(b) is amended by inserting ''(other than a qualified publicly traded partnership as defined in subsection (h))'' after ''derived from a partnership''.

(c) LIMITATION ON OWNERSHIP.—Subsection (c) of section 851 is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

''(5) The term 'outstanding voting securities of such issuer' shall include the equity securities of a qualified publicly traded partnership (as defined in subsection (h)).''.

(d) DEFINITION OF QUALIFIED PUBLICLY TRADED PARTNERSHIP.—Section 851 is amended by adding at the end the following new subsection:

''(h) QUALIFIED PUBLICLY TRADED PARTNERSHIP.—For purposes of this section, the term 'qualified publicly traded partnership' means a publicly traded partnership described in section 7704(b) other than a partnership which would satisfy the gross income requirements of section 7704(c)(2) if qualifying income included only income described in subsection (b)(2)(A).''.

(e) DEFINITION OF QUALIFYING INCOME.—Section 7704(d)(4) is amended by striking ''section 851(b)(2)'' and inserting ''section 851(b)(2)(A)''.

(f) LIMITATION ON COMPOSITION OF ASSETS.—Subparagraph (B) of section 851(b)(3) is amended to read as follows:

''(B) not more than 25 percent of the value of its total assets is invested in—

''(i) the securities (other than Government securities or the securities of other regulated investment companies) of any one issuer,

''(ii) the securities (other than the securities of other regulated investment companies) of two or more issuers which the taxpayer controls and which are determined, under regulations prescribed by the Secretary, to be engaged in the same or similar trades or businesses or related trades or businesses, or

''(iii) the securities of one or more qualified publicly traded partnerships (as defined in subsection (h)).''.

(g) APPLICATION OF SPECIAL PASSIVE ACTIVITY RULE TO REGULATED INVESTMENT COMPANIES.—Subsection (k) of section 469 (relating to separate application of section in case of publicly traded partnerships) is amended by adding at the end the following new paragraph:

''(4) APPLICATION TO REGULATED INVESTMENT COMPANIES.—For purposes of this section, a regulated investment company (as defined in section 851) holding an interest in a qualified publicly traded partnership (as defined in section 851(h)) shall be treated as a taxpayer described in subsection (a)(2) with respect to items attributable to such interest.''.

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

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**SA 2768.** Mr. LIEBERMAN (for himself, Mr. SCHUMER, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. BIDEN, Mrs. MURRAY, Mr. KENNEDY, Mr. CORZINE, Mr. LEVIN, Mr. KOHL, Mrs. BOXER, Mr. DODD, Mr. JOHNSON, Mr. AKAKA, Mr. DURBIN, Mr. LEAHY, and Mr. KERRY) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $3,664,000,000.

On page 3, line 10, increase the amount by $4,533,000,000.

On page 3, line 11, increase the amount by $4,089,000,000.

On page 3, line 12, increase the amount by $ 1,160,000,000.

On page 3, line 13, increase the amount by $175,000,000.

On page 3, line 17, increase the amount by $3,664,000,000.

On page 3, line 18, increase the amount by $4,533,000,000.

On page 3, line 19, increase the amount by $4,089,000,000.

On page 3, line 20, increase the amount by $1,160,000,000.

On page 3, line 21, increase the amount by $175,000,000.

On page 4, line 4, increase the amount by $6,844,000,000.

On page 4, line 12, increase the amount by $1,832,000,000.

On page 4, line 13, increase the amount by $2,268,000,000.

On page 4, line 14, increase the amount by $2,045,000,000.

On page 4, line 15, increase the amount by $579,000,000.

On page 4, line 16, increase the amount by $88,000,000.

On page 4, line 20, increase the amount by $1,832,000,000.

On page 4, line 21, increase the amount by $2,265,000,000.

On page 4, line 22, increase the amount by $2,044,000,000.

On page 4, line 23, increase the amount by $581,000,000.

On page 4, line 24, increase the amount by $87,000,000.

On page 5, line 3, decrease the amount by $1,832,000,000.

On page 5, line 4, decrease the amount by $4,098,000,000.

On page 5, line 5, decrease the amount by $6,142,000,000.

On page 5, line 6, decrease the amount by $6,723,000,000.

On page 5, line 7, decrease the amount by $6,810,000,000.

On page 5, line 11, decrease the amount by $1,832,000,000.

On page 5, line 12, decrease the amount by $4,098,000,000.

On page 5, line 13, decrease the amount by $6,142,000,000.

On page 5, line 14, decrease the amount by $6,723,000,000.

On page 5, line 15, decrease the amount by $6,810,000,000.

On page 13, line 23, increase the amount by $1,400,000,000.

On page 13, line 24, increase the amount by $603,000,000.

On page 14, line 3, increase the amount by $337,000,000.

On page 14, line 7, increase the amount by $299,000,000.

On page 14, line 11, increase the amount by $94,000,000.

On page 14, line 15, increase the amount by $34,000,000.

On page 14, line 19, increase the amount by $3,409,000,000.

On page 14, line 20, increase the amount by $511,000,000.

On page 14, line 24, increase the amount by $1,364,000,000.

On page 15, line 3, increase the amount by $1,364,000,000.

On page 15, line 7, increase the amount by $170,000,000.

On page 16, line 12, increase the amount by $500,000,000.

On page 16, line 13, increase the amount by $160,000,000.

On page 16, line 17, increase the amount by $220,000,000.

On page 16, line 21, increase the amount by $90,000,000.

On page 16, line 25, increase the amount by $20,000,000.

On page 17, line 4, increase the amount by $10,000,000.

On page 20, line 17, increase the amount by $1,535,000,000.

On page 20, line 18, increase the amount by $558,000,000.

On page 20, line 22, increase the amount by $347,000,000.

On page 21, line 1, increase the amount by $292,000,000.

On page 21, line 5, increase the amount by $295,000,000.

On page 21 line 9, increase the amount by $44.000,000.

On page 39, line 18, increase the amount by $6,844,000,000.

On page 39, line 19, increase the amount by $1,832,000,000.

On page 40, line 2, increase the amount by $2,267,000,000.

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**SA 2769.** Mr. BYRD submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 43, strike lines 11 through 20, and insert the following:

(b) FUNDING FOR BIOSHIELD.—Amounts made available for Project Bioshield pursuant to Public Law 108–90 shall not be scored for purposes of enforcing discretionary spending limits in the Senate.

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**SA 2770.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. SENSE OF THE SENATE CONCERNING INCLUSION OF ETHANOL FUEL CREDIT IN DIRECT PAYMENTS LIMITATION.**

It is the sense of the Senate that the levels in this concurrent resolution assume that in making appropriations and revenue decisions with respect to budget function 350, the Senate—

(1) assumes that statutory changes will be made to the payment limitations established under sections 1001 through 1001F of the Food Security Act of 1985 (7 U.S.C. 1308 through 1308–5); and

(2) supports the inclusion of the value to a person of the applicable ethanol fuel credit under section 4081(c) of the Internal Revenue Code of 1986 in the limitation on direct payments established under section 1001(b) of the Food Security Act of 1985 (7 U.S.C. 1308(c)).

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**SA 2771.** Mr. HATCH (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 20, line 17, increase the amount by $600,000,000.

On page 20, line 18, increase the amount by $132,000,000.

On page 20, line 22, increase the amount by $180,000,000.

On page 21, line 1, increase the amount by $120,000,000.

On page 21, line 5, increase the amount by $90,000,000.

On page 21, line 9, increase the amount by $78,000,000.

On page 21, line 13, decrease the amount by $600,000,000.

On page 21, line 14, decrease the amount by $132,000,000.

On page 21, line 18, decrease the amount by $180,000,000.

On page 21, line 22, decrease the amount by $120,000,000.

On page 22, line 1, decrease the amount by $90,000,000.

On page 22, line 5, decrease the amount by $78,000,000.

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**SA 2772.** Mr. DURBIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 45, after line 13, insert the following:

**SEC. ___. POINT OF ORDER REQUIRING THAT THE AMT BE DEALT WITH BEFORE OTHER TAX CUTS FOR THE WEALTHY.**

(a) POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider a bill, amendment, motion, joint resolution, or conference report that would cut taxes for taxpayers with annual adjusted gross incomes of greater than $337,000 unless that measure or a previously enacted measure permanently reduces the number of taxpayers and families with annual adjusted gross incomes of less than $150,000 that will be subject to the alternative minimum tax over the next decade.

(b) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

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**SA 2773.** Mr. DURBIN (for himself, Mr. LEVIN, Mr. KERRY, Mrs. MURRAY, Mr. KOHL, Mrs. CLINTON, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 8, line 21, increase the amount by $618,000,000.

On page 8, line 22, increase the amount by $62,000,000.

On page 9, line 1, increase the amount by $340,000,000.

On page 9, line 5, increase the amount by $116,000,000.

On page 9, line 9, increase the amount by $54,000,000.

On page 9, line 13, increase the amount by $25,000,000.

On page 16, line 12, increase the amount by $174,000,000.

On page 16, line 13, increase the amount by $49,000,000.

On page 16, line 17, increase the amount by $87,000,000.

On page 16, line 21, increase the amount by $22,000,000.

On page 16, line 25, increase the amount by $8,000,000.

On page 17, line 4, increase the amount by $5,000,000.

On page 23, line 5, increase the amount by $792,000,000.

On page 23, line 6, decrease the amount by $111,000,000.

On page 23, line 10, decrease the amount by $427,000,000.

On page 23, line 14, decrease the amount by $138,000,000.

On page 23, line 18, decrease the amount by $62,000,000.

On page 23, line 22, decrease the amount by $30,000,000.

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**SA 2774.** Mr. DASCHLE (for himself, Mr. DORGAN, Mrs. MURRAY, Mr. BINGAMAN, Mr. JOHNSON, Mr. WYDEN, Ms. STABENOW, Mr. AKAKA, Ms. CANTWELL, Mr. INOUYE, and Mr. REID) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $6,123,000,000.

On page 3, line 10, increase the amount by $688,000,000.

On page 3, line 11, increase the amount by $69,000,000.

On page 3, line 17, increase the amount by $6,123,000,000.

On page 3, line 18, increase the amount by $688,000,000.

On page 3, line 19, increase the amount by $69,000,000.

On page 4, line 20, increase the amount by $6,123,000,000.

On page 4, line 21, increase the amount by $688,000,000.

On page 4, line 22, increase the amount by $69,000,000.

On page 5, line 3, decrease the amount by $6,123,000,000.

On page 5, line 4, decrease the amount by $6,811,000,000.

On page 5, line 5, decrease the amount by $6,880,000,000.

On page 5, line 6, decrease the amount by $6,880,000,000.

On page 5, line 7, decrease the amount by $6,880,000,000.

On page 5, line 11, decrease the amount by $6,123,000,000.

On page 5, line 12, decrease the amount by $6,811,000,000.

On page 5, line 13, decrease the amount by $6,880,000,000.

On page 5, line 14, decrease the amount by $6,880,000,000.

On page 5, line 15, decrease the amount by $6,880,000,000.

At the end of Title III, insert the following:

**SEC. _____. RESERVE FUND FOR INDIAN HEALTH SERVICE CLINICAL SERVICES.**

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $3,440,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for Indian Health Service clinical services, included in this resolution for the Department of Health and Human Services.

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**SA 2775.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $876,000,000.

On page 3, line 10, increase the amount by $1,054,000,000.

On page 3, line 11, increase the amount by $998,000,000.

On page 3, line 12, increase the amount by $1,066,000,000.

On page 3, line 13, increase the amount by $1,520,000,000.

On page 3, line 17, increase the amount by $876,000,000.

On page 3, line 18, increase the amount by $1,054,000,000.

On page 3, line 19, increase the amount by $998,000,000.

On page 3, line 20, increase the amount by $1,066,000,000.

On page 3, line 21, increase the amount by $1,520,000,000.

On page 4, line 20, increase the amount by $876,000,000.

On page 4, line 21, increase the amount by $1,054,000,000.

On page 4, line 22, increase the amount by $998,000,000.

On page 4, line 23, increase the amount by $1,066,000,000.

On page 4, line 24, increase the amount by $1,520,000,000.

On page 5, line 3, increase the amount by $876,000,000.

On page 5, line 4, increase the amount by $1,930,000,000.

On page 5, line 5, increase the amount by $2,928,000,000.

On page 5, line 6, increase the amount by $3,994,000,000.

On page 5, line 7, increase the amount by $5,514,000,000.

On page 5, line 11, increase the amount by $876,000,000.

On page 5, line 12, increase the amount by $1,930,000,000.

On page 5, line 13, increase the amount by $2,928,000,000.

On page 5, line 14, increase the amount by $3,994,000,000.

On page 5, line 15, increase the amount by $5,514,000,000.

**SEC. . RESERVE FUND FOR ELIMINATING SURVIVOR BENEFIT PLAN—SOCIAL SECURITY OFFSET.**

If the Committee on Armed Services or the Committee on Appropriations reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that provides for an increase to the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, the Chairman of the Committee on the Budget shall revise the aggregates, functional totals, allocations, discretionary caps,

and other appropriate levels and limits in this resolution by up to $2,757,000,000 in budget authority and $2,757,000,000 in outlays over the total of fiscal years 2005 through 2009.

**SA 2776.** Mr. McCAIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

**SEC._____. RESTRICTIONS ON UNAUTHORIZED APPROPRIATIONS.**

(a) IN GENERAL.—It shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, or conference report that would provide an unauthorized appropriation.

(b) WAIVER OR SUSPENSION.—

(1) In the Senate, subsection (a) may be waived or suspended only by an affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under subsection (a).

(2) A point of order under subsection (a) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974 (2 U.S.C. 644(e)).

(3) If a point of order is sustained under subsection (a) against a conference report in the Senate, the report shall be disposed of as provided in section 313(d) of the Congressional Budget Act of 1974 (2 U.S.C. 644(d)).

(c) UNAUTHORIZED APPROPRIATION DEFINED.—In this section:

(1) UNAUTHORIZED APPROPRIATION.—The term ''unauthorized appropriation'' means an appropriation—

(A) not specifically authorized by law or Treaty stipulation (unless the appropriation has been specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law); or

(B) the amount of which exceeds the amount specifically authorized by law or Treaty stipulation (or specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law) to be appropriated.

(2) SPECIFICALLY AUTHORIZED.—For purposes of paragraph (1), an appropriation shall not be considered to be specifically authorized if it is restricted or directed to, or authorized to be obligated or expended for the benefit of, an identifiable person, program, project, entity, or jurisdiction by earmarking or other specification, whether by name or description, in a manner that—

(A) discriminates against other persons, programs, projects, entities, or jurisdictions similarly situated that would be eligible, but for the restriction, direction, or authorization, for the amount appropriated, or

(B) is so restricted, directed, or authorized that it applies only to a single identifiable person, program, project, entity, or jurisdiction,

unless the identifiable person, program, project, entity, or jurisdiction to which the restriction, direction, or authorization applies is described or otherwise clearly identified in a law or Treaty stipulation (or an Act or resolution previously passed by the Senate during the same session or in the estimate submitted in accordance with law) that specifically provides for the restriction, direction, or authorization of appropriation for such person, program, project, entity, or jurisdiction.

**SA 2777.** Mr. CORZINE proposed an amendment to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; as follows:

On page 3, line 9, increase the amount by $20,000,000,000.

On page 3, line 10, increase the amount by $31,000,000,000.

On page 3, line 11, increase the amount by $34,000,000,000.

On page 3, line 12, increase the amount by $39,000,000,000.

On page 3, line 13, increase the amount by $36,000,000,000.

On page 3, line 17, increase the amount by $20,000,000,000.

On page 3, line 18, increase the amount by $31,000,000,000.

On page 3, line 19, increase the amount by $34,000,000,000.

On page 3, line 20, increase the amount by $39,000,000,000.

On page 3, line 21, increase the amount by $36,000,000,000.

On page 4, line 20, increase the amount by $20,000,000,000.

On page 4, line 21, increase the amount by $31,000,000,000.

On page 4, line 22, increase the amount by $34,000,000,000.

On page 4, line 23, increase the amount by $39,000,000,000.

On page 4, line 24, increase the amount by $36,000,000,000.

On page 5, line 3, decrease the amount by $20,000,000,000.

On page 5, line 4, decrease the amount by $31,000,000,000.

On page 5, line 5, decrease the amount by $34,000,000,000.

On page 5, line 6, decrease the amount by $39,000,000,000.

On page 5, line 7, decrease the amount by $36,000,000,000.

On page 5, line 11, decrease the amount by $20,000,000,000.

On page 5, line 12, decrease the amount by $31,000,000,000.

On page 5, line 13, decrease the amount by $34,000,000,000.

On page 5, line 14, decrease the amount by $39,000,000,000.

On page 5, line 15, decrease the amount by $36,000,000,000.

At the appropriate place, insert the following:

**SEC. _____. RESERVE FUND TO PREVENT CUTS IN SOCIAL SECURITY BENEFITS.**

If legislation is reported by the Senate Committee on Finance, or an amendment thereto is offered or a conference report thereon is submitted that would extend the solvency of the Social Security Trust Funds and prevent future cuts in Social Security benefits, the Chairman of the Senate Committee on the Budget may revise the aggregates, allocations, and other appropriate levels and limits in this resolution by not more than $160,000,000,000 to reflect such legislation.

**SA 2778.** Mr. DORGAN (for himself, Mr. HAGEL, Mr. BROWNBACK, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 14, line 19, increase the amount by $260,000,000.

On page 14, line 20, increase the amount by $18,000,000.

On page 14, line 23, increase the amount by $260,000,000.

On page 14, line 24, increase the amount by $226,000,000.

On page 15, line 2, increase the amount by $260,000,000.

On page 15, line 3, increase the amount by $260,000,000.

On page 15, line 6, increase the amount by $260,000,000.

On page 15, line 7, increase the amount by $260,000,000.

On page 15, line 10, increase the amount by $260,000,000.

On page 15, line 11, increase the amount by $260,000,000.

On page 15, line 16, increase the amount by $660,000,000.

On page 15, line 17, increase the amount by $561,000,000.

On page 15, line 20, increase the amount by $60,000,000.

On page 15, line 21, increase the amount by $150,000,000.

On page 15, line 24, increase the amount by $60,000,000.

On page 15, line 25, increase the amount by $60,000,000.

On page 16, line 3, increase the amount by $60,000,000.

On page 16, line 4, increase the amount by $60,000,000.

On page 16, line 7, increase the amount by $60,000,000.

On page 16, line 8, increase the amount by $60,000,000.

On page 23, line 5, decrease the amount by $920,000,000.

On page 23, line 6, decrease the amount by $579,000,000.

On page 23, line 9, decrease the amount by $320,000,000.

On page 23, line 10, decrease the amount by $376,000,000.

On page 23, line 13, decrease the amount by $320,000,000.

On page 23, line 14, decrease the amount by $320,000,000.

On page 23, line 17, decrease the amount by $320,000,000.

On page 23, line 18, decrease the amount by $320,000,000.

On page 23, line 21, decrease the amount by $320,000,000.

On page 23, line 22, decrease the amount by $320,000,000.

On page 54, after line 22, insert the following:

**SEC. ___. SENSE OF THE SENATE REGARDING TAX INCENTIVES FOR CERTAIN RURAL COMMUNITIES.**

It is the sense of the Senate that if tax relief measures are passed in accordance with the assumptions in this resolution in this session of Congress, such legislation should include—

(1) tax and other financial incentives, similar to those included in the New Homestead Act (S. 602), to help rural communities fight the economic decimation caused by chronic out-migration by giving such communities the tools they need to attract individuals to live and work, or to start and grow a business, in such rural areas, and

(2) revenue provisions which fully offset the cost of such tax and other financial incentives.

**SA 2779.** Mr. DORGAN (for himself and Mr. REID) submitted an amendment intended to be proposed by him

to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, decrease the amount by $6,000,000,000.

On page 3, line 17, decrease the amount by $6,000,000,000.

On page 4, line 20, decrease the amount by $6,000,000,000.

On page 5, line 23, increase the amount by $6,000,000,000.

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**SA 2780.** Mrs. CLINTON (for herself, Mr. KENNEDY, Mr. DASCHLE, and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 28, after line 7, insert the following:

**SEC. ___. RESERVE FUND FOR ADDRESSING MINORITY HEALTH DISPARITIES.**

If the Committee on Appropriations of the Senate reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that addresses minority health disparities through activities including those at the HHS Office of Minority Health, the Office of Civil Rights, the National Center on Minority Health and Health Disparities, the Minority HIV/AIDS initiative, health professions training, and through the Racial and Ethnic Approaches to Community Health at the Centers for Disease Control and provides not to exceed $400,000,000 in new budget authority for fiscal year 2005, the chairman of the Committee on the Budget may revise allocations of new budget authority and outlays and other appropriate aggregates to reflect such legislation, provided that such legislation would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009.

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**SA 2781.** Mr. LEAHY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $2,216,000,000.

On page 3, line 10, increase the amount by $2,898,000,000.

On page 3, line 11, increase the amount by $3,128 000,000.

On page 3, line 12, increase the amount by $3,272,000,000.

On page 3, line 13, increase the amount by $3,362,000,000.

On page 3, line 17, increase the amount by $2,216,000,000.

On page 3, line 18, increase the amount by $2,898,000,000.

On page 3, line 19, increase the amount by $3,128,000,000.

On page 3, line 20, increase the amount by $3,272,000,000.

On page 3, line 21, increase the amount by $3,362,000,000.

On page 4, line 4, increase the amount by $1,108,000,000.

On page 4, line 5, increase the amount by $1,449,000,000.

On page 4, line 6, increase the amount by $1,564,000,000.

On page 4, line 7, increase the amount by $1,636,000,000.

On page 4, line 8, increase the amount by $1,681,000,000.

On page 4, line 12, increase the amount by $1,108,000,000.

On page 4, line 13, increase the amount by $1,449,000,000.

On page 4, line 14, increase the amount by $1,564,000,000.

On page 4, line 15, increase the amount by $1,636,000,000.

On page 4, line 16, increase the amount by $1,681,000,000.

On page 4, line 20, increase the amount by $1,108,000,000.

On page 4, line 21, increase the amount by $1,449,000,000.

On page 4, line 22, increase the amount by $1,564,000,000.

On page 4, line 23, increase the amount by $1,636,000,000.

On page 4, line 24, increase the amount by $1,681,000,000.

On page 5, line 3, decrease the amount by $1,108,000,000.

On page 5, line 4, decrease the amount by $2,557,000,000.

On page 5, line 5, decrease the amount by $4,121,000,000.

On page 5, line 6, decrease the amount by $5,757,000,000.

On page 5, line 7, decrease the amount by $7,438,000,000.

On page 5, line 11, decrease the amount by $1,108,000,000.

On page 5, line 12, decrease the amount by $2,557,000,000.

On page 5, line 13, decrease the amount by $4,121,000,000.

On page 5, line 14, decrease the amount by $5,757,000,000.

On page 5, line 15, decrease the amount by $7,438,000,000.

On page 18, line 4, increase the amount by $1,108,000,000.

On page 18, line 5, increase the amount by $1,108,000,000.

On page 18, line 8, increase the amount by $1,449,000,000.

On page 18, line 9, increase the amount by $1,449,000,000.

On page 18, line 12, increase the amount by $1,564,000,000.

On page 18, line 13, increase the amount by $1,564,000,000.

On page 18, line 16, increase the amount by $1,636,000,000.

On page 18, line 17, increase the amount by $1,636,000,000.

On page 18, line 20, increase the amount by $1,681,000,000.

On page 18, line 21, increase the amount by $1,681,000,000.

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**SA 2782.** Ms. COLLINS (for herself, Mr. KENNEDY, Ms. MURKOWSKI, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . GOOD NEWS RESERVE FUND FOR EDUCATION.**

(a) ADJUSTMENT.—(1) The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by an amount not to exceed 20 percent of good news funds defined in paragraph (2) for a bill, joint resolution, motion, amendment, or conference report that provides discretionary new budget authority for fiscal year 2005 in excess of the levels assumed in this resolution for education programs within functional category 500, and for the outlays flowing therefrom.

(2) GOOD NEWS DEFINITION.—The term ''good news funds'' means the amount (if any) by which the estimated level of on-budget revenues for fiscal year 2005 set forth in the report submitted pursuant to section 202(e) of the Congressional Budget Act of 1974 (2 U.S.C. 602(e)) (the budget and economic outlook: update) exceeds such estimated level set forth in the Congressional Budget Office's budget and economic outlook for fiscal year 2005 issued in January of 2004, adjusted for the enactment of any legislation affecting revenues for fiscal year 2005 after the adoption of this resolution.

(b) LIMITATIONS.—Adjustments under subsection (a) shall not exceed $10,000,000,000 of on-budget Federal revenues for fiscal year 2005.

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## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee on Energy and Natural Resources:

The hearing will be held on Tuesday, March 30, at 10 a.m., in Room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the Energy Employees Occupational Illness Compensation Program Act.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Dr. Pete Lyons at 202–224–5861 or Shane Perkins at 202–224–7555.

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## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. ENZI. 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 Wednesday, March 10, 2004, at 10 a.m., to conduct a hearing on ''Review of Current Investigations and Regulatory Actions Regarding the Mutual Fund Industry.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, March 10, 2004, at 10 a.m., on steroids.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, March 10, at 11:30 a.m., to consider pending calendar business.

Agenda

On Wednesday, March 10, at 11:30 a.m., the Committee will hold a Business Meeting in Dirksen 366 to consider the following items on the agenda:

Agenda Item 1: To consider the nomination of Susan Johnson Grant, to be Chief Financial Officer at the Department of Energy.

Agenda Item 8: S. 1307—A bill to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects, and for other purposes.

Agenda Item 9: S. 1355—A bill to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes.

Agenda Item 10: S. 1421—A bill to authorize the subdivision and dedication of restricted land owned by Alaska Natives.

Agenda Item 12: H.R. 620—To authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist the State of California or local educational agencies in California in providing educational services for students attending schools located within the Park.

Agenda Item 17: H.R. 2696—To establish institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems of the interior West.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. ENZI. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet on Wednesday, March 10, 2004, at 9:25 a.m., to conduct a business meeting to consider a GSA resolution and S. 1904, S. 2022, and S. 2043, and to conduct a hearing on the proposed FY 2005 EPA budget.

The hearing will be held in SD 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, March 10, 2004, at 2 p.m., in 215 Dirksen Senate Office Building, to hear testimony on ''United States Economic and Trade Policy in the Middle East.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 10, 2003, at 9:30 a.m., to hold a hearing on Nonproliferation and Arms Control Strategy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday. March 10, 2003, at 2:30 p.m., to hold a hearing on ''A Fresh Start for Haiti? Charting the Future of U.S.-Haitian Relations.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, March 10, 2004, at 9:30 a.m., in room 485 of the Russell Senate Office Building to conduct an oversight hearing on the proposed reorganization of major agencies and functions related to Indian trust reform matters without the Department of the Interior.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, March 10, 2004, at 10 a.m. on ''Letting the People Decide: The Constitutional Amendment Authorizing Congress to Prohibit Physical Desecration of the flag of the United States,'' in the Dirksen Senate Office Building Room 226.

*Witness List:*

Panel I: The Honorable Daniel J. Bryant, Assistant Attorney General, Office of Legal Policy, Department of Justice, Washington, DC.

Panel II: Maj. Gen. Patrick Brady, Chairman of the Board, Citizens Flag Alliance, Recipient, Medal of Honor, Summer, WA; John Andretti, NASCAR Nextel Cup Series Driver, Mooresville, NC; Richard D. Parker, Williams Professor of Law, Harvard Law School, Cambridge, MA; Gary E. May, Associate Professor of Social Work, University of Southern Indiana (1981–1985), Evansville, IN; and Lawrence Korb, Former Assistant Secretary of Defense, Navy Veteran, Alexandria, VA.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, March 10, 2004, at 2:30 p.m. on ''Judicial Nominations'' in the Dirksen Senate Office Building Room 226.

*Witness List:*

Panel I: Senators.

Panel II: Peter W. Hall, to be United States Circuit Judge for the Second Circuit.

Panel III: Jane J. Boyle, to be United States District Judge for the Northern District of Texas; Marcia G. Cooke, to be United States District Judge for the Southern District of Florida; and Walter D. Kelley, Jr., to be United States District Judge for the Eastern District of Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 10, 2004, at 9:30 a.m., to conduct a hearing on the scope and operation of organizations registered under Section 527 of the Internal Revenue Code.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, March 10, 2004, for a joint hearing with the House of Representatives's Committee on Veterans' Affairs, to hear the legislative presentation of the Veterans of Foreign Wars.

The hearing will take place in room 216 of the Hart Senate Office Building at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT ECONOMIC COMMITTEE

Mr. ENZI. Mr. President, I ask unanimous consent that the Joint Economic Committee be authorized to conduct a hearing in Room 628 of the Dirksen Senate Office Building, Wednesday, March 10, 2004, from 10 a.m. to 12:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. ENZI. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on March 10, 2004, at 9:30 a.m., in open and closed session to receive testimony on the Nuclear Nonproliferation Programs of the Department of Energy and the Cooperative Threat Reduction Program of the Department of Defense, in review of the Defense Authorization Request for fiscal year 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE AND FINANCE

Mr. ENZI. Mr. President, I ask unanimous consent that the Subcommittee on International Trade and Finance of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, March 10, 2004, at 1 p.m. to conduct a hearing on ''Argentina's Financial Crisis.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. ENZI. Mr. President, I ask unanimous consent that the subcommittee on public lands and forests of the committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, March 10th, at 2:30 p.m.

The purpose of the hearings is to receive testimony on the following bills: S. 1354, to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes; S. 1575 and H.R. 1092, to direct the Secretary of Agriculture to sell certain parcels of federal land in Carson City and Douglas County, NV; S. 1778, to authorize a land conveyance between the United States and the City of Craig, AK, and for other purposes; S. 1819 and H.R. 272, to direct the Secretary of Agriculture to convey certain land to Lander County, NV, and the Secretary of the Interior to convey certain land to Eureka County, NV, for continued use as cemeteries; and H.R. 3249, to extend the term of the Forest Counties Payments Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. ENZI. Mr. President, I ask unanimous consent that the subcommittee on Seapower of the Committee on Armed Services be authorized to meet during the session of the Senate on March 10, 2004, at 2 p.m., in open session to receive testimony on the posture of the U.S. Transportation Command, in review of the Defense authorization request for fiscal year 2005 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. ENZI. Mr. President, I ask unanimous consent that the subcommittee on Science, Technology and Space be authorized to meet on Wednesday, March 10, 2004, at 2:30 p.m. on NASA/Mars Exploration Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

Mr. CONRAD. Madam President, I ask unanimous consent that Sara Hagigh of Senator LIEBERMAN's staff have leave of the floor during the debate on the budget resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CONGRATULATING THE UNIVERSITY OF DELAWARE MEN'S FOOTBALL TEAM FOR WINNING THE NCAA DIVISION I-AA NATIONAL CHAMPIONSHIP

Mr. BIDEN. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H. Con. Res 355, and the Senate proceed to its immediate consideration. It is honoring the University of Delaware football team.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 355) congratulating the University of Delaware men's football team for winning the National College Athletic Association Division I-AA National Championship.

There being no objection, the Senate proceeded to the concurrent resolution.

Mr. BIDEN. Madam President, having been here over 30 years, I understand the Senate rules and that you are not allowed to refer to anybody sitting in the gallery. So I will not refer to the fact that anybody is sitting in the gallery.

I stand here with great pride that my alma mater, the University of Delaware, has won the national football championship for Division I-AA. In my 32 years serving in the Senate for Delaware, I have had the opportunity to give hundreds of speeches on the Senate floor. We have much more, though, than a national championship to celebrate. With our nickname, the Fighting Blue Hens, when we were recruited by the University of Delaware, we probably wished they had some other name like the Fighting Tigers or something; but we are Blue Hens. But we are the Blue Hens, and we are proud of the fact that year in and year out we have this long tradition of having a first-rate football team. But none like this team.

This team played one of the most outstanding seasons in college football history with a record of 15 to 1 and setting a school record for victories in any single season.

After clinching their seventh Atlantic 10 Football Conference Championship, the 2003 squad sailed through the division I-AA playoffs outscoring our opponents with a combined score of 149 points to 23.

In fact, they won the championship game by shutting down—and since our Parliamentarian is a graduate, I almost feel badly mentioning that great college—Colgate University 40 to 0.

My only concern was if we had another game, I would have felt very badly for whomever we played because they just kept getting better and better. You can imagine Senator CARPER and I and Congressman CASTLE attended the majority of these games as devoted fans.

As I earlier said, this marks the university's first division I-AA title crown, but we earned six other football titles as a division II school, including when I was there playing.

The last division II title was in 1979. The reason I mention that is it is significant because our current coach, K. C. Keeler, was a linebacker on that national championship team. In his second year at the helm at the university, K. C. Keeler took this team to a national championship. K. C. is the first to give his predecessor, my old coach, Tubby Raymond, credit for having recruited pretty good guys to play on that team.

Let me conclude by saying I am often asked why I ever thought I should run for President of the United States, as I did, and attempt to get the nomination back in the eighties. There was a simple reason. I learned early on, after being a county councilman and then getting elected as a Senator, I was given the honor of presenting the Washington Touchdown Club's Timmie Award. We used to honor the best ''small college team in America.'' I had the opportunity of giving that to Tubby Raymond.

There were people at an old hotel, including Supreme Court Justices and others. I never saw my old coach flustered, but as I stood up, introduced by Howard Cosell, to present him with this award, I gave him the award, handed him the trophy, and he turned and said: You know, I just want to tell you, Joe Biden was one of the best ball players I ever had play for me. And that was just being a Senator.

So I figured if I had gotten elected President, I would have been able by another means to be named what I always wanted to be, an All-American. And that is the only reason I ever ran for President. I wanted to set that record straight.

I am one of the best ball players Delaware ever had, which is simply not true. But I can tell you it is the only time my former coach was ever flustered. But this guy, Keeler, knows about my lack of talent and about how to recognize talent, and he produced the best football team probably in the history of the State of Delaware. We are here to congratulate them.

I thank my colleagues for allowing us this time.

I yield now to my colleague who is an equally avid football fan and a graduate of the University of Delaware.

Mr. CARPER. Madam President, the first time I visited the University of Delaware campus was in 1973. My first reaction was: what a beautiful place, and it truly is a gorgeous campus. Later, as I learned more about the university, I learned they were one of the top 25 public universities in the country academically and have remained that for some time. We are proud of that fact.

What I also learned my first year at the University of Delaware in the MBA program, fresh out of the Navy, was

they played football at Delaware. I was a Buckeye of Ohio State in 1968 when we went all the way. I learned they were as rabid about football in Delaware as we were in Columbus, OH.

During the years that transpired since I moved to Delaware, there was a time when the Dallas Cowboys rose in standing nationally, and I recall in some circles it was America's team. I was looking through the roster of Delaware's team last night to see some of the States our players came from. While I did not find anybody from Alaska, the State from which the Presiding Officer comes, I certainly saw a number of players from Delaware, from New Jersey, a number of players from Maryland, a lot of players from Virginia, California, Georgia—quite a few from Georgia—and Pennsylvania. We have players from South Carolina, North Carolina, Indiana, Connecticut, Michigan, New York, Florida, Arizona. We even have one, I say to Senator BIDEN, I don't know if he realizes it, but we even have one player on the roster from Germany. That is going the extra mile to get the kind of talent K. C. Keeler and his predecessor, Tubby Raymond, wanted to bring to our campus.

I have been privileged to enjoy a lot of terrific sports moments in my life. This last year, the University of Delaware football team on its way to the national championship provided us with two I will never forget.

One was a 51 to 45 win over Massachusetts in triple overtime on a blustery fall afternoon at the University of Delaware. It was a heartstopper. It was an amazing win, topped only by a 40 to 0 victory over Colgate on a very cold night in December of last year.

I have been to a lot of games in my life. I have never been to a game where everybody on our side of the field stood up the entire first quarter. They never sat down. I have never been to a game in my life where everybody stood up for the second quarter, and third quarter, and the fourth quarter. We had places to sit, but nobody ever sat down. It was just the most incredible spirit or euphoria I ever witnessed.

When the game was over, the players and a lot of fans rushed the field in the presentation of the trophy to Coach Keeler. The fans gathered around. People did not want to leave. I remember standing half an hour later at one end of the end zone with Congressman CASTLE looking out over the field and looking at everybody in sheer joy, savoring the moment.

Another special moment was when Coach Keeler went into the end zone with Tubby Raymond, his predecessor and coach when Keeler was a linebacker with the national championship team in the late seventies. Tubby handed it off and Coach Keeler went on to the national championship.

For some of the players who left the field that night, it was the last football game they will ever play. Others will go on to be greats in professional football. Some may be lucky to turn up as Rich Gannon did, who ended up being the MVP of the NFL last year, whether they end up in pro football or other athletic-related endeavors. Sometimes they go on to do great things with their life, such as Tyrone Jones, who was a freshman in 1982, one of the years Delaware made it to the finals for the national championship and did not make it by three points. Tyrone Jones is now New Castle County coordinator. He is in charge of all of New Castle County. Back in 1982, he was a freshman playing for a great team, and in 1983, 1984, 1985, he played free safety for some of Tubby's teams.

Tubby Raymond, who is now in the Football Hall of Fame, had 300 career wins. Ty Jones was on the field for about 20 of those wins. We are very proud of him.

I want to say to those who might be watching from Delaware or here representing Delaware, whatever you do on the field or beyond, there is greatness to be accomplished, and we are proud of Ty and others who follow endeavors off of the gridiron.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BIDEN. Madam President, I ask for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Madam President, when the Senator was standing with Congressman CASTLE in the end zone looking at what was going on, I was in the other end zone begging Andy Hall to throw me the ball.

Madam President, I ask unanimous consent that the concurrent resolution and the preamble be agreed to en bloc; that the motion to reconsider be laid upon the table en bloc; and that any statements relating to the resolution be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 355) was agreed to.

The preamble was agreed to.

Mr. CARPER. Madam President, will the Senator yield? I have to show one of the most beautiful newspaper headlines I have ever seen in Delaware or any other State. To all who made this possible, we are enormously proud.

## MEASURE READ THE FIRST TIME—H.R. 1997

Mr. NICKLES. Madam President, I understand that H.R. 1997, the House Unborn Victims of Violence Act, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1997) to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes.

Mr. NICKLES. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time on the next legislative day.

## ORDERS FOR THURSDAY, MARCH 11, 2004

Mr. NICKLES. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Thursday, March 11. 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 S. Con. Res. 95, the budget resolution; provided further that when the Senate resumes the budget resolution tomorrow, there be 14 hours equally divided remaining for debate under the statutory limit.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. NICKLES. Madam President, tomorrow the Senate will resume consideration of the budget resolution. When the Senate resumes debate, we will have 14 hours remaining under the time limit. It is my expectation to yield back some time. I think we made very good progress on the resolution today. We had a lot of rollcall votes. We disposed of several amendments. The ranking member and I will return to the floor tomorrow morning and continue to work through amendments on the resolution.

Again, it is my intention to yield back some time. Our colleagues should know, we are going to have a lot of votes tomorrow. I would urge colleagues not to offer amendments that have already been offered. We don't need to vote on the same thing four and five times. It is important for us to finish this resolution.

We have had good debate on a variety of big issues covered in the budget. I would hope we could conclude by late tomorrow evening or possibly on Friday. I will work with all of our colleagues to try to make that happen.

## ORDER FOR ADJOURNMENT

Mr. NICKLES. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator PRYOR for up to 10 minutes and Senator LANDRIEU for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

Mr. CONRAD. Madam President, I might ask the Chair as well, could we agree that we would start on the Boxer amendment tomorrow morning?

Mr. NICKLES. That would be my expectation.

Mr. CONRAD. I think that is important, just so the Senator is here and prepared to move forward with her amendment. It is also important to say, Madam President, that we won several important victories today and that we anticipate a string of additional victories tomorrow that will allow us to conclude our work at an even earlier point.

On a serious note, I thank the chairman and his staff for working cooperatively throughout the day. We are very hopeful that we will be able to end this sometime Friday morning, everybody having had a chance to debate and offer important amendments. That does not mean they need to offer every amendment. We hope Senators will show restraint. We hope Senators will eliminate duplication so that we can hold down the number of votes in vote-a-rama.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

## IRA WITHDRAWAL

Mr. PRYOR. Madam President, in the year 2000, there were 38 million families in this country who owned an individual retirement account or participated in an employer-sponsored retirement savings plan. Since then, unemployment has climbed to 8.3 million people, with more than 1.9 million individuals unemployed more than 6 months.

Six months without work is a long time, and it is enough time for people to lose their homes, give up their health care, run through their savings, and ruin their credit for many years to come. I know this because I hear from people in Arkansas who have gone from living the family dream, to living off of their families, and eventually living off of Government help.

To add salt to the wound for many unemployed Americans, those individuals who are fortunate enough to have an individual retirement account are penalized a minimum of 10 percent if they withdraw funds from their account.

Recognizing that some significant events might require people to withdraw money from their retirement accounts earlier than expected, Congress has on previous occasions provided exceptions to the 10-percent early withdrawal penalty; for example, buying their first home or maybe even sending their children to college.

I am offering a commonsense amendment that could make a real difference for individuals who have invested in their IRA but have exhausted all of their unemployment benefits while searching for a job.

I am asking Congress to make another exception because our job creation figures continue to disappoint, economic growth continues to linger, and our manufacturing jobs continue to leave the country. I think these are significant events as well.

My amendment is a sense of the Senate and allows individuals who have exhausted their unemployment benefits a one-time withdrawal of up to $15,000 from their IRAs, tax free and without penalty, within 1 year after their unemployment benefits end.

In many cases, my amendment would free up enough money for a few months of rent or mortgage payments, child care expenses, groceries, and other living expenses.

Regardless of what you believe, regardless of your party affiliation, we cannot dismiss these new numbers by the Bureau of Labor Statistics that indicate the average length of unemployment in this country is at a 20-year high.

We cannot expect Americans to be patient as they watch their bills pile up, and we cannot tell these families to keep their fingers crossed any longer while we do nothing to help them. After all, this money in their IRA accounts is their money. Imagine a family whose breadwinner is now on the unemployment rolls, and he or she has this retirement nest egg sitting there and they have some real needs in the family but they cannot touch their own money without penalty or paying taxes on accessing that money.

Madam President, I ask my colleagues to express their support tomorrow for the individuals who are in a tough position because of tough times and allow them to use funds from their own IRAs without penalty.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

## SURVIVOR BENEFITS

Ms. LANDRIEU. Madam President, I thank the floor manager. It has been a long day, and perhaps we have made some progress and the hour is a little late. I am going to speak just on two amendments of mine that I will offer and which will be voted on tomorrow.

I will take the time tonight to speak at some length about these amendments because our time will be so limited, unfortunately, because of the rules under which we are operating.

Before I do, let me restate for the record that I intend to vote against this budget. It is not a budget that will put America on the right course. This is a budget that will turn a stream of red ink into a raging river that will threaten to wash away Social Security, and this is according not to the Democratic spin room or Democratic operatives, this is according to Alan Greenspan, who testified before the Budget Committee last week and basically said because of the choices President Bush and the Republican leadership are making in this budget, adjustments will have to be made to Social Security.

He could have gone on to say—and I am sure he will in further speeches—that adjustments are going to have to be made to education and the Federal contribution to education. We are going to have to make adjustments to housing initiatives in this country, and we are going to have to make adjustments to the contributions we make to colleges and universities because if this budget goes into law, the country will basically be on a course to bankruptcy because the debt is rising so high.

We have been attacked by terrorists. We have a war now that is costing us hundreds of millions of dollars. We have passed a major education initiative that the President himself said he wanted to fund, and the economy has, in many instances, tanked, contrary to all of our hopes and expectations.

Yet the plan is for tax cuts every day, always deeper and greater, which is threatening to wash away a lot of things that are important to people in this country. One of the things we cannot fix because of this blind adherence to tax cuts for people who earn over a million dollars is a survivor benefit for our military personnel.

There are a lot of issues for which we could fight. I want to show this document. It is from the Military Officers Association: Fighting for Fairness. The public is going to have a hard time believing this, so I am going to try to go over it as simply as I can. In 1972, our Government promised the spouses of people in the military—now, most of the spouses would be women but not all of them would be women. Most are women. Our Government promised them if they would contribute a certain amount of money into a special fund, after the member of the service passed away, they could provide a nest egg for their spouses. These are spouses, and everyone is familiar with this. These women—millions of them—move every 2 years, generally. They move themselves, their children, and most do it with a smile and joy on their face because they are committed to helping the country, and they are supporting their husbands who are protecting us every day.

We promised to give them what we call a survivor's benefit. But we have failed to live up to that promise. We have, instead, said even though we said we would do that, we decided to save money so we could give money, as the Senator from Oklahoma said, to the millionaires who need tax cuts in this country. We said instead of making the promise to these individuals, we have another priority, and that is to give people who make over a million dollars tax cuts because they need it. But we cannot give spouses of the people in the military their full benefit.

It gets worse because the document we gave them actually doesn't mention the offset. I am going to submit it because I want to make it clear that this is the document our military signed, and it will be read for the RECORD. Nowhere in here did it talk about an offset. An offset is, when the spouse gets to be 62 years of age, instead of receiving the benefit that her husband put aside specifically for her, thinking that

he was doing a good thing to help protect her in her old age because she moved every 2 years and she has had to live under tremendous pressure—when you move every 2 years, I think people would understand it would be hard to keep a career going in the right direction and continue to increase your earnings, if you did want to work outside of the home. Maybe you could manage to get a minimum-wage job or something, but it would be very hard to develop a career when you have to move every 2 years. She did. These women did. Then they signed a document that said they would receive this benefit, and, lo and behold, they were told after they were in their sixties and their husbands had died, after their husbands served 20 and sometimes 30 years in the military protecting us and giving us the advantages, that the thousands of dollars they were counting on were not there.

It gets worse. In addition to not funding this for our military families, we do fund, as the Federal Government, if you work for the Federal Government in civilian employment and you take out a policy for your spouse, you do not have the same offset. So we have the very unfair and terribly unjust situation today where if you are a spouse of a military person, and you have moved every 2 years, your spouse has protected the country for the last 30 years, and you get to be 62, you do not receive that full benefit because we need to save money to cut taxes for people who make over $1 million. That is the situation.

My amendment, which I am going to ask be voted on tomorrow, would fix that situation. I do not think it is going to be adopted, but I am going to offer it anyway because I want my colleagues on the other side to be on the record saying the choice they make is not to fix this situation which will cost us approximately $2 billion because we cannot afford it. We can afford $2.6 trillion in tax cuts, but we cannot afford $2 billion to help our military families.

I am not going to vote that way, but some people will, and they can explain it to the thousands of retirees in their States. I am not sure how.

For the record, under the civil service retirement system, the percentage of survivor benefits, people receive 55 percent; the Federal employee retirement system receives 50 percent, but not the widows and widowers of people who served in the military. I do not understand it, and nobody in Louisiana understands it because we continue to increase the military budget. I know, because I voted for every increase in the military budget since I arrived in the Senate 7 years ago. I voted for billions of dollars because I believe in a strong military.

I do not know how not living up to your promises to people in uniform to help them protect their spouses helps us to strengthen our military. If anybody knows, maybe they can communicate that to me because I do not know.

I am hoping when we vote on this amendment tomorrow, perhaps we can find some money in this budget to take care of this situation. I understand the House has acted. I also understand a bill has been filed by the Senator from Maine, a Senator for whom I have a great deal of respect, Ms. SNOWE. It is a bipartisan effort. I am hoping maybe we can find some money in this budget to make some adjustments for the survivors benefit plan.

I ask unanimous consent to print in the RECORD a letter that was recently printed in the Washington Times that outlines this situation, and also the actual document our families signed that leads them to believe they are going to get this benefit.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Feb. 23, 2004]

SURVIVOR BENEFIT PLAN NEEDS REFORM

Dear Sgt. Shaft: The Fleet Reserve Association (FRA) is urging all 66 members of the House and Senate budget committees to include funding in the 2005 budget resolution for legislation (S. 1916 and H.R. 3673) that eliminates the drastic reduction in Survivor Benefit Plan (SBP) annuities that now adversely impacts survivors of military personnel who are 62 and older.

The current program provides 55 percent of SBP covered retired pay for younger spouses—however, the amount decreases to 35 percent of retired pay when survivors become eligible for Social Security. Many retirees and their spouses were not fully aware of this reduction when they enrolled in the program in the early 1970s. As a result, many believe they were betrayed by having been asked to sign an irrevocable contract to pay lifetime SBP premiums.

Sen. Mary L. Landrieu, Louisiana Democrat, introduced the Military Survivor Benefits Improvement Act of 2003 (S. 1916), which would eliminate the SBP offset over a 10-year period. Companion legislation (H.R. 3673) to do the same was introduced by Rep. Jeff Miller, Florida Republican, in the House.

The Fleet Reserve Association, the oldest and largest organization dedicated to enhancing pay and benefits for enlisted members of the U.S. Navy, Marine Corps and Coast Guard, was instrumental in the enactment of the military SBP program in 1972, which was designed to improve the Retired Servicemembers Family Protection Plan. Participants were responsible for paying 60 percent of the costs, while the government was to subsidize the remaining 40 percent.

But today's SBP program looks nothing like its FRA predecessor, and its intended value has been greatly diminished by the Social Security offset as well as decreased contributions from the federal government.

Today, military retirees pay for more than 80 percent of SBP costs, while the government picks up only about 19 percent of the costs. By way of comparison, the federal government subsidizes its civilian survivor benefit plans—Federal Employees Retirement System and Civil Service Retirement System—at 33 percent and 48 percent, respectively.

Probably the greatest disparity between the two plans is beneficiaries in the federal civilian programs do not experience the same offset incurred by military SBP beneficiaries when they reach the age of 62. It is unconscionable that the men and women of our armed forces and their families continue to sacrifice at a time when they are in their greatest need.

FRA is grateful to Rep. Miller and Mrs. Landrieu for their leadership in campaigning to restore equity and credibility to this vital program. FRA is again referencing the need for SBP reform in its testimony before Congress this year.

We urge those who wish to help reform this unfair and debilitating law to visit the association's Action Center at http://www.fra.org/action/index.html, click on ''Urge Your Elected Official to Support Funding for SBP Reform Legislation'' and send a prewritten e-mail to their congressional representatives.

Joe Barnes
National Executive Secretary
Fleet Reserve Association

Dear Joe: I echo your praise and support of S. 1916 and H.R. 3673. I also commend Mrs. Landrieu and Mr. Miller for spearheading this vital legislation.

Dear Sgt. Shaft: I agree totally that the SBP program is a huge injustice for widows of military retired persons. I had 10 years of active duty plus 14 years in the Reserves, retiring as an 0–6. It has been a long time since I have seen a write-up of the actual SBP provisions, so I do not understand how it affects me and my wife. Where can I find a good description?

From the synopses I have seen so far, we would have been better off to take the dollars and put them toward an annuity policy instead of wasting them on the SBP program.

Harry J. Wander
Col., AUS, Retired

Dear Henry: For starters, I suggest that you visit a few of the military organization Web sites, such as the Military Officers Association of America at www.moaa.org, the Non Commissioned Officer Association, www.ncoausa.org, or the Fleet Reserve Association at www.fra.org.

Dear Sgt. Shaft: Isn't it funny: If Congress wants a pay raise, it's processed with no problems. For those of us ''who paid the price'' for our country (to keep Congress intact), there's always some delay.

Michael G.
Virginia

Dear Michael: The Defense Finance and Accounting Service (DFAS) has announced that computer reprogramming has progressed faster than expected and they have made concurrent disability payments (CDP) to about 150,000 eligible retirees on Feb. 1. Those whose CDP will be delayed another month or two include those who divide their retired pay with a former spouse, medical disability retirees who will have their offset only partially eliminated by the new law change, and a few other special situations.

DFAS officials believe that they will be able to provide payment for all of these retirees no later than the April 1 paycheck.

SECTION VII—INFORMATION ON THE SURVIVOR BENEFIT PLAN (SBP)

Definition of Dependent Child. A dependent child must be unmarried and:

a. Be under 18 years of age.

b. Be between ages 18 and 22 and pursuing a full-time course of study and/or training in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution (See item e below.)

c. Be a child of your present or of a previous marriage, adopted, or a step, foster, or recognized natural child who has lived with you in a regular parent-child relationship and as indicated in a and b above or d below.

d. Be incapable of self-support because of a mental or physical incapacity which existed before the 18th birthday, or was incurred before age 22 while pursuing a full-time course of study of training. (See item e below.)

e. If your child(ren) is (are) defined by item b or d above, an affidavit to that effect signed by the registrar or physician, respectively, must be furnished to Retired Pay Operations, USAFAC.

Definition of natural person with insurable interest. Any person who can reasonably expect financial benefit from you while you live may be considered as a natural person with an insurable interest. This person may be any close relative such as a child not dependent upon you for support, or a close business associate. If person named is not more nearly related than cousin, attach a statement of Proof of Financial Benefit.

SECION VIII—MONTHLY COST AND AMOUNT OF SURVIVOR ANNUITY

Spouse only (no eligible children). Cost of coverage is 2½ percent of the first $300, plus 10 percent of any designated retired pay in excess of $300. If coverage is elected for a dependent child acquired subsequent to retirement, cost of coverage will be increased. The increase in cost is effective the first day of the month following eligibility of such child. (See c. below.)

Spouse and eligible children. The cost of coverage will be 2½ percent of the first $300 of the base amount plus 10 percent of the remainder plus a slight additional charge for children's coverage that will vary depending on your age, your wife's age, and the age of your youngest child. The additional charge should generally be about one-half of one percent of the amount of retired pay designated. (See c below.)

If your spouse becomes ineligible through divorce, annulment or death, no cost is due for any month in which there is no beneficiary. If you remarry, the cost will be reinstated the first anniversary of the date of remarriage, unless child is born of that marriage prior to the first anniversary date.

Eligible children only (no spouse). The cost of coverage will vary depending on your age and the age of your youngest child but should generally be about 3 percent of the amount of retired pay designated.

Cost reduction—children. When all children cease to be eligible for an annuity, the additional cost for child coverage shall stop. The reduction in cost is effective the first day of the month following that in which the last child ceases to be eligible for an annuity.

Natural interest person. Cost of coverage is 10 percent of full retired pay, plus an additional 5 percent of full retired pay for each full five years that your age exceeds that of the natural interest person. The total cost may not exceed 40 percent of retired pay.

Annuity—Spouse and/or eligible children. Full coverage provides an annuity of 55 percent of retired pay. Reduced coverage provides an annuity of 55 percent of reduced amount elected.

Annuity—Natural interest person. The annuity payable is 55 percent of retired pay remaining after cost of coverage has been subtracted.

Cost-of-Living Increase (CLI). The cost is subject to change based on CLI's in retired pay. Annuities paid to survivors of deceased members are also CLI adjusted.

CONTINUATION OF ITEM 10, SECTION IV.

| NAME (LAST, FIRST, MI) | DATE OF BIRTH | SOCIAL SECURITY NO. | RELATIONSHIP |
|---|---|---|---|
| | | | |
| | | | |

DATA REQUIRED BY THE PRIVACY ACT OF 1974

Authority: Public Law 92–425, EO 9397 as amended.

Principal Purpose(s): Used by members retired on or before 13 August 1981, to enroll in the Survivor Benefit Plan or increase previously elected coverage.

Routine Uses: Uniformed Services review form for completeness, validate and record level of participation.

Disclosure Is Voluntary: However, the information transmitted in this form is necessary to administer the above law. Without it, retirees could not change their previous elections.

Under this law you have a choice to either participate or not to participate in the Survivor Benefit Plan. If you choose to participate, you have a further choice as to what type of coverage you desire. Under one option, only a SPOUSE is to receive a survivor benefit annuity, under another option, only a CHILD or CHILDREN are to receive annuity payments, and under a third option a CHILD or CHILDREN plus a SPOUSE are to receive annuity payments.

To assist you in making your election whether to participate, data are shown below to permit you to determine your actual participation costs. PLEASE note that the ''COST'' shown below is based on the provision of the law whereby only the SPOUSE is to receive a survivor's annuity and this annuity, equal to 55% of your gross retired pay, is the maximum annuity for a spouse. Costs for providing annuity benefits to children where there is no spouse or for benefits to children in addition to the benefits for a spouse, have not been computed. Costs for any optional provision of the law may be approximated using the formula provided in the Retired Army Bulletin. Actual cost of annuities will be actuarially computed in each case as required.

If your retired pay exceeds $300 per month, the cost of Survivor Benefit Plan to you is arrived at by charging 2½% against the first $300 of your retired pay and 10% of any amount over $300. This will provide for a maximum annuity equal to 55% of your gross retired pay. If you wish to provide for a survivor's annuity which is less than the maximum permitted, you may do so. To accomplish this you must specify the amount less than your gross retired pay, but in NO case less than $300, to which the 55% is to be applied to determine the amount of the annuity. In the event your monthly retired pay is $300 or less, the cost of providing your survivor with 55% of your full retired pay (no lesser amount is permitted) is 2½% of your retired pay.

If you are currently participating in the Retired Serviceman's Family Protection Plan (RSFPP), the cost of your coverage is shown below for informational purposes. The law gives you three (3) options as a present participant in RSFPP. These options are: (1) continue RSFPP and not join Survivor Benefit Plan, (2) drop RSFPP and join Survivor Benefit Plan, and (3) continue RSFPP and join Survivor Benefit Plan to provide a total survivor annuity not to exceed 100% of your retired pay, calculated at the time of election in the new program. Under this third option you may reduce the amount of coverage under RSFPP as you see fit.

If you retired prior to 21 September 1972, you have one calendar year in which to elect to participate in the Plan.

If you retired within 180 days after enactment of the Survivor Benefit Plan you have 180 days from your date of retirement as shown below to elect NOT to participate in the PLAN. Unless you specifically elect NOT to participate, you are considered in the PLAN and cost deductions will be made from your retired pay at maximum coverage.

Your election form is enclosed You should keep this letter with your copy of the election form on the reverse for your records. Your spouse and/or children, or natural person with an insurable interest (which is explained in the Retired Army Bulletin) should be informed of your election. The separate election form must be completed, signed, sealed, and mailed. It should be noted that a pre-addressed return envelope which requires no postage is enclosed

If you have not received a copy of the special issue of the RETIRED ARMY BULLETIN, a copy should be requested from the Retired Pay Division, U.S. Army Finance Support Agency, Indianapolis, IN 46249. You request should include your signature, your SSAN, and an address to which the Survivor Benefit Plan information can be sent. To assure earliest coverage or non-coverage for your beneficiaries, the election form should be completed and mailed promptly.

Ms. LANDRIEU. I thank the Chair for consideration of that amendment at the appropriate time.

## EDUCATION

Ms. LANDRIEU. Madam President, the second amendment I wish to talk about for a moment and offer tomorrow for a vote is not about the military; it is about education. I was in the Chamber earlier today speaking about education. Let me recap.

Senator MURRAY offered an amendment which I was pleased to vote for, proud to vote for. Although it only received 48 votes, I think it was one of the most important amendments we discussed all day. The reason I say that is because one of the major platforms of this administration when this President took office—I can remember the speeches. I sat in the great room of the House Chamber and listened to the State of the Union speeches. I will paraphrase, but I heard this.

I heard the leader of our country say we are not doing enough in education; that our schools were not doing what they should do, and that he had a plan. If we would just stop throwing money at the system, if we would start expecting success, not funding failure, if we would embrace accountability, if we would make sure all of our teachers were certified, and if we would really work together across party lines and come up with a new plan for public education in our Nation, that is what we should do.

I was convinced, committed, and worked very hard to see that bill pass, and it passed. That was the No Child Left Behind Act. It was not a big lift for me for a number of reasons.

I am very proud of my State because before we entered into this agreement at the Federal level, the State of Louisiana was one of about five States in the Union that was pioneering this exact concept. It said for 150 years we have just thrown money at the system not really requiring or expecting good results and not really measuring our commitment of dollars based on the results we were getting, and that did not seem to make sense. So we switched our system, holding all schools accountable, not just for the averages for the subgroups of children—African Americans, rural children, poor children—but making sure we were not leaving anybody out.

We were well on our way. Louisiana was doing great. Then this administration came in and said: Your plan, although you like it and the people of Louisiana like it and you are making progress, I do not think it is strong enough. He, the leadership, pushed this country into an even stricter plan. The leadership, the administration, said: If you go there, I will be there. I will help and provide the funding in the budget for No Child Left Behind.

One of the reasons I am going to vote against this budget tomorrow is because that did not come true, because it is short $9 billion. For Louisiana, it means about $200 million.

I have schools that have been rated as in need of improvement. They are trying so hard, and they are doing a beautiful job. But they need to hire a few more teachers. This administration said it would be there to help hire the teachers. The President said that, but it is not in his budget, and it is not in the budget in the chairman's mark to help them.

Unfortunately, one of the small items that is in the budget which really pours salt on the wound is, while we do not have the $9 billion for No Child Left Behind, I want to share with everyone what is in the budget, which is very hard to read. What is in the budget is $50 million to send kids from public schools to private schools, basically. It reserves $50 million for school choice initiatives that move children from public schools to private schools.

Now we have the situation where we are not going to fund taking children from lower performing schools to move them into higher performing public schools, but we are going to specifically provide additional money to move them into private schools.

For the record, in Chicago, under the President's plan, 125,000 students were eligible for transfer, meaning that 125,000 students found themselves in schools that did not make the mark.

They requested a transfer to a higher performing public school, which is one of the promises of No Child Left Behind, but only 3,000 were transferred. Why? Because there is no space. Why? Because they do not have the money to hire additional teachers. Why? Because the President's budget specifically prohibits money from being used for school construction, because the Republican leadership, led by President Bush, does not want money spent on school construction.

I do not know how children are moved from a lower performing school to a higher performing school if the higher performing school is filled unless classrooms are added, expanded, or teachers are added. Because he flat-funded the teacher section and prohibits money from being used to build additional schools, I am not quite sure how our superintendents, Democrats or Republicans, are going to handle it, but they have a real challenge before them.

In Los Angeles, we have 230,000 children who are eligible for transfer. I do not think anybody in the Chamber could guess how many actually were transferred. One hundred students. Two hundred thirty thousand children are eligible, and 100 were transferred.

I learned today, and I am going to submit for the RECORD, if I can verify it—and if not, I will remove this from the Record—there has not been a new school built in L.A. in the last 20 years. That may not be correct, but I want to say it tonight. If it is not, I will remove it from the RECORD. L.A. is growing so fast, and these children have no place to go, and this budget does not help them get anywhere. It says instead of helping children go to new public schools, we are going to send them to private schools.

Of course, there are no spaces in the private schools, either, so I am not sure where we are going to send them.

In Baltimore, 30,000 children—that is this year—last year were eligible for transfer. Only 194 were transferred. In New Orleans, in my home city, 35,000 children were in failing schools. Only 400 were transferred. The rest were denied because of lack of space in higher performing schools.

My amendment is going to remove the $50 million, and say no money can be spent in this budget sending children to private schools until we provide options for them to go to public schools. Many of these families would choose public schools, but according to this budget they cannot go because we will not help them add teachers, and they are strictly prohibited from using the money for school construction in this budget.

Those are the two amendments: One to help spouses in the military. I think we can find a few million dollars to help them and I am hoping to take this out of the budget so we can keep our priorities straight, which is helping all schools with the best we can, but living up to our promises of No Child Left Behind first.

When we have funded that effort, which is not just any other Government program—I know we do not fund every Government program at the authorized levels, but this is different. This was a special promise made. This was the foundation of a new beginning for our public schools. This was a promise that was made to the people of our country, and it is a promise that is not fulfilled in this budget, which is why, again, I will vote against it, and I will be pleased to offer these amendments in the morning.

I yield back my time.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 11:02 p.m., adjourned until Thursday, March 11, 2004, at 9:30 a.m.

# EXTENSIONS OF REMARKS

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 11, 2004 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### MARCH 18

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Air Force Sergeants Association, the Retired Enlisted Association, Gold Star Wives of America, and the Fleet Reserve Association.
345 CHOB

### MARCH 23

9:30 a.m.
Armed Services
To hold hearings to examine atomic energy defense activities of the Department of Energy relating to the Defense Authorization request for fiscal year 2005.
SD–106

10 a.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Department of Energy's Office of National Nuclear Security Administration.
SD–192

Health, Education, Labor, and Pensions
Substance Abuse and Mental Health Services Subcommittee
To hold hearings to examine mental health services.
SD–430

### MARCH 24

9:30 a.m.
Indian Affairs
To hold hearings to examine S. 1529, to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees.
SR–485

2 p.m.
Armed Services
Airland Subcommittee
To hold hearings to examine Navy and Air Force aviation programs in review of the Defense Authorization request for fiscal year 2005 and future years defense program.
SR–232A

### MARCH 25

9:30 a.m.
Armed Services
To hold hearings to examine the role of the U.S. Northern Command and U.S. Special Operations Command in defending the homeland and in the global war on terrorism, in review of the defense authorization request for fiscal year 2005; to be followed by a closed session in SH–219.
SH–216

10 a.m.
Health, Education, Labor, and Pensions
Employment, Safety, and Training Subcommittee
To hold hearings to examine MSDS and OSHA hazardous commission.
SD–430

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the National Association of State Directors of Veterans Affairs, AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Officers Association of America.
345 CHOB

2:30 p.m.
Armed Services
Strategic Forces Subcommittee
To hold hearings to examine national security space programs and management in review of the Defense Authorization request for fiscal year 2005.
SR–232A

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings to examine S. 1085, to provide for a Bureau of Reclamation program to assist states and local communities in evaluating and developing rural and small community water supply systems, and S. 1732, to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents.
SD–366

### MARCH 30

10 a.m.
Energy and Natural Resources
To hold hearings to examine the implementation of the Energy Employees Occupational Illness Compensation Program Act of 2000.
SD–366

### MARCH 31

10 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

### SEPTEMBER 21

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.
345 CHOB

# *Daily Digest*

## HIGHLIGHTS

**The House passed H.R. 339, Personal Responsibility in Food Consumption Act.**

# Senate

## *Chamber Action*

***Routine Proceedings, pages S2465–S2589***

**Measures Introduced:** Seven bills and one resolution were introduced, as follows: S. 2187–2193, and S. Res. 317. **Page S2543**

**Measures Reported:**

S. 1904, to designate the United States courthouse located at 400 North Miami Avenue in Miami, Florida, as the ''Wilkie D. Ferguson, Jr. United States Courthouse''.

S. 2022, to designate the Federal building located at 250 West Cherry Street in Carbondale, Illinois the ''Senator Paul Simon Federal Building''.

S. 2043, to designate a Federal building in Harrisburg, Pennsylvania, as the ''Ronald Reagan Federal Building''. **Page S2543**

**Measures Passed:**

***Congratulating University of Delaware Men's Football Team:*** Committee on the Judiciary was discharged from further consideration of H. Con. Res. 355, congratulating the University of Delaware men's football team for winning the National Collegiate Athletic Association I–AA national championship, and the resolution was then agreed to.

**Pages S2584–85**

**Budget Resolution:** Senate continued consideration of S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009, taking action on the following amendments proposed thereto:

**Pages S2465–S2537**

Adopted:

Graham (SC) Modified Amendment No. 2731, to enhance military readiness by creating a reserve fund to provide TRICARE benefits for members of the Selected Reserve of the Ready Reserve, fully offset through reductions including unobligated balances from Iraqi reconstruction, and a reserve fund to provide Montgomery GI Bill benefits to members of the Selected Reserves. **Pages S2493–98**

By 95 yeas to 4 nays (Vote No. 37), Warner Amendment No. 2742, to increase the amounts provided for national defense for fiscal year 2005 for new budget authority and for outlays.

**Pages S2506–10, S2517–18**

By 51 yeas to 48 nays (Vote No. 38), Feingold Amendment No. 2748, to fully reinstate the pay-as-you-go requirement. **Pages S2510–16, S2518**

By 53 yeas to 43 nays (Vote No. 39), Baucus Amendment No. 2751, to strike the outlay reconciliation instruction to the Committee on Finance.

**Pages S2518–25, S2531**

Rejected:

By 46 yeas to 52 nays (Vote No. 35), Murray Amendment No. 2719, to fully fund the No Child Left Behind Act for fiscal year 2005 and lower the national debt by closing tax loopholes.

**Pages S2469–92**

By 47 yeas to 52 nays (Vote No. 36), Byrd Amendment No. 2735, to provide for consideration of tax cuts outside of reconciliation.

**Pages S2498–S2506, S2516–17**

By 46 yeas to 51 nays (Vote No. 40), Nelson (FL) Amendment No. 2745, to create a reserve fund to allow for an increase in Veterans' medical care by $1.8 billion by eliminating abusive tax loopholes.

**Pages S2529–31**

Withdrawn:

Voinovich Amendment No. 2705, to establish a 60–vote point of order relative to the Social Security Trust Fund. **Pages S2525–29, S2531**

Pending:

Corzine Amendment No. 2777, to eliminate tax breaks for those with incomes greater than $1 million and reserve the savings to prevent future cuts in Social Security benefits. **Pages S2532–37**

A unanimous-consent agreement was reached providing for further consideration of the resolution, at

9:30 a.m., on Thursday, March 11, 2004; provided further, that there be 14 hours equally divided remaining for debate under the statutory limit.

Page S2585

**Messages From the House:** Page S2543

**Measures Referred:** Page S2543

**Measures Read First Time:** Pages S2543, S2585

**Executive Reports of Committees:** Page S2543

**Additional Cosponsors:** Pages S2543–45

**Statements on Introduced Bills/Resolutions:** Pages S2545–61

**Additional Statements:** Pages S2541–43

**Amendments Submitted:** Pages S2561–82

**Notices of Hearings/Meetings:** Page S2582

**Authority for Committees to Meet:** Pages S2582–84

**Privilege of the Floor:** Page S2584

**Record Votes:** Six record votes were taken today. (Total—40) Pages S2492, S2517, S2518, S2531

**Adjournment:** Senate convened at 9:30 a.m., and adjourned at 11:02 p.m., until 9:30 a.m., on Thursday, March 11, 2004. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S2585.)

# *Committee Meetings*

*(Committees not listed did not meet)*

## APPROPRIATIONS: DEPARTMENT OF DEFENSE

*Committee on Appropriations:* Subcommittee on Defense concluded a hearing to examine proposed budget estimates for fiscal year 2005 for the U.S. Navy and U.S. Marine Corps, after receiving testimony from Gordon R. England, Secretary of the Navy; Admiral Vern Clark, U.S. Navy, Chief of Naval Operations; and General Michael W. Hagee, Commandant of the Marine Corps, U.S. Marine Corps.

## DEFENSE AUTHORIZATION

*Committee on Armed Services:* Subcommittee on Emerging Threats and Capabilities concluded open and closed hearings to examine the Defense Authorization Request for Fiscal Year 2005, focusing on the defense nuclear nonproliferation programs of the Department of Energy and the Cooperative Threat Reduction programs of the Department of Defense, after receiving testimony from Paul M. Longsworth, Deputy Administrator for Defense Nuclear Nonproliferation, National Nuclear Security Administration, Department of Energy; and Lisa Bronson, Deputy Under Secretary of Defense for Technology Security Policy and Counterproliferation.

## DEPARTMENT OF DEFENSE AUTHORIZATION

*Committee on Armed Services:* Subcommittee on Seapower concluded a hearing to examine the proposed Department of Defense authorization request for fiscal year 2005 and the Future Years Defense Program, focusing on the posture of the U.S. Transportation Command, after receiving testimony from General John W. Handy, USAF, Commander, U.S. Transportation Command, U.S. Air Force; Major General Ann E. Dunwoody, USA, Commanding General, Surface Deployment and Distribution Command, U.S. Army; and Vice Admiral David L. Brewer III, USN, Commander, Military Sealift Command, U.S. Navy.

## MUTUAL FUND INDUSTRY

*Committee on Banking, Housing, and Urban Affairs:* Committee held hearings to examine current investigations and regulatory actions regarding the mutual fund industry, receiving testimony from David M. Walker, Comptroller General of the United States, General Accounting Office; Lori A. Richards, Director, Office of Compliance Inspections and Examinations, and Paul F. Roye, Director, Division of Investment Management, both of the U.S. Securities and Exchange Commission; and Mary L. Schapiro, NASD, Washington, D.C.

Hearing recessed subject to the call of the chair.

## ARGENTINA

*Committee on Banking, Housing, and Urban Affairs:* Subcommittee on International Trade and Finance concluded a hearing to examine Argentina's current economic and political situation, focusing on the bilateral relationship between the United States and Argentina, after receiving testimony from Roger F. Noriega, Assistant Secretary of State for Western Hemisphere Affairs; Randal K. Quarles, Assistant Secretary of Treasury for International Affairs; Adam Lerrick, Carnegie Mellon University Graduate School of Industrial Administration, Pittsburgh, Pennsylvania; and Michael Mussa, Institute of International Economics, Washington, D.C.

## STEROIDS AND SPORTS

*Committee on Commerce, Science, and Transportation:* Committee concluded a hearing to examine the scope of steroid use in professional and amateur sports, focusing on certain drug treatment and prevention programs, after receiving testimony from Senator Biden; Representative Sweeney; Allan H. Selig, Major League Baseball, Milwaukee, Wisconsin;

Donald M. Fehr, Major League Baseball Players Association, and Paul J. Tagliabue, National Football League, both of New York, New York; Eugene Upshaw, National Football League Players Association, Washington, D.C.; and Terrance P. Madden, United States Anti-Doping Agency, Colorado Springs, Colorado.

## MARS EXPLORATION PROGRAM

*Committee on Commerce, Science, and Transportation:* Subcommittee on Science, Technology and Space concluded a hearing to examine NASA/Mars exploration program, focusing on the information learned from the recent landings of twin Mars Exploration Rovers, Spirit and Opportunity, after receiving testimony from Edward J. Weiler, Associate Administrator for Space Science, Orlando Figueroa, Director of Solar System Exploration, and James Garvin, Lead Scientist for Mars and Lunar Exploration Programs, all of National Aeronautics and Space Administration.

## BUSINESS MEETING

*Committee on Energy and Natural Resources:* Committee ordered favorably reported the following business items:

S. 1307, to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects, with an amendment in the nature of a substitute;

S. 1355, to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, with an amendment in the nature of a substitute;

S. 1421, to authorize the subdivision and dedication of restricted land owned by Alaska Natives, with an amendment in the nature of a substitute;

H.R. 2696, to establish Institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems of the interior West; and

The nomination of Susan Johnson Grant, of Virginia, to be Chief Financial Officer, Department of Energy.

## PUBLIC LANDS

*Committee on Energy and Natural Resources:* Subcommittee on Public Lands and Forests to examine S. 1354, to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, S. 1575 and H.R. 1092, bills to direct the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada, S. 1778, to authorize a land conveyance between the United States and the City of Craig, Alaska, S. 1819 and H.R. 272, bills 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, and H.R. 3249, to extend the term of the Forest Counties Payments Committee, after receiving testimony from Mark Rey, Under Secretary of Agriculture for Natural Resources and Environment; Tom Lonnie, Assistant Director, Minerals, Realty and Resource Protection, Bureau of Land Management, Department of the Interior; Mayor Dennis Watson, Craig, Alaska; Marilyn Blair, Cape Fox Corporation, Ketchikan, Alaska; Buck Lindekugel, Southeast Alaska Conservation Council, Juneau; and Dennis E. Wheeler, Coeur d'Alene Mines Corporation, Coeur d'Alene, Idaho.

## BUSINESS MEETING

*Committee on Environment and Public Works:* Committee ordered favorably reported the following bills:

S. 1904, to designate the United States courthouse located at 400 North Miami Avenue in Miami, Florida, as the "Wilkie D. Ferguson, Jr. United States Courthouse";

S. 2022, to designate the Federal building located at 250 West Cherry Street in Carbondale, Illinois the "Senator Paul Simon Federal Building"; and

S. 2043, to designate a Federal building in Harrisburg, Pennsylvania, as the "Ronald Reagan Federal Building.

## EPA BUDGET

*Committee on Environment and Public Works:* Committee concluded a hearing to examine the President's proposed fiscal year 2005 budget request for the Environmental Protection Agency, after receiving testimony from Michael O. Leavitt, Administrator, Environmental Protection Agency.

## U.S.-MIDDLE EAST ECONOMIC POLICY

*Committee on Finance:* Committee concluded a hearing to examine United States economic and trade policy in the Middle East, focusing on the impact of Free Trade Agreements (FTA), commercial diplomacy, private sector development and trade promotion, information technology for business development, financial reform and the development of capital markets, the Generalized System of Preferences (GSP), and promotion of good business practices and improving the investment climate, after receiving testimony from Senator McCain; Grant D. Aldonas, Under Secretary of Commerce for International Trade; Alan P. Larson, Under Secretary of State for Economic, Business, and Agricultural Affairs; David L. Mack, Middle East Institute, and William A.

Maxwell, Hewlett-Packard Company, both of Washington, D.C.; and Doug Boisen, National Corn Growers Association, Minden, Nebraska.

## NONPROLIFERATION AND ARMS CONTROL

*Committee on Foreign Relations:* Committee concluded a hearing to examine nonproliferation and arms control issues, focusing on strategic choices, weapons of mass destruction (WMD), and the Nuclear Nonproliferation Treaty, after receiving testimony from William J. Perry, Stanford University Center for International Security and Cooperation, Stanford, California, former Secretary of Defense; Arnold Kanter, Scowcroft Group, Washington, D.C.; and Ashton B. Carter, Harvard University Kennedy School of Government, Cambridge, Massachusetts.

## HAITI

*Committee on Foreign Relations:* Subcommittee on Western Hemisphere, Peace Corps, and Narcotics Affairs concluded a hearing to examine the future of U.S.-Haitian relations, focusing on exit strategies and troop departure deadlines, free elections, and economic reforms, after receiving testimony from Senators DeWine and Graham (FL); Representatives Cummings, and Waters; Roger Noriega, Assistant Secretary of State, Bureau of Western Hemisphere Affairs; Adolfo Franco, Assistant Administrator, Bureau for Latin America and the Caribbean, U.S. Agency for International Development; James Dobbins, RAND Corporation, Lawrence Pezzullo, former U.S. Special Envoy to Haiti, Robert Maguire, Trinity College, and Michael Heinl, all of Washington, D.C.

## INDIAN TRUST REFORM

*Committee on Indian Affairs:* Committee concluded an oversight hearing to examine the proposed reorganization of major agencies and functions related to Indian trust reform matters within the Department of the Interior, after receiving testimony from Senator Daschle; Dave Anderson, Assistant Secretary of the Interior for Indian Affairs, and Ross O. Swimmer, Special Trustee for American Indians, both of the Department of the Interior; Tex G. Hall, National Congress of American Indians, Washington, D.C.; Joe Shirley, Jr., Navajo Nation, Window Rock, Arizona; Edward K. Thomas, Central Council of the Tlingit and Haida Indian Tribes of Alaska, Juneau; Harold Frazier, Cheyenne River Sioux Tribe, Eagle Butte, South Dakota, on behalf of the Great Plains Tribal Chairman's Association; and Clifford Lyle Marshall, Hoopa Valley Tribal Council, Hoopa, California.

## FLAG DESECRATION

*Committee on the Judiciary:* Committee concluded a hearing to examine S.J. Res. 4, proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States, after receiving testimony from Daniel J. Bryant, Assistant Attorney General for Legal Policy, Department of Justice; Major General Patrick H. Brady, USA (Ret.), Citizens Flag Alliance, Inc., Sumner, Washington; Lawrence J. Korb, Center for American Progress, Washington, D.C., former Assistant Secretary of Defense; John Andretti, NASCAR Nextel Cup Series, Mooresville, North Carolina; Gary E. May, University of Southern Indiana, Evansville; and Richard D. Parker, Harvard University Law School, Cambridge, Massachusetts.

## NOMINATIONS

*Committee on the Judiciary:* Committee concluded a hearing to examine the nominations of Peter W. Hall, of Vermont, to be United States Circuit Judge for the Second Circuit, who was introduced by Senators Leahy and Jeffords; Jane J. Boyle, to be United States District Judge for the Northern District of Texas, who was introduced by Senators Hutchison and Cornyn; Marcia G. Cooke, to be United States District Judge for the Southern District of Florida, who was introduced by Senator Bill Nelson; and Walter D. Kelley, Jr., to be United States District Judge for the Eastern District of Virginia, who was introduced by Senators Warner and Allen, after each nominee testified and answered questions in their own behalf.

## SECTION 527 ORGANIZATIONS AND CAMPAIGN FINANCE

*Committee on Rules and Administration:* Committee concluded a hearing to examine the scope and operation of certain tax-exempt organizations registered under Section 527 of the Internal Revenue Code, focusing on their impact on campaign finance laws and federal elections, after receiving testimony from Senators Feingold and Senator McCain; Lawrence Noble, Center for Responsive Politics, Washington, D.C.; and Edward B. Foley, Ohio State University Moritz College of Law, Columbus.

# House of Representatives

## Chamber Action

**Measures Introduced:** 11 public bills, H.R. 3925–3935; and; 5 resolutions, H. Con. Res. 380–381, and H. Res. 553, 555–556 were introduced. **Page H1010**

**Additional Cosponsors:** **Page H1010**

**Reports Filed:** Reports were filed today as follows:

H. Res. 554, providing for consideration of H.R. 3717, to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language (H. Rept. 108–436). **Page H1010**

**Speaker:** Read a letter from the Speaker wherein he appointed Representative Rehberg to act as Speaker Pro Tempore for today. **Page H929**

**Chaplain:** The prayer was offered today by Rev. Dr. William J.P. Doubek III, National Chaplain, The American Legion in Washington DC. **Page H929**

**Journal:** The House agreed to the Speaker's approval of the Journal of Tuesday, March 9, by a yea-and-nay vote of 353 yeas to 41 nays with one voting "present", Roll No. 45. **Page H931**

**Suspensions:** The House agreed to suspend the rules and pass the following measures:

***Medical Devices Technical Corrections Act:*** Debated on March 9, S. 1881, amended, to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments by the Medical Device User Fee and Modernization Act of 2002, by a 2/3 yea-and-nay vote of 396 yeas with none voting "nay", Roll No. 46; **Pages H931–32**

***Sense of Congress that "Kids Love a Mystery" is a program that works and should be encouraged:*** Debated on March 9, H. Con. Res. 373, expressing the sense of Congress that Kids Love a Mystery is a program that promotes literacy and should be encouraged, by a yea-and-nay vote of 388 yeas to 11 nays with one voting "present", Roll No. 47; **Pages H932–33**

***State Justice Institute Reauthorization Act:*** H.R. 2714, amended, to reauthorize the State Justice Institute; and **Pages H942–44**

***Cooperative Research and Technology Enhancement (CREATE) Act:*** H.R. 2391, amended, to amend title 35, United States Code, to promote research among universities, the public sector, and private enterprise. **Pages H944–46**

Agreed to amend the title so as to read: to amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises. **Page H946**

***Providing for an additional temporary extension of programs under the Small Business Act and Small Business Investment Act of 1958 through May 21, 2004:*** H.R. 3915, amended, to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through May 21, 2004. **Pages H990–91**

Agreed to amend the title so as to read: to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through April 2, 2004. **Page H991**

**Personal Responsibility in Food Consumption Act:** The House passed H.R. 339, to prevent frivolous lawsuits against the manufacturers, distributors, or sellers of food or non-alcoholic beverage products that comply with applicable statutory and regulatory requirements, by a yea-and-nay vote of 276 yeas to 139 nays, Roll No. 54. **Pages H933–42, H946–82**

Agreed to amend the title so as to read: a bill to prevent legislative and regulatory functions from being usurped by civil liability actions brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for claims of injury relating to a person's weight gain, obesity, or any health condition associated with weight gain or obesity. **Page H981**

The amendment in the nature of a substitute recommended by the Committee on the Judiciary, now printed in the bill, was considered as an original bill for the purpose of amendment. **Page H981**

Agreed to:

Sensenbrenner amendment (no. 5 printed in the Congressional Record of March 9) that makes technical changes to the bill and strikes the section that permits civil liability lawsuits to be brought regarding the sale of adulterated food as defined by the Federal Food, Drug, and Cosmetic Act and clarifies that the definition of qualified civil liability action should not be construed to include an action brought under the Federal Trade Commission Act or the Federal Food, Drug, and Cosmetic Act. **Pages H954–55**

Rejected:

Inslee amendment (no. 3 printed in the Congressional Record of March 9) that sought to permit civil actions against food manufacturers or sellers

who negligently violate federal or state statutes regarding the manufacturing, marketing, distribution, advertisement, labeling, or sale of a food product;

**Pages H961–64**

Scott of Virginia amendment (no. 6 printed in the Congressional Record of March 9) that sought to provide that the bill would not apply to an action brought by a State agency to enforce a State consumer protection law concerning mislabeling or other unfair and deceptive trade practices (rejected by a recorded vote of 177 ayes to 241 noes, Roll No. 48); **Pages H955–57, H968–69**

Watt amendment (no. 7 printed in the Congressional Record of March 9) that sought to apply the provisions of the bill only to cases brought in federal court (rejected by a recorded vote of 158 ayes to 261 noes, Roll No. 49); **Pages H957–59, H969**

Andrews amendment (no. 2 printed in the Congressional Record of March 9) that sought to permit civil liability suits to be brought in cases related to a food that contains a genetically engineered material unless the labeling for such food bears a statement providing that the food contains such material and the labeling indicates which of the ingredients of the food are or contain such material (rejected by a recorded vote of 129 ayes to 285 noes, Roll No. 50);

**Pages H959–61, H969–70**

Ackerman amendment (no. 1 printed in the Congressional Record of March 9) that sought to change the definition in the bill of a ''manufacturer'' and ''seller'' so that it does not include any slaughtering, packing, meat canning, rendering, or similar establishment that manufactures or distributes for human consumption any cattle, sheep, swine, goats, or horses, mules, or other equines, that, at the point of inspection, are unable to stand or walk unassisted at such establishment (rejected by a recorded vote of 141 ayes to 276 noes, Roll No. 51);

**Pages H964–68, H970–71**

Lampson amendment (no. 4 printed in the Congressional Record of March 9) that sought to provide that the bill would not apply to an action brought by, or on behalf of, a child or person injured at or before the age of 8, against a seller that, as part of a chain of outlets at least 20 of which do business under the same trade name, markets qualified products to minors at or under the age of 8;

**Pages H971–72**

Jackson-Lee amendment (no. 9 printed in the Congressional Record of March 9) that sought to prohibit civil lawsuits by a food manufacturer or seller or trade association against an individual;

**Pages H973–74**

Jackson-Lee amendment (no. 10 printed in the Congressional Record of March 9) that sought to provide that the bill would not apply to civil actions alleging that a product claiming to assist in weight loss caused heart disease, heart damage, primary pulmonary hypertension, neuropsychologocal damage, or any other complication which may also be generally associated with a person's weight gain or obesity (rejected by a recorded vote of 166 ayes to 250 noes, Roll No. 52); and **Pages H974–76, H979–80**

Watt amendment (no. 8 printed in the Congressional Record of March 9) that sought to strike the section of the bill that dismisses all civil liability actions pending at the time of the bill's enactment (by a recorded vote of 164 ayes to 249 noes, Roll No. 53). **Pages H976–81**

H. Res. 552, the rule providing for consideration of the bill was agreed to by a voice vote.

**Pages H933–42**

**Committee Election:** The House agreed to H. Res. 553, electing Representatives Tiberi and Harris to the Committee on Government Reform. **Page H982**

**Suspensions—Proceedings Postponed:** The House completed debate on the following measures to suspend the rules. Further proceedings were postponed until Thursday, March 11.

***Commending India on its celebration of Republic Day:*** H. Con. Res. 15, commending India on its celebration of Republic Day; and **Pages H982–85**

***Expressing the condolences of the House for the untimely death of Macedonian President Boris Trajkovski:*** H. Res. 540, expressing the condolences and deepest sympathies of the House of Representatives for the untimely death of Macedonian President Boris Trajkovski. **Pages H985–90**

**National Prison Rape Reduction Commission:** The Speaker announced his appointment of Pat Nolan of Leesburg, VA to the National Prison Rape Reduction Commission. **Page H991**

**Recess:** The House recessed at 6:46 p.m. and reconvened at 7:43 p.m.

**Discharge Petition:** Representative Turner moved to discharge the Committee on Rules from the consideration of H. Res. 523, providing for consideration of H.R. 594, to amend title II of the Social Security Act to repeal the government pension offset and windfall elimination provisions (Discharge Petition No. 6).

**Quorum Calls—Votes:** Four yea-and-nay votes and six recorded votes developed during the proceedings today and appear on pages H931, H931–32, H932–33, H968–69, H969, H970, H970–71, H979–80, H980–81, and H981. There were no quorum calls.

**Adjournment:** The House met at 10:00 a.m. and adjourned at 10:32 p.m.

# Committee Meetings

## AGRICULTURE, RURAL DEVELOPMENT, FDA, AND RELATED AGENCIES APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies held a hearing on Research, Education and Extension. Testimony was heard from the following officials of the USDA: Joseph J. Jen, Under Secretary, Education and Economics; Edward B. Knipling, Acting Administrator, Agricultural Research Service; Colien Hefferan, Administrator, Cooperative State Research, Education and Extension Service; Susan E. Offutt, Administrator, Economic Research Service; R. Ronald Bosecker, Administrator, National Agricultural Statistics Services; and Stephen B. Dewhurst, Budget Officer.

## COMMERCE, JUSTICE, STATE, JUDICIARY AND RELATED AGENCIES APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Commerce, Justice, State, Judiciary and Related Agencies held a hearing on Department of State, Administration of Foreign Affairs. Testimony was heard from the following officials of the Department of State: Richard L. Armitage, Deputy Secretary; and Grant Green, Under Secretary, Management.

## DEFENSE APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Defense held a hearing on Army Budget Overview. Testimony was heard from the following officials of the Department of the Army: Les Brownlee, Acting Secretary; and Gen. Peter Schoomaker, USA, Chief of Staff.

The Subcommittee also met in executive session to hold a hearing on Army Acquisition Programs. Testimony was heard from the following officials of the Department of the Army: Gen. Claude M. Boulton, USA, Assistant Secretary Acquisitions, Logistics and Technology; and Brig. Gen. Jeffrey Sorenson, USA, Deputy, Systems Management to the Assistant Secretary of the Army.

## ENERGY AND WATER DEVELOPMENT APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Energy and Water Development held a hearing on the U.S. Army Corps of Engineers. Testimony was heard from John Paul Woodley, Assistant Secretary of the Army (Civil Works) and the following officials of the U.S. Army Corps of Engineers: LTG. Robert B. Flowers, USA, Chief, Engineers; MG. Carl A. Strock, Director, Civil Works; and Robert F. Vining, Chief, Programs Management Division, Civil Works Directorate.

## FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Foreign Operations, Export Financing and Related Programs held a hearing on the Secretary of State. Testimony was heard from Colin L. Powell, Secretary of State.

## INTERIOR AND RELATED AGENCIES APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Interior and Related Agencies held a hearing on Indian Health Services. Testimony was heard from Charles W. Grim, D.D.S., Director, Indian Health Services, Department of Health and Human Services.

## LABOR, HHS, EDUCATION AND RELATED AGENCIES APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Labor, Health and Human Services, Education and Related Agencies held a hearing on the Centers for Medicare and Medicaid Services. Testimony was heard from Dennis Smith, Acting Administrator, Centers for Medicare and Medicaid Services, Department of Health and Human Services.

The Subcommittee also held a hearing on the Agency for Healthcare Research and Quality. Testimony was heard from Carolyn Clancy, M.D., Director, Agency for Healthcare Research and Quality, Department of Health and Human Services.

## MILITARY CONSTRUCTION APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Military Construction held a hearing on Budget Overview. Testimony was heard from the following officials of the Department of Defense: Dove S. Zakheim, Under Secretary, Comptroller/Chief Financial Officer; and Raymond F. DuBois, Deputy Under Secretary, Installations and Environment.

## TRANSPORTATION, TREASURY AND INDEPENDENT AGENCIES APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Transportation, Treasury and Independent Agencies held a hearing on GSA. Testimony was heard from Stephen A. Perry, Administrator, GSA.

## FISCAL YEAR 2005 NATIONAL DEFENSE AUTHORIZATION BUDGET REQUEST—TOTAL FORCE ADEQUACY

*Committee on Armed Services:* Subcommittee on Total Force held a hearing on the Fiscal Year 2005 National Defense Authorization Budget Request on the

Adequacy of the Total Force. Testimony was heard from the following officials of the Department of Defense: Lt. Gen. James E. Cartwright, USMC, Director, Force Structure, Resources and Assessment (J8), Joint Chiefs of Staff; Lt. Gen. Richard A. Cody, USA, Deputy Chief of Staff, G–3. Headquarters; and Lt. Gen. Franklin L. Hagenbeck, USA, Deputy Chief of Staff, G1, Headquarters, both with the Department of the Army; Vice Adm. Kevin P. Green, USN, Deputy Chief of Naval Operations, Plans, Policy and Operations, Headquarters; and Vice Adm. Gerald Hoewing, USN, Chief of Naval Personnel and Deputy Chief of Naval Operations, Manpower and Personnel, Headquarters, both with the Department of the Navy; Lt. Gen. Duncan J. McNabb, USAF, Deputy Chief of Staff, Plans and Programs, Headquarters; and Lt. Gen. Richard Brown, USAF, Deputy Chief of Staff, Personnel, Headquarters, both with the Department of the Air Force; Lt. Gen. Jan C. Huly, USMC, Deputy Commandant, Plans, Policies and Operations, Headquarters; Lt. Gen. Garry L. Parks, USMC, Deputy Commander, Manpower and Reserve Affairs, Headquarters, both with the U.S. Marine Corps.

## CHILD NUTRITION IMPROVEMENT AND INTEGRITY ACT

*Committee on Education and the Workforce:* Ordered reported, as amended, H.R. 3873, Child Nutrition Improvement and Integrity Act.

## HEALTH CARE PRIORITIES REVIEW

*Committee on Energy and Commerce:* Held a hearing entitled ''A Review of the Administration's FY2005 Health Care Priorities.'' Testimony was heard from Tommy G. Thompson, Secretary of Health and Human Services.

## OVERSIGHT—SATELLITE HOME VIEWER IMPROVEMENT ACT

*Committee on Energy and Commerce:* Subcommittee on Telecommunications and the Internet held a hearing entitled ''Oversight of the Satellite Home Viewer Improvement Act.'' Testimony was heard from public witnesses.

## COIN AND MEDAL MEASURES

*Committee on Financial Services:* Subcommittee on Domestic and International Monetary Policy, Trade, and Technology approved for full Committee action the following measures: H.R. 1914, Jamestown 400th Anniversary Commemorative Coin Act of 2003; H.R. 2131, To award a congressional gold medal to President Jose Maria Aznar of Spain; H.R. 2768, John Marshall Commemorative Coin Act; and H.R. 3277, Marine Corps 230th Anniversary Commemorative Coin Act.

Prior to this action, the Committee held a hearing on these measures. Testimony was heard from William H. Rehnquist, Chief Justice, United States Supreme Court; Richard L. Armitage, Deputy Secretary, Department of State, J. Steven Griles, Deputy Secretary; Department of the Interior; and Gen. Carl E. Mundy, Jr., USMC (Ret.), 30th Commandant of the Marine Corps.

## DEPARTMENT OF HOMELAND SECURITY—MAKING FINANCIAL MANAGEMENT A PRIORITY

*Committee on Government Reform:* Subcommittee on Government Efficiency and Financial Management held an oversight hearing entitled ''Making Financial Management a Priority at DHS.'' Testimony was heard from the following officials of the Department of Homeland Security: Clark Kent Ervin, Inspector General; and Andrew Maner, Chief Financial Officer.

## FUTURE OF U.S.-LIBYAN RELATIONS

*Committee on International Relations:* Held a hearing on Weapons of Mass Destruction, Terrorism, Human Rights and the Future of U.S.-Libyan Relations. Testimony was heard from the following officials of the Department of State: William J.Burns, Assistant Secretary, Bureau of Near Eastern Affairs; and Paula A. DeSutter, Assistant Secretary, Bureau of Verification and Compliance; and public witnesses.

## HUMAN RIGHTS PRACTICES—REVIEW STATE DEPARTMENT ANNUAL REPORT

*Committee on International Relations:* Held a hearing on Human Rights Practices Around the World: A Review of the State Department's 2003 Annual Report. Testimony was heard from Lorne W. Craner, Assistant Secretary, Bureau of Democracy, Human Rights, and Labor, Department of State; and public witnesses.

## OVERSIGHT—FOREST SERVICE BUDGET

*Committee on Resources:* Subcommittee on Forests and Forest Health held an oversight hearing on the Fiscal Year 2005 President's Budget for the Forest Service. Testimony was heard from the following officials of the USDA: Mark Rey, Under Secretary, Natural Resources and Environment; and Dale Bosworth, Chief, Forest Service.

## BROADCAST DECENCY ENFORCEMENT ACT

*Committee on Rules:* Granted, by a vote of 9 to 2, a structured rule providing ninety minutes of general debate on H.R. 3717, Broadcast Decency Enforcement Act of 2004, equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. The rule waives all points of order against consideration of the

bill. The rule provides that the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill shall be considered as an original bill for the purpose of amendment, and shall be considered as read. The rule waives all points of order against the committee amendment in the nature of a substitute. The rule makes in order only those amendments to the committee amendment in the nature of a substitute which are printed in the Rules Committee report accompanying the resolution. The rule provides that the amendments made in order may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the amendments printed in the report. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Chairman Barton and Representatives Upton, Markey, Stupak, Price of North Carolina, Hinchey, Inslee and Watson.

### SPACE EXPLORATION—PERSPECTIVES ON PRESIDENT'S VISION

*Committee on Science:* Held a hearing on Perspectives on the President's Vision for Space Exploration. Testimony was heard from Lennard Fisk, Chairman, Space Studies Board, National Academy of Sciences; and public witnesses.

### SPIKE IN METAL PRICES

*Committee on Small Business:* Held a hearing entitled "Spike in Metal Prices: What Does it Mean for Small Manufacturers?" Testimony was heard from public witnesses.

### COAST GUARD AUTHORIZATION ACT

*Committee on Transportation and Infrastructure:* Subcommittee on Coast Guard and Maritime Transportation approved for full Committee action, as amended, H.R. 3879, Coast Guard Authorization Act for Fiscal Year 2005.

### SOCIAL SECURITY NUMBER AND INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER MISMATCHES AND MISUSE

*Committee on Ways and Means:* Subcommittee on Oversight and the Subcommittee on Social Security held a joint hearing on Social Security Number and Individual Taxpayer Identification Number Mismatches and Misuse. Testimony was heard from the following officials of the Department of the Treasury: Mark Everson, Commissioner; and Nina Olson, National Taxpayer Advocate, both with the IRS; and Pamela Gardiner, Acting Inspector General, Tax Administration; the following officials of the SSA: James B. Lockhart III, Deputy Commissioner; and Patrick P. O'Carroll, Assistant Inspector General, Investigations; and Michael Brostek, Director, Tax Issues, GAO.

### INTELLIGENCE COMMUNITY BUDGET REVIEW

*Permanent Select Committee on Intelligence:* Met in executive session to hold a hearing on Intelligence Community Budget overview. Testimony was heard from departmental witnesses.

### IRAQ AND AFGHANISTAN—COMMUNITY-MILITARY COORDINATION

*Permanent Select Committee on Intelligence:* Subcommittee on Terrorism and Homeland Security met in executive session to hold a hearing on Intelligence Community-Military Coordination in Iraq and Afghanistan. Testimony was heard from departmental witnesses.

### DEPARTMENT OF HOMELAND SECURITY PROPOSED INFORMATION ANALYSIS BUDGET

*Select Committee on Homeland Security:* Subcommittee on Intelligence and Counterterrorism held a hearing entitled "The Department of Homeland Security Proposed Information Analysis Budget for Fiscal Year 2005." Testimony was heard from Patrick M. Hughes, Assistant Secretary, Information Analysis, Department of Homeland Security.

## *Joint Meetings*

### STRENGTHENING RETIREMENT SECURITY

*Joint Economic Committee:* Committee concluded a hearing to examine issues relative to helping Americans save, focusing on the Save More Tomorrow plan (SmarT), Individual Retirement Accounts (IRAs), the Commission to Strengthen Social Security, improving financial education, and promoting automatic savings, after receiving testimony from Richard H. Thaler, University of Chicago Graduate School of Business, Chicago, Illinois; Robert C. Pozen, MFS Investment Management, Boston, Massachusetts; Ric Edelman, Edelman Financial Services, Fairfax, Virginia; and Peter R. Orszag, Urban-Brookings Tax Policy Center, Washington, D.C.

### LEGISLATIVE PRESENTATIONS: VFW

*Joint Hearing:* Senate Committee on Veterans' Affairs concluded joint hearings with the House Committee

on Veterans' Affairs to examine the legislative presentation of the Veterans of Foreign Wars of the United States, after receiving testimony from Edward S. Banas, Veterans of Foreign Wars of the United States, Washington, D.C.

## COMMITTEE MEETINGS FOR THURSDAY, MARCH 11, 2004

*(Committee meetings are open unless otherwise indicated)*

### Senate

*Committee on Appropriations:* Subcommittee on Interior, to hold hearings to examine proposed budget estimates for fiscal year 2005 for the Department of Agriculture's Forest Service, 9:30 a.m., SD–124.

Subcommittee on VA, HUD, and Independent Agencies, to hold hearings to examine proposed budget estimates for fiscal year 2005 for the National Aeronautics and Space Administration, 10 a.m., SD–106.

Subcommittee on Legislative Branch, to hold hearings to examine proposed budget estimates for fiscal year 2005 for the Library of Congress, 11 a.m., SD–138.

*Committee on Armed Services:* to hold hearings to examine missile defense in review of the Defense Authorization Request for fiscal year 2005, 9:30 a.m., SR–325.

Subcommittee on Airland, to hold hearings to examine Army Transformation in review of the defense authorization request for fiscal year 2005 and the future years defense program, 2 p.m., SR–232A.

*Committee on Commerce, Science, and Transportation:* to hold hearings to examine prescription drug importation and related matters, 10 a.m., SR–253.

*Committee on Energy and Natural Resources:* to hold hearings to examine S. 2086, to amend the Surface Mining Control and Reclamation Act of 1977 to improve the reclamation of abandoned mines, and S. 2049, to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes, 10 a.m., SD–366.

Full Committee, to hold hearings to examine the nomination of Sue Ellen Wooldridge, of Virginia, to be Solicitor of the Department of the Interior, 2:30 p.m., SD–366.

*Committee on Governmental Affairs:* to resume hearings to examine postal reform issues, focusing on sustaining the 9 million jobs in the $900 billion mailing industry, 9:30 a.m., SD–342.

*Committee on the Judiciary:* business meeting to consider pending calendar business, 9:30 a.m., SD–226.

*Select Committee on Intelligence:* to hold closed hearings to examine certain intelligence matters, 2:30 p.m., SH–219.

### House

*Committee on Agriculture,* Subcommittee on Speciality Crops and Foreign Agriculture Programs, hearing to review the Peanut Program, 10 a.m., 1300 Longworth.

*Committee on Appropriations,* Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, on FDA, 9:30 a.m., 2362A Rayburn.

Subcommittee on Commerce, State, Justice, Judiciary and Related Agencies, on Federal Judiciary, 10 a.m., H–309 Capitol.

Subcommittee on Energy and Water Development, on Secretary of Energy, 10 a.m., 2362B Rayburn.

Subcommittee on Homeland Security, on Border and Transportation Security, 10 a.m., and on Acting Administrator, Transportation Security Administration, 1 p.m., 2358 Rayburn.

Subcommittee on Labor Health and Human Services, Education and Related Agencies, on Secretary of Education, 10 a.m., 2358 Rayburn.

Subcommittee on VA, HUD and Independent Agencies, on Congressional Witnesses, 10 a.m., H–143 Capitol.

*Committee on Armed Services,* Subcommittee on Projection Forces, hearing on the Fiscal Year 2005 National Defense Authorization Budget Request—Navy Research and Development, Transformation and Future Navy Capabilities, 10 a.m., 2212 Rayburn.

Subcommittee on Readiness, hearing on the Fiscal Year 2005 National Defense Authorization Budget Request—Assessing the Adequacy of the Fiscal Year 2005 Budget to Meet Readiness Needs, 9 a.m., 2118 Rayburn.

Subcommittee on Terrorism, Unconventional Threats and Capabilities, hearing on the Fiscal Year 2005 National Defense Authorization Budget Request—Special Operations Command Oversight, 1 p.m., 2118 Rayburn.

*Committee on the Budget,* to mark up the following: Budget Resolution for Fiscal Year 2005; and other pending business, 10:15 a.m., 210 Cannon.

*Committee on Education and the Workforce,* hearing entitled "The Changing Nature of the Economy: The Critical Roles of Education and Innovation in creating Jobs & Opportunity in a Knowledge Economy," 10 a.m., 2175 Rayburn.

*Committee on Energy and Commerce,* Subcommittee on Commerce, Trade and Consumer Protection hearing entitled "College Recruiting: Are Student Athletes Being Protected?" 10 a.m., 2123 Rayburn.

*Committee on Government Reform,* hearing on the Complex Task of Coordinating Contracts Amid Chaos: The Challenges of Rebuilding a Broken Iraq, 2 p.m., 2154 Rayburn.

Subcommittee on Criminal Justice, Drug Policy and Human Resources, hearing entitled "Cervical Cancer and Human Papillomavirus," 11 a.m., 2247 Rayburn.

*Committee on International Relations,* Subcommittee on Africa, hearing on Sudan: Peace Agreement Around the Corner? 2 p.m., 2172 Rayburn.

*Committee on the Judiciary,* Subcommittee on Courts, the Internet, and Intellectual Property, oversight hearing on Section 115 of the Copyright Act: In Need of Update? 12 p.m., 2141 Rayburn.

Subcommittee on Immigration, Border Security, and Claims, oversight hearing entitled ''Funding for Immigration in the President's 2005 Budget,'' 10 a.m., 2141 Rayburn.

*Committee on Resources*, Subcommittee on Fisheries Conservation, Wildlife and Oceans, oversight hearing on the Administration's Fiscal Year 2005 budget requests for NOAA and the U.S. Fish and Wildlife Service, 10 a.m., 1324 Longworth.

*Committee on Rules*, Subcommittee on Legislative and Budget Process, hearing to assess the effectiveness of the current budget process and consider new reform and enforcement proposals, 1 p.m., H–313 Capitol.

*Committee on Science,* Subcommittee on Environment, Technology, and Standards, hearing on the Fiscal Year EPA Budget, 10 a.m., 2318 Rayburn.

*Committee on Veterans' Affairs,* Subcommittee on Health, hearing on the current status of Department of Veterans Affairs' post-traumatic stress disorder (PTSD) programs, 9:30 a.m., 334 Cannon.

*Committee on Ways and Means,* hearing on President's Bush's Trade Agenda, 10 a.m., 1100 Longworth.

*Permanent Select Committee on Intelligence,* executive, hearing on National Reconnaissance Program Budget, 10 a.m., H–405 Capitol.

Subcommittee on Intelligence Policy and National Security, executive, briefing on Global Intelligence Update, 9 a.m., H–405 Capitol.

*Next Meeting of the* **SENATE**

**9:30 a.m., Thursday, March 11**

**Senate Chamber**

**Program for Thursday:** Senate will continue consideration of S. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2005.

*Next Meeting of the* **HOUSE OF REPRESENTATIVES**

**10 a.m., Thursday, March 11**

**House Chamber**

**Program for Thursday:** Postponed votes on Suspensions:

(1) H. Con. Res. 15, Commending India on its celebration of Republic Day;

(2) H. Res. 540, Expressing the condolences and deepest sympathies of the House of Representatives for the untimely death of Macedonian President Boris Trajkovski; and

(3) H.R. 3915, To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through May 21, 2004.

Consideration of H.R. 3717, Broadcast Decency Enforcement Act of 2004 (structured rule, 90 minutes of general debate).

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